

September 12, 2014

Vicki Kozikoujekian, Principal Deputy County Counsel
Government Services Division
Office of the Los Angeles County Counsel
641 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012-2713

Re: Your Request for Informal Assistance
Our File No. I-14-157

Dear Ms. Kozikoujekian:

This letter responds to your request for advice on behalf of Supervisor-elect Hilda Solis regarding the campaign provisions of the Political Reform Act (the "Act").¹ Because you seek general information about the Act, we are treating your request as one for informal assistance.²

FACTS

Supervisor-elect Solis has asked your office whether she may continue to fundraise for the next six months into her primary account, even though she won her election to the Los Angeles County Board of Supervisors in the June 3, 2014 primary election. Los Angeles County has a campaign finance ordinance, Measure B, governing elections to county office, including the office of county supervisor. Because Measure B and state law are both relevant to Supervisor-elect Solis's question, her campaign requested written answers to its questions from both the Los Angeles County Counsel's office and the Fair Political Practices Commission.

¹ 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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3)).

QUESTIONS AND ANSWERS

1. *May Supervisor-elect Hilda Solis continue to raise money into her supervisorial primary election account until November 2014 if she does not have a debt from the June primary election which she won? Does Measure B give an explicit answer to this question or would state law override?*

The Act contains restrictions on a fundraising after an election in Section 85316 and Regulation 18531.61; however, these restrictions apply only to state candidates.

Section 85316 provides, in part:

“(a) Except as provided in subdivision (b), a contribution for an election may be accepted by a *candidate for elective state office*³ after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an *elected state officer*⁴ may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision . . .” (Emphasis added.)

Subdivision (a) prohibits a state candidate from raising contributions after an election, unless the campaign has outstanding debt. Subdivision (b) permits a state elected officeholder to establish an officeholder account and to raise contributions into that account, subject to specified limits, to be used for expenses of holding office. The Act’s restrictions on post-election fundraising in Section 85316 are expressly applicable only to candidates for elective state office. Thus, the Act does not have provisions on this issue that govern local candidates or override Los Angeles County’s local ordinance, Measure B.

Measure B sets forth campaign contribution limits, fundraising timing restrictions, and officeholder account provisions applicable to candidates for county offices in Los Angeles. Measure B contains contribution limits applicable to each of the primary and general elections of \$300 per contributor or \$1,500 per contributor if a candidate agrees to a voluntary expenditure limit, which may be adjusted based on the amount of personal funds spent by an opponent.

³ “Elective state office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees’ Retirement System, member elected to the Teachers’ Retirement Board, and member of the State Board of Equalization. (Section 82024.)

⁴ “Elected State Officer” means any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer. (Section 82023.)

(Measure B, Sections 2.190.040 and 2.190.070.) In addition, the Measure B fundraising time limits for a supervisory candidate state that the candidate or his or her controlled committee may not accept contributions for the primary or general election campaign earlier than 15 months prior to the primary or general election or later than six months after that primary or general election. (Measure B, Section 2.190.090(B).) Your question about whether Supervisor-elect Solis, who was elected to office in the June 3, 2014 primary election, may accept contributions after the primary, is a question of interpretation under the local ordinance, and we understand that the County Counsel's office has advised Supervisor-elect Solis on permitted fundraising.

2. If Supervisor-elect Solis may continue to fundraise after the primary election, is she allowed to raise money for any expenses that she may incur due to the fact she is Supervisor-elect? Some of the expenses that she will encounter include, but are not limited to, a scheduler, a large swearing-in event, a fundraising consultant and other expenses that are part of fundraising.

In addition to whether Supervisor-elect Solis may continue to fundraise, the Solis campaign asks for which expenditures it may fundraise, i.e., what would constitute permissible expenditures under the Act. The Act provides that campaign funds are held in trust for expenses associated with the election of the candidate or for expenses associated with holding office. (Section 89510.) The Act's provisions concerning the permissible uses of campaign funds are found in Sections 89510-89519, copy enclosed. Under these sections, campaign funds may be used for an expenditure that is *reasonably related* to a political, legislative or governmental purpose. If the expenditure confers a substantial personal benefit on an individual with the authority to expend campaign funds, the expenditure must be *directly related* to a political, legislative or governmental purpose. (Section 89512.)

The inquiry from Supervisor-Solis's campaign did not provide specifics of the expenditures she contemplates making. In general, however, the expenses of a swearing-in event, a campaign scheduler, and a fundraising consultant would be considered to meet the requirements of being for a political, legislative or governmental purpose under the Act.

3. If she cannot raise money into her primary account because the primary is over, what options does she have to pay for expenses arising from the fact she is Supervisor-elect?

This is a question that arises under the local ordinance and it is our understanding that your office has advised Supervisor-elect Solis that she may continue to fundraise into her primary election account until six months after the primary election under the local ordinance.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Hyla P. Wagner
Senior Counsel, Legal Division

HPW:jgl