

**M e m o r a n d u m**

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

Date: December 7, 1994

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

Subject: **Contribution Disclosure Opinion 94-14**

A matter does not become adjudicatory simply because it was erroneously placed on an adjudicatory calendar.

An "[a]djudicatory proceeding pending before the board" is "a matter for adjudication that has been scheduled and appears as an item on a meeting notice of the board as required by Section 11125 as a contested matter for administrative hearing before the board members." (Government Code section 15626(h)(5), emphasis added.)

Although it was never an adjudicatory matter, Business Exchange, Inc. was mistakenly placed on the Franchise Tax Appeals adjudicatory calendar. Erroneous placement on an adjudicatory calendar does not change the fact that the appeal was never "a contested matter for administrative hearing."

Since the matter was placed on an adjudicatory calendar in error, and the matter was neither discussed or voted on by the board members, we are of the opinion that Business Exchange, Inc. may be rescheduled by staff on a consent calendar as a nonadjudicatory matter for which the provisions of section 15626 are not be applicable.

We have previously advised that raising a question regarding the disclosure/disqualification provisions regarding a particular item does not constitute removal of the item for separate discussion and vote. (See, Contribution Disclosure Opinion 91-4.)



ELS:AAK:ak

cc: Mr. Burton W. Oliver  
Contribution Disclosure Binder Distribution List