

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **November 16, 2017**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **November 14, 2017**.

### BACKGROUND/OVERVIEW:

Section 85305 prohibits a candidate for elective state office or committee controlled by that candidate from making any contribution to any other candidate for elective state office in excess of the contributions limits set forth in subdivision (a) of Section 85301. Section 85315 allows an elected state officer to accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits...” At its July 27, 2017 hearing, the Commission deliberated over issues raised with respect to the interplay between Sections 85305 and 85315, and whether the prohibition in Section 85305 applied to state candidates that are the subject of a recall. The Commission decided to issue an opinion clarifying its interpretation that Sections 85305 and 85315 require that there be no limit on contributions from state candidates to a recall committee controlled by another state candidate to oppose the recall of that state candidate. This was a reversal of the Commission’s previous longstanding interpretation of these provisions. The Commission adopted the new opinion at its August 17, 2017 hearing. The Commission will consider amendments to Regulation 18535 to clarify and implement the Commission’s current interpretation on this topic at its October meeting. Proposed amendments to Regulation 18535 have already been noticed. As a result of public comments received by Commission staff, staff recognizes that amendments to Regulation 18531.5 would also help clarify and implement the Commission’s current interpretation of this topic.

### REGULATORY ACTION:

Amend 2 Cal. Code Regs. Section 18531.5 – Recall Elections. This regulation is being amended to codify the Commission’s current interpretation of Sections 85305 and 85315 with respect to recall elections to clarify that the restriction on contributions between state candidates contained in Section 85305 does not impose a limit on the amount a state candidate may contribute to a recall committee controlled by another state candidate to oppose his or her recall.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY: Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE: The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 85305 and 85315.

CONTACT: Any inquiries should be made to Sukhi K. Brar, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>