

Memorandum

To : Janice Masterton, Chief
Board Proceedings Division

Date: May 16, 1994

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

Subject: **CONTRIBUTION DISCLOSURE OPINION 94-6**
A discussion scheduled by the Board regarding the correct allocation of Bradley-Burns Local Tax is not an adjudicatory proceeding pending before the Board.

QUESTION PRESENTED:

Is the Board discussion regarding the proposed reallocation of local tax reported by Sun Microsystems to the City of Palo Alto an adjudicatory proceeding and, therefore, subject to the contribution disclosure/disqualification requirements of Government Code section 15626?

CONCLUSION:

A discussion scheduled before the Board regarding a matter which will not be voted on nor decided by the Board is not an adjudicatory proceeding pending before the Board as that term is used in Government Code section 15626.

ANALYSIS:

A question has arisen regarding the allocation of local tax reported by Sun Microsystems to the City of Palo Alto. There is no mechanism under the Revenue and Taxation Code for a city to "appeal" or have a hearing on a local tax allocation; however, at the City of Palo Alto's request, the allocation question is scheduled to be discussed by the Board at its meeting of May 26, 1994. Sun Microsystems, the taxpayer, may or may not appear and speak on this issue at the Board Meeting; however, the question of how the tax is allocated will not have any negative or positive financial effect on the taxpayer because the tax is either paid to one jurisdiction or another.

Government Code section 15626 requires all parties and participants to an adjudicatory proceeding to disclose on the record all contributions totaling \$250 or more made by them

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or their agents to members of the Board (Gov. Code § 15626(e)). The term "adjudicatory proceeding pending before the board" is specifically defined in section 15626(h)(5) as "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."

The instant matter has been scheduled for Board discussion at the request of the City of Palo Alto. It is not a contested matter for administrative hearing before the Board Members. No vote, or other action deciding the matter, will be taken on the substantive issue presented. As such, we are of the opinion that the matter is not an "adjudicatory proceeding pending before the board." Neither the City of Palo Alto, nor Sun Microsystems, is required to file a contribution disclosure form in order to participate in the discussion, and the Board Members are not required to disclose any contributions received from the participants nor would any Board Member be required to disqualify himself and not participate in the discussion because of any contributions received.



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cc: Contribution Disclosure Binder Distribution List