



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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March 27, 2019

The Honorable Patricia Bates  
California State Senate  
State Capitol, Room 305  
Sacramento, CA 95811

**RE: Senate Bill 401 – Candidate-controlled Ballot Measure Committees, Contribution Limits - OPPOSE**

Dear Senator Bates,

On March 21, 2019, the bi-partisan Fair Political Practices Commission voted to oppose Senate Bill 401. Senate Bill 401 will adopt contribution limits for primarily formed candidate-controlled ballot measure committees. The proposed limits are the same as those established for state legislative candidates which is currently \$4,700.

Current law imposes campaign contribution limits of \$4,700 per election for Senate and Assembly campaigns, \$7,800 per election for designated state offices like Lieutenant Governor, and \$31,000 per election for the Governor's race. These parameters are intended to limit the disproportionate influence of wealthy donors and special interest groups, ensuring Californian voters can participate equally in the political process.

Unlike campaign committees, generally candidate-controlled ballot measure committees are not subject to contribution limits. The justification for allowing unlimited contributions to these committees is that they are formed to support or oppose ballot measures, which, unlike politicians, are based on a single-issue and are not susceptible to being influenced on legislative votes.

It has long been held that contribution limits on ballot measure committees are unconstitutional as excessive restraint on free speech because "the risk of corruption perceived in cases involving candidate elections simply is not present in a popular vote on a public issue." (*Citizens Against Rent Control/Coal. For Fair Housing v. City of Berkeley*, 454 U.S. 290, 298 (1981).) In striking down the constitutionality of an ordinance limiting contributions to ballot measure committees, the Supreme Court stated "[r]eferenda are held on issues, not candidates for public office. The risk of corruption perceived in cases involving candidate elections [citations omitted] simply is not present in a popular vote on a public issue....' [Citation.]" (*Citizens Against Rent Control, supra*, at 298.) It further stated, "[t]o place a Spartan limit—or indeed any limit—on individuals wishing to band together to advance their views on a ballot measure, while placing none on individuals acting alone, is clearly a restraint on the right of association." (*Id.* at 296.)

Further, in 2006, the Third District Court of Appeal ("Court") ruled a Commission regulation that applied contribution limits to candidate- controlled ballot measure committees was invalid. (*Citizens to Save California v. California Fair Political Practices Com.*, 145 Cal.App.4th 736, 741 (2006).)

Senate Bill 401 applies contribution limits on primarily formed candidate-controlled ballot measure committees regardless of the committee's activities and proposes to attribute the contributions as an aggregate amount of contributions a candidate can accept per contributor for the candidate's controlled committees.

The Commission believes that SB 401 does not stand on a firm constitutional foundation and opposes the bill. If you have any questions, please contact Phillip Ung at (916) 322-7635 or [pung@fppc.ca.gov](mailto:pung@fppc.ca.gov).

Sincerely,



Loressa Hon  
Acting Executive Director