

LORRAINE MAGANA

file

SACRAMENTO METROPOLITAN



SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

ROBERT E. SMITH
EXECUTIVE DIRECTOR

April 15, 1983

William R. Cullen President
United Tribune Cable of Sacramento
9332 Tech Center, Suite 500
Sacramento, California 95826

RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO
APR 16 4 11 AM '83

Dear Bill:

As the final 30 days of Franchise negotiations begin, I want to clearly convey to you my interpretation of the Commission's actions (copy attached) on April 13, 1983.

At 12:01 a.m. on May 14, 1983, absence of an unconditionally signed Certificate of Acceptance of the Resolution Offering the Franchise will result in rejection of all bids. Further, for any negotiations to occur between us relative to the issues you described to the Commission, you must have in your possession officially executed Certificates of Acceptance by all required parties, which are attached for your convenience, and a letter authorizing you to release these documents to the Commission upon favorable resolution of those matters UTC wishes to negotiate.

After receipt of this documentation, I may call a special meeting of the Commission. It is my view that if such a meeting is called, it must be on May 4, 1983 to ensure the maximum attendance of the Commission members.

As the Commission action requires me to provide recommendations on any changes you may request, I would like to have your written response by April 25, 1983. This will provide sufficient opportunity for a thorough review prior to formulating the staff recommendations and transmitting them to the Directors for the May 4th meeting.

Please be assured that the Commission staff will be available as required to allow complete consideration of UTC's response to the Franchise Offering.

I look forward to your early reply.

Sincerely,

BOB SMITH, Executive Director
Sacramento Metropolitan Cable
Television Commission

RES:ab

Attachments

cc: Members, Cable Commission; Board of Supervisors; City Council
Lee Elam; James Jackson

SACRAMENTO METROPOLITAN



UTC Cable Television Commission

CITY CLERK
LORAINÉ MAGANA
945 I STREET
SACRAMENTO CA 95814

File

SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

BILL BRYAN
SUPERVISOR, 4TH DISTRICT
CHAIRMAN

March 24, 1983

Board of Directors
Sacramento Metropolitan Cable Television Commission

Dear Director:

My memorandum dated March 22, 1983 relating to UTC's latest negotiating demands has apparently generated misunderstanding among certain Commissioners. The language to which concern has been directed is at the end of the letter respecting the phrase "... I will request Commission action to cease further negotiations and reject all bids."

What I really meant by the last paragraph in that letter is that in my judgment the time has arrived when the Commission must directly face the unattractive reality that UTC simply does not want the franchise without concessions which would totally emasculate its bid and make the negotiations and competitive process a sham. Until that reality is directly faced by the Commissioners, I am afraid the non-productive negotiations will continue, perhaps indefinitely.

By the last paragraph in my March 22 letter, I am intending to open a dialogue among the Commissioners during our meeting on April 6 as to exactly what we should do about the situation. UTC has had plenty of time to consider the Resolution, particularly since UTC has negotiated it at the staff and Commission levels since November. The Resolution has been in UTC's hands for several weeks. Considerations relating to the Goldwater Bill aside for the moment, I have come to the conclusion that we must bring our negotiations with UTC to a climax soon.

To do that, we must consider our options and alternatives should the climax yield a rejection by UTC. Obviously, rejection of all proposals is a mandate of the Ordinance in the event the franchise is not awarded to UTC. Exactly how, if at all, the Ordinance should be amended, and our exact course of action should such a contingency occur, is a matter upon which I am requesting a staff report and recommendations for the Commission meeting on April 6.

Sincerely,

Bill Bryan

BILL BRYAN, Chairman
Sacramento Metropolitan Cable Television
Commission

WB:jc

cc: Sacramento City Council, Galt City Council, Folsom City Council
Bill Cullen, United Tribune Cable
Suzanne Wood, United Tribune Cable

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO
MAR 25 4 12 AM '83

Handwritten signature/initials

File

SACRAMENTO METROPOLITAN



SUITE 2500, 700 'H' ST., SACRAMENTO, CA 95814 • (916) 440-6661

RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO

MAR 23 9 52 AM '83

BILL BRYAN
SUPERVISOR, 4TH DISTRICT
CHAIRMAN

March 22, 1983

Board of Directors
Sacramento Metropolitan Cable Television Commission

Dear Director:

On Monday, March 21, 1983, Bill Cullen and Suzanne Wood of UTC presented staff with proposed "administrative" changes to the Resolution Offering the Cable Television Franchise.

Some of the requested changes exceed the limits of administrative modifications by such a wide margin that they are clearly inflammatory to the entire negotiation process. Furthermore, UTC has requested reductions of major commitments that were bid, negotiated and previously agreed to in our public meetings.

For example, UTC has requested:

- 1) Totally revising the Gross Revenues language.
- 2) Building the American River College Access Center by month 60 rather than month 36.
- 3) Constructing the Sacramento City College Access Center only when the other centers have been utilized at a 75% level for a period of one year.
- 4) Eliminating the requirements that Community Use Programming hours be original and non-repetative.
- 5) Building each succeeding Community Resource Center only upon 75% utilization of the existing centers for a period of one year.

I am personally disappointed, after nearly six months of negotiations and over a dozen public hearings, that UTC could conclude that Sacramento's elected officials would abandon the results of our efforts and even consider these last minute changes.

If, at our next meeting on April 6th, UTC has not withdrawn or significantly modified these requested changes, I will request Commission action to cease further negotiations and reject all bids.

Sincerely,

Bill Bryan

BILL BRYAN, Chairman
Sacramento Metropolitan Cable
Television Commission

WB:ab

cc: Sacramento City Council, Galt City Council, Folsom City Council
Bill Cullen, United Tribune Cable
Suzanne Wood, United Tribune Cable

file

LAW OFFICES OF
BRENTON A. BLEIER

1001 G STREET, SUITE 101
SACRAMENTO, CALIFORNIA 95814
(916) 444-5994

June 14, 1983

MEMORANDUM

TO: MEMBERS OF THE SACRAMENTO METROPOLITAN CABLE
TELEVISION COMMISSION

FROM: Brenton A. Bleier, Special Counsel

RE: Government Code Section 84308

I would bring to your attention Government Code Section 84308 which was enacted in the 1982 Session of the Legislature and took effect January 1, 1983. I have attached a copy of this Section and the Regulations issued by the Fair Political Practices Commission pursuant to the Section for your review.

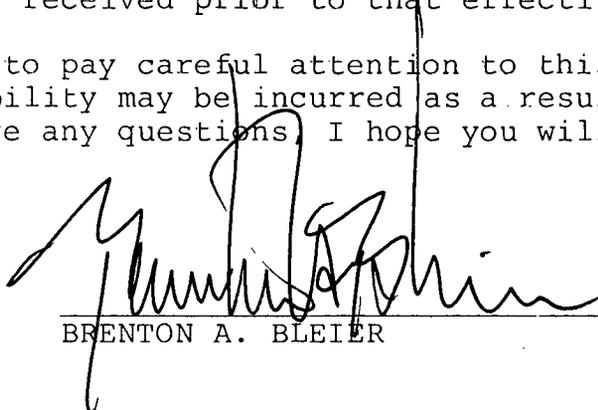
This Section applies to elected officials who serve on quasi-judicial boards or commissions which grant permits or entitlements for use. The Cable Television Commission is, in my opinion, such a body.

In essence, the Section provides two important prohibitions:

1. No elected official who serves on the Commission shall accept a campaign contribution of Two Hundred Fifty Dollars (\$250.00) or more from any person who has an application pending before the Commission; and
2. No elected official shall vote on any application pending before the Commission if the official received a contribution of Two Hundred Fifty Dollars (\$250.00) or more within the preceding twelve (12) months from the applicant.

Because this law took effect January 1, 1983, it does not apply to contributions received prior to that effective date.

I would encourage you to pay careful attention to this Section since significant liability may be incurred as a result of its violation. If you have any questions, I hope you will feel free to contact me.



BRENTON A. BLEIER

cc: Robert E. Smith
Executive Director

18438. Contributions to Members of Quasi-Judicial
Boards and Commissions

(a) The prohibitions and requirements of Government Code Section 84308 do not apply to contributions made or received prior to January 1, 1983.

(b) Terms used in Government Code Section 84308 are defined in Sections 18438.1 through 18438.8.

Gov. Code Section 84308

History: New section filed 12/27/82; effective
1/26/83.

18438.1. Bodies Covered by Government Code Section 84308

(a) A "legislative body" while acting as a body or committee thereof is excluded by Government Code Section 84308(d) from the coverage of Government Code Sections 84308(a), (b), and (c) if its entire membership consists of elected officers directly elected by the voters to serve on that body. As used herein, the term "voters" has the same meaning as in Elections Code Section 18.

(b) A legislative body is "acting as a body or a committee thereof" when:

(1) It acts in its entirety as itself or as the ex officio governing body of any district or other entity; or

(2) Any subgroup of the legislative body composed solely of members of the body sits by designation of the body.

(c) A "quasi-judicial board or commission" means any appointed or elected governmental body, other than a legislative body, which may make decisions concerning licenses, permits, or other entitlements for use. A quasi-judicial board or commission may consist of a single public official if that official exercises final decision-making authority for his or her agency.

(d) "Alternate" means any person designated to serve on a board or commission who has served at least once in the

preceding three months, or who knows or has reason to know that he or she will serve in the next three months, as a member of the board or commission.

Gov. Code Section 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.2. Proceedings Covered by Government Code
Section 84308

(a) An "application for a license, permit or other entitlement for use" includes, but is not limited to, any proceeding to grant, deny, revoke, restrict, or modify:

(1) Any professional, business, educational, or training license;

(2) Any land use permit, license or other action relating to zoning, variances, subdivision maps, building permits, leases of public lands or facilities, or other similar proceedings;

(3) ~~Any permit or license to carry on any business activity;~~

(4) Any other entitlement for use, including allocation of dates for horseracing, rate-setting for public utilities, and other allotments, exceptions or waivers affecting the operations of any private business entity.

(b) The awarding of a contract or other action taken for the purpose of entering into a contract for the provision of goods or services to, or employment by, an agency, is not an "application for a license, permit or other entitlement for use."

(c) An application for a license, permit or other entitlement for use is "pending before" a board or commission:

(1) When the application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the jurisdiction of an agency for its determination or other action; and

(2) It is reasonably foreseeable:

(A) That the members of the board or commission for the agency may render a decision affecting the application for a license, permit or other entitlement for use; and

(B) That the board or commission's decision with respect to the proceeding will not be purely ministerial.

Gov. Code Section 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.3. Applicants and Agents

(a) A person who files an application for, or is the subject of a proceeding involving, a license, permit, or other entitlement for use is an "applicant."

(b) A person is an "agent" of an applicant or of a person who actively supports or opposes an application for a license, permit or other entitlement for use only if he or she represents that person in connection with the proceeding involving the license, permit or other entitlement for use. If an individual acting as an agent is also acting as an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are "agents."

Gov. Code Section 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.4. Persons Who Actively Support or Oppose

(a) A person "~~actively supports or opposes~~" an application for a license, permit, or other entitlement for use ~~if:~~

(1) He or she ~~lobbies in person, testifies in person before, or otherwise acts to influence the vote of members of the board or commission in the proceeding; and~~

(2) He or she ~~has a financial interest in the board or commission's decision in the proceeding.~~

(b) A person "lobbies in person for or against an application" when he or she communicates directly, either in person or in writing, with a member of the board or commission for the purpose of influencing that member's vote on the application.

(c) A person "testifies in person" when he or she testifies or makes an oral statement before a board or commission during a proceeding on a license, permit or other entitlement for use for the purpose of influencing the decision of the board or commission.

(d) A person "otherwise acts to influence" a member of a board or commission when he or she communicates with an employee of the board or commission, or when his or her agent communicates with a member or employee of the board or commission, for the purpose of influencing any member's vote on an application.

(e) A person does not lobby, testify or otherwise act to influence a member of a board or commission by communications made to the public, other than those made in the proceedings before the board or commission.

Gov. Code Section 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.5. Contributions

(a) "Contributions" may be for the purpose of influencing or attempting to influence the action of voters in federal, as well as in state or local elections. "Contribution" is defined in 2 Cal. Adm. Code Section 18215.

(b) To determine whether a contribution of \$250 or more has been made by a person or his or her agent, ~~contributions made by that person within the preceding 12 months shall be aggregated with those made by his or her agent within the preceding 12 months or the period of the agency relationship,~~ whichever is shorter.

Gov. Code Section 82015, 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.6. Solicitation, Direction, and Receipt of Contributions

(a) A person "accepts" or "receives" a contribution only if the contribution is for that person's own candidacy or ~~own controlled committee.~~

(b) A person "makes a contribution" to an official or candidate only if the contribution is made for that official's or candidate's own candidacy or controlled committee.

(c) An official or candidate "solicits" a contribution only if, knowing or having reason to know that the person being solicited for a contribution is an applicant or agent of an applicant, or is a person or agent of a person who actively supports or opposes an application:

(1) The official or candidate personally requests a contribution for his or her own campaign or controlled committee, or for any other candidate, public official or committee, either orally or in writing; or

(2) The official or candidate's agent, with the official or candidate's knowledge, requests a contribution for the official or candidate's own campaign or controlled committee; and

(3) The request is not made in a mass mailing sent to members of the public, to a public gathering, or published in a newspaper, on radio or TV, or in any other mass media.

A person does not "solicit" solely because his or her name is printed with other names on stationery or a letterhead used to request contributions.

(d) A person "directs" a contribution if he or she acts as the agent of another person or of a committee other than his or her own controlled committee in accepting a contribution on behalf of, or transmitting a contribution to, such other person or committee.

Gov. Code Section 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.7. Prohibitions and Disqualification

(a) An official "knows or has reason to know" that a person has a financial interest in the decision on a proceeding if:

- (1) The person is the applicant;
- (2) The person has filed a statement pursuant to Section 84308(c) as a person who actively supports or opposes the application; or
- (3) The person reveals facts in his written or oral support or opposition before the board or commission which make his financial interest apparent.

(b) An official "knows, or should have known," about an application if:

- (1) The official has received notice of the license, permit or other entitlement proceeding. Notice includes receipt of an agenda or docket identifying the proceeding and the applicant or persons affected by name; or

- (2) The official has actual knowledge of the application.

(c) An official "knows, or should have known" about a contribution if:

- (1) The contribution has been disclosed by the contributor pursuant to Section 84308(c); or

- (2) The official has actual knowledge of the contribution.

(d) When a single official constitutes a quasi-judicial board or commission, that official "votes" on an application for a license, permit, or other entitlement for use when he or she makes any substantive decision regarding, or takes final action on, the application.

Gov. Code Section 84308

History: New section filed 12/27/82; effective 1/26/83.

18438.8. Disclosure

(a) A public official who is required to disclose receipt of a contribution shall make the disclosure at the public hearing on the application for a license, permit, or other entitlement for use, if one is held. Any disclosure of receipt of a contribution made by a public official pursuant to Government Code Section 84308(b) shall be on the public record, and shall be made available to the public pursuant to Government Code Section 81008.

(b) Statements filed pursuant to Government Code Section 84308(c) by applicants or by persons who support or oppose an application for a license, permit or other entitlement for use shall be made available to the public pursuant to Government Code Section 81008.

Gov. Code Section 81008, 84308

History: New section filed 12/27/82; effective
1/26/83.

SECTION 84308
(LEVINE BILL)

DEFINITIONS

	Member	Applicant	Person who actively supports or opposes
Definition	Member of quasi-judicial board or commission 18438.1	Applicant for a license, permit or other entitlement for use 18438.2 18438.3	Person who lobbies in person, testifies in person, or otherwise acts to influence member or alternate for or against the application 18438.4
Others covered to same extent	Alternate; candidate for board or commission 18438.1	Agent; majority shareholder if applicant is a close corporation 18438.3	Agent 18438.3
Financial interest in decision required before law applies	No	No (Financial interest assumed)	Yes 18702 (Existing regulation)
Exemptions from law	City councils, county boards of supervisors, the State Legislature and other similar legislative bodies while acting as a body or a committee thereof; state constitutional officers who serve ex officio on a board or commission 18438.1	None	None

PROHIBITIONS

	Member	Applicant	Person who actively supports or opposes
What is prohibited	Cannot <u>accept, solicit or direct</u> contribution of \$250 or more from applicant or person who actively supports or opposes 18438.6	Cannot make a contribution of \$250 or more to member or alternate	Cannot make a contribution of \$250 or more to a member or alternate
When prohibition applies	While application is pending and for 3 months after decision 18438.2	While application is pending and for 3 months after decision	While application is pending and for 3 months after decision
Knowledge required before prohibition applies	Must know or have reason to know that person who supports or opposes has a financial interest in decision 18438.7	None	None
Exceptions			Does not cover contributions by agent

DISQUALIFICATION

	Member	Applicant	Person who actively supports or opposes
When disqualification is required	Cannot vote on application if received a contribution of \$250 or more from applicant or agent, or from person who actively supports or opposes 18438.5, 18438.6, 18438.7	None	None
Time period covered	Contributions within 12 months preceding decision 18438.6	N/A	N/A
Knowledge required before disqualification applies	Contribution must have been received wilfully or knowingly; must know or have reason to know that person who supports or opposes has a financial interest in the decision. 18438.7	N/A	N/A
Exemption	No disqualification if contribution returned within 30 days of when member knows, or should have known, about both contribution and the application 18438.7	N/A	N/A

DISCLOSURE

	Member	Applicant	Person who actively supports or opposes
What must be disclosed	Must disclose contributions received of \$250 or more from applicant or person who supports or opposes	Must disclose contributions of \$250 or more made to member	Must disclose contributions of \$250 or more made to member
Time period covered	Contributions received within 12 months preceding disclosure	Contributions made within 12 months preceding date of application	Contributions made within 12 months preceding active support or opposition
When disclosure must be made	Prior to rendering any decision on application	At time of application 18438.8	When actively supports or opposes 18438.8
Disclosure statement required	Disclosure on the record and in appropriate state or federal campaign statements 18438.8	Yes 18438.8	Yes 18438.8
Exceptions	Does not apply to contributions from agent of applicant or person who actively supports or opposes; does not apply to candidate		

Assembly Bill No. 1040

CHAPTER 1049

An act to add Section 84308 to the Government Code, relating to campaign contributions.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1040, Levine. Campaign contributions.

Existing law under the provisions of the Political Reform Act of 1974, does not prohibit an elected or appointed officer, or alternate, or candidate for office, from accepting campaign contributions of \$250 or more, from persons who have applications for licenses, permits, and other similar documents pending before any quasi-judicial body of which an elected officer is a member.

This bill would so provide and prohibit an elected or appointed officer, or alternate, or candidate for office, as specified, from accepting a contribution of \$250 or more, from such person until 3 months after a decision has been rendered. It would provide for specific disclosure requirements and specify the boards and commissions to which the bill would apply, including providing that any person who actively supports or opposes a license, permit, or other entitlement for use pending before a specified quasi-judicial board or commission shall submit a statement to the board or commission disclosing any contributions of \$250 or more made within the last 12 months by the person or his or her agent to any member, alternate, or candidate of that board or commission.

The people of the State of California do enact as follows:

SECTION 1. Section 84308 is added to the Government Code, to read:

84308. (a) No elected or appointed officer, or alternate, or candidate for office, who serves on a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), shall accept, solicit, or direct a contribution of two hundred fifty dollars (\$250) or more, from any person, or his or her agent, who has an application for a license, permit, or other entitlement for use pending before any body of which the officer or alternate is a member and for three months following the date a decision is rendered on the application or from any person, or his or her agent, who actively supports or opposes the application; provided, however, that the officer or alternate knows or has reason to know that the person who supports or opposes the application has a financial interest, as that term is used in Article 1 (commencing

with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer, alternate or candidate accepts, solicits, or directs the contribution for himself or herself or on behalf of any other officer, alternate, or candidate for office.

(b) Prior to rendering any decision on an application for a license, permit or other entitlement for use pending before a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), each member and alternate acting in the capacity of a member who has received a contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars (\$250) or more from an applicant or any person who supports or opposed the application, and who has a financial interest, within the preceding 12 months must disclose that fact. No elected or appointed officer or alternate or candidate for office who serves on a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), shall vote on any application for a license, permit or other entitlement for use pending before any body of which the officer or alternate is a member if the officer, alternate, or candidate for office has willfully or knowingly received a contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars (\$250) or more within the preceding-12 months from the applicant or his or her agent, or from any person, or his or her agent who actively supports or opposes the application; provided, however, that the officer or alternate or candidate for office knows or has reason to know that the person who supports or opposes the application has a financial interest, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7, in the decision.

If an officer, alternate or candidate for office who receives a contribution to be used in a federal, state, or local election which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the application for a license, permit, or other entitlement for use, he or she shall be permitted to vote on the application.

Nothing in this section shall be construed to imply that any contribution subject to being reported under the Political Reform Act of 1974 shall not be so reported.

(c) Whenever any person applies to a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), for a license, permit, or other entitlement for use, that person shall include with his or her application a statement disclosing any contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars (\$250) or more made by the applicant, or his or her agent, if any, to any member, alternate, or candidate of the board or commission before which the application is pending and which have been made within the last 12 months of the date of the application to any such member, alternate

or candidate. Whenever any person actively supports or opposes a license, permit, or other entitlement for use pending before a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), that person shall submit a statement to such board or commission disclosing any contribution to be used in a federal, state, or local election in an amount of two hundred fifty dollars (\$250) or more made within the last 12 months by the active supporter or opponent or his or her agent, if any, to any member, alternate, or candidate of that board or commission. No person, or his or her agent, who has an application for a license, permit, or other entitlement for use pending before any quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), or a person who actively supports or opposes the application shall make a contribution of two hundred fifty dollars (\$250) or more, to any elected or appointed officer, or alternate or candidate of that board or commission for three months following the date a decision is rendered on the application. The majority shareholder of a closed corporation that has an application for a license, permit, or other entitlement for use pending before a quasi-judicial board or commission, other than those governmental bodies specified in subdivision (d), is subject to the disclosure and prohibition requirements specified in subdivisions (a), (b), and this subdivision.

(d) Legislative bodies such as city councils, county boards of supervisors, and the State Legislature while acting as a body or a committee thereof are exempted from the coverage of this section. However, this section applies to any member of such a legislative body who serves as a voting member on another quasi-judicial board or commission which considers individual applications for licenses, permits, or entitlements for use. State constitutional officers who serve on a board or commission as a requirement of their constitutional office are not subject to the provisions of this section.

For purposes of this section, a person actively supports or opposes an application if he or she lobbies in person for or against the application, testifies in person for or against the application, or otherwise acts to influence members or alternates of the board or commission for or against the application, and the person has a financial interest, as described in Article 1 (commencing with Section 87100) of Chapter 7, which will be affected by the decision.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purpose of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.