

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

July 19, 1996

Joan M. Dunn
15414 Rhododendron Dr.
Canyon Country, CA 91351

Re: Your Request for Advice
Our File No. A-96-211

Dear Ms. Dunn:

You have requested advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").¹

QUESTION

Would a conflict of interest exist if you were elected to a position on the Castaic Lake Water Agency Board since your husband is an elected director on the Newhall County Water District Board?

CONCLUSION

Based upon the facts provided, a conflict of interest would not exist if you were elected to a position on the Castaic Lake Water Agency Board, even though your husband is an elected director on the Newhall County Water District Board.

FACTS

You are interested in running for an elected position on the Castaic Lake Water Agency Board this November. Your husband is an elected director of the Newhall County Water District Board. The Newhall County Water District Board appoints a director from its board to sit on the Castaic Lake Water Agency Board as do three other water retailers.

¹ Government Code Sections 81000-91015. Commission regulations appear at Title 2, Sections 18000-18995 of the California Code of Regulations.

ANALYSIS

The Act prohibits a public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. Section 87103 provides in pertinent part:

An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

* * *

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(Section 87103(c).)

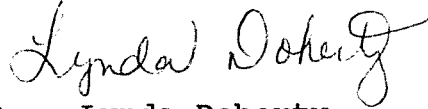
Your husband is an elected director on the Newhall County Water District Board. Assuming that your prospective elected position as well as your husband's current elected position are paid positions, Section 82030(a), which defines "income," provides that the income of an individual includes any community property interest in the income of a spouse. However, salary and reimbursement for expenses or per diem received from a state, local or federal government agency is expressly exempted from the definition of "income" for purposes of the Act. (Section 82030(b)(2).) Consequently, the salary your husband receives from the Newhall County Water District Board is not considered income under the Act and will not create a conflict of interest for you, if you are elected to the Castaic Lake Water Agency Board.

The Act also provides that a conflict of interest may exist where a decision will result in a public official's personal expenses, income, assets, or liabilities or those of his or her immediate family increasing or decreasing by \$250 or more. (Regulation 18702.1(a)(4), copy enclosed.) However, an official does not have to disqualify from participating in a governmental decision if the decision only affects the salary, per diem or reimbursement for expenses the official or his or her spouse receives from a state or local government agency. (Regulation 18702.1(c)(1).) Thus, if a decision comes before the Castaic Lake Water Agency Board that will affect the salary of your husband, you would not be required to disqualify from the decision.

I trust this answers your question.

Sincerely,

Steven G. Churchwell
General Counsel



By: Lynda Doherty
Political Reform Consultant
Legal Division

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Enclosures