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OPINION	:	No. 79-801
	:	
of	:	October 16, 1979
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SUBJECT: COUNTY PAYMENT OF TRANSCRIBING COSTS—Government Code section 6103 does not prohibit the Board of Control from requiring payment by a county for the costs of transcribing, at the county’s request, the tape recorded proceedings of a hearing conducted by the Board with respect to the county’s claim pursuant to Revenue and Taxation Code section 2250.

Eugene F. Veglia, Executive Secretary, Board of Control, has requested an opinion on a question which we have rephrased as follows:

Does Government Code section 6103 prohibit the Board of Control from requiring payment by a county for the costs of transcribing, at the county’s request, the electronically recorded tape of proceedings at a hearing conducted by the Board with respect to the county’s claim pursuant to Revenue and Taxation Code section 2250?

CONCLUSION

Government Code section 6103 does not prohibit the Board of Control from requiring payment by a county for the costs of transcribing, at the county’s request, the

electronically recorded tape of proceedings at a hearing conducted by the Board with respect to the county's claim pursuant to Revenue and Taxation Code section 2250.

ANALYSIS

The present inquiry states that a county requested the preparation of a transcript from a tape recording of a hearing of the Board of Control (hereafter "Board") which was conducted with respect to a claim of the county pursuant to Revenue and Taxation Code section 2250. The question presented is whether the Board must provide the transcript and whether it may charge the county for the costs of the transcription.

Generally, a public agency may charge for the costs of preparing information produced from public records. (See Gov. Code, § 6257.) However, Government Code section 6103 provides:

"Neither the state nor any county, city district, or other political subdivision, nor any public officer or body, acting in his official capacity on behalf of the state, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, *for the performance of any official service*, or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply to the State Compensation Insurance Fund or where a public officer is acting with reference to private assets or obligations which have come under his jurisdiction by virtue of his office, or *where it is specifically provided otherwise*. No fee shall be charged for the filing of a confession of judgment in favor of any of the public agencies named in this section.

"No fee shall be charged any of the public agencies named in this section to defray the costs of reporting services by court reporters. Such fees shall be recoverable as costs as provided in Section 6103.5." (Emphasis added.)

We have found no specific authority which provides that the state may charge the county under the aforementioned circumstances. Thus, the issue is whether Government Code section 6103 prohibits the state from charging the county for the costs of transcription because such transcription constitutes "the performance of any official service" or because such a charge would be "to defray the costs of reporting services by court reporters." We conclude that neither provision of section 6103 is applicable to the present situation and that the Board may properly charge for the costs of transcription. We have previously concluded that "the performance of any official service" within the meaning of

Government Code section 6103 is performance of a duty imposed by applicable statutory law. (53 Ops. Cal. Atty. Gen. 322 (1970).) Government Code section 6256 requires the Board to provide the county a copy of the record of its proceedings upon request. However, the method of record keeping by the Board is not specified. (See Gov. Code, §§ 13904, 13910.) We are advised that the Board records its proceedings by means of an electronic tape recording. Since the record is a tape recording, a tape recorded copy is all that the law requires the Board to provide the county. Providing a copy of the tape recording would be an official service for which the state could not charge the county. (61 Ops. Cal. Atty. Gen. 458, 464 (1978).) The Board's duties imposed upon it by applicable statutory law do not include preparing a transcript of its proceedings. By contrast, agencies governed by the provisions of the Administrative Procedures Act (tit. 2, div. 3, pt. 1, ch. 5 (§ 11500 *et seq.*) of the Gov. Code) are required to phonographically report hearings conducted pursuant to the act. (Gov. Code, § 11512, subd. (d).) Government Code section 11523 provides that in connection with a petition for writ of mandate, upon the request of the petitioner and the payment of a statutory fee, an agency governed by the act is required to prepare a reporter's transcript of the proceedings at the hearing. However, the Board is not an agency falling within the provisions of the Administrative Procedures Act (see Gov. Code, §§ 11500, 11501) and consequently, the provisions of section 11523 are not applicable to it.¹ Thus, the preparation of a transcript from a tape recording of proceedings at a hearing of the Board is not "the performance of an official service" within the meaning of Government Code section 6103. Because the Board does not use a shorthand reporter (see Bus. & Prof. Code, § 8000 *et seq.*) to phonographically record its proceedings, it is apparent that the reference to a "fee . . . to defray the cost of reporting services by court reporters in Government Code section 6103 could not apply to the costs of transcribing a tape recording of a Board meeting. (Cf. 61 Ops. Cal. Atty. Gen. 451(1978).)

It is our conclusion, therefore, that Government Code section 6103 does not prohibit the Board of Control from requiring payment by a county for the costs of transcribing, at the county's request, the electronically recorded tape of proceedings at a hearing with respect to the county's claim conducted by the Board pursuant to Revenue and Taxation Code section 2250.

¹ Code of Civil Procedure section 1094.5, subdivision (a) provides in part that in connection with a petition for writ of mandate, "[a]ll or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court." The expense of preparing a record is taxable as court costs. The present request does not concern the situation where the court has ordered the transcript to be prepared by the Board pursuant to section 1094.5, and thus we do not consider the applicability of Government Code section 6103 to that situation. (Cf. *Civil Service Commission v. Superior Court* (1976) 63 Cal. App. 3d 627, 632 fn. 1.)