



October 25, 2022

VIA EMAIL (Advice@fppc.ca.gov)
David Bainbridge, General Counsel
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

Re: Request for Advice re SB 1439 (Glazer)

Dear Mr. Bainbridge,

The League of California Cities (Cal Cities) represents 479 of the 482 cities in California. One of Cal Cities' core activities is to serve as a source of education for city officials so that they can provide ethical and well-informed leadership to their communities. Cal Cities' City Attorneys Department, and particularly the FPPC Committee, plays a central role in communicating the requirements of the Political Reform Act and FPPC regulations to city officials through publications such as the annual editions of the Municipal Law Handbook and technical assistance manuals such as "Providing Conflict of Interest Advice: A Guide for Local Agency Officials" and "Practicing Ethics: A Handbook for Municipal Lawyers."

We respectfully request that the Commission quickly issue an opinion pursuant to Government Code Section 83114 on an important matter of law involving the potential retroactive application of SB 1439 (Glazer) that was signed by the Governor on September 29, 2022. This new legislation expands the application of Government Code Section 84308 (the Levine Act) to elected city councilmembers. Although the law does not go into effect until January 1, 2023, it contains a provision that disqualifies officials from participating in decisions involving a prior donor's license, permit or other entitlement for twelve months after the date of a donation exceeding \$250. This disqualification is also triggered by receipt of donation over \$250 from any "participant" in a decision. A participant is broadly defined as any non-party who has a financial interest in the decision and lobbies, testifies, or attempts to influence the outcome. To avoid disqualification, the official must return the donation within thirty days from the time that the officer knows, or should have known, about "the contribution and the proceeding."

If the "look back" provision is applied retroactively, it could disqualify a city councilmember who lawfully accepted campaign donations in 2022 from participating in important decisions affecting the community in 2023. These contributions may have been received from either a party or *participant*, such as a member of the public who owns property within 1,000 feet of a proposed project and later speaks at a public hearing. This outcome could be perceived as unfair not only to the officials, but to donors who made lawful campaign contributions to candidates of their choice in 2022.



The official would, moreover, have no opportunity to cure the disqualification by returning the donation if the 30-day period for cure has passed.

Although city attorneys do not provide legal advice to candidates, we do have an important role in educating and informing elected councilmembers about the meaning and scope of the Political Reform Act requirements and FPPC Regulations. Some of our members have already received questions about SB 1439 and how it will affect councilmembers' ability to participate in matters that will come before their city councils in 2023.

We therefore respectfully ask the FPPC to provide an opinion as to whether the disqualification in Government Code Section 84308(c), as amended by SB 1439, applies to donations received prior to January 1, 2023.

We greatly appreciate your expedited assistance with this urgent matter,

League of California Cities
FPPC Committee

A handwritten signature in blue ink, appearing to read "Rebecca L. Moon", is written over a light blue horizontal line.

Rebecca L. Moon, Chair
Sr. Assistant City Attorney
City of Sunnyvale

Cc: David Bainbridge, General Council, FPPC (DBainbridge@fppc.ca.gov)
Corrie Manning, General Counsel, League of California Cities
(cmanning@calcities.org)