

MEMORANDUM

To: Honorable Brad Sherman
Chairman

Date: September 9, 1994

From: E. L. Sorensen, Jr.
Chief Counsel

Subject: **CONTRIBUTION DISCLOSURE OPINION 94-10**

The prohibitions of the Kopp Conflict of Interest Act apply only to adjudicatory matters, and an item does not become an adjudicatory matter until it has been scheduled and appears as an item on a Board meeting notice

You have asked if the prohibitions of the Kopp Conflict of Interest Act apply to discussion of matters that have not yet been scheduled for hearing before the Board. It is our opinion that they do not apply.

The Kopp Act requires disqualification from participation in making, or in any way attempting to use a person's official position to influence the decision in an adjudicatory proceeding pending before the Board, if a member has received a contribution of \$250 or more. (Government Code §15626 (c))

Subdivision (h) (5) of Section 15626 provides in relevant part: " 'Adjudicatory proceeding pending before the board' means a matter for adjudication that has been scheduled and appears as an item on a meeting notice of the board ... as a contested matter for administrative hearing before the board member..." It follows that a matter that has not been scheduled or has not appeared as an agenda item is not an adjudicatory proceeding pending before the board. If a matter is not an adjudicatory proceeding pending before the Board, the prohibitions do not apply.

ELS:LAA



cc: Hon. Matthew K. Fong
Member, First District
Hon. Ernest J. Dronenburg, Jr.
Hon. Gray Davis
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