

Memorandum

To: Honorable Brad Sherman
Honorable Ernest J. Dronenburg, Jr
Member, First District
Honorable Matthew K. Fong
Honorable Gray Davis

Date: December 6, 1994

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

Subject: **Contribution Disclosure Memorandum 94-13**

A board member may lawfully participate in an adjudicatory proceeding if an otherwise disqualifying contribution is returned within 30 days from the time he or she knows about the contribution and the placement of the adjudicatory proceeding on a nonappearance calendar.

Government Code section 15626(d), in pertinent part, states:

if a member receives a contribution which would otherwise require disqualification ... and he or she returns the contribution within 30 days from the time he or she knows, or has reason to know, about the contribution and the adjudicatory proceeding pending before the board, his or her participation in the proceeding shall be deemed lawful.

(See also, 18 Cal. Code of Regulations section 7010(a).)

18 Cal. Code of Regulations section 7010(b) states that "a return of that portion of any contribution or contributions over \$249 will be deemed a return of contribution which would otherwise require disqualification and the board member's participation in the proceeding shall be deemed lawful."

We have advised that a board member knows, or has reason to know, about a pending adjudicatory proceeding when the proceeding is noticed on the Board agenda. We are of the opinion that, if a matter is noticed for hearing and then removed from the agenda by staff, the 30 day period for returning contributions stops running because the adjudicatory proceeding has been removed as a current pending matter. If a matter that has once been noticed as an adjudicatory proceeding pending before the board is then placed by staff on a nonappearance calendar, we are of the further opinion that a

Honorable Board Members

-2-

December 6, 1994

new 30 day period for returning contributions begins to run from the time that the matter is noticed on the Board agenda as a nonappearance matter.

ELS:AAK:

A handwritten signature in cursive script, appearing to read "E. L. Lawrence". The signature is written in black ink and is positioned to the right of the typed text.