



California Political Attorneys Association

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VIA ELECTRONIC MAIL: ZNorton@fppc.ca.gov

Chair Miadich and Commissioners Baker, Wilson & Wood
California Fair Political Practices Commission
Attn: Zachary W. Norton, Senior Counsel
1102 Q Street, Suite 3000
Sacramento, CA 95811

**Re: Comment Letter for Prenotice Discussion of Proposed Amendments of
Regulations 18531.2 and 18537.1**

Dear Chair Miadich and Commissioners:

The California Political Attorneys Association (CPAA) writes to offer initial comments on Regulations 18531.2 and 18537.1 concerning the return, transfer, or carry over of campaign contributions when a candidate withdraws or otherwise does not run in the election for which the funds were raised, ahead of the pre-notice discussion at this Thursday's Commission meeting.

Specifically, we'd like to state our preference as to the options presented for Regulation 18537.1 for when a candidate is elected to office outright in a primary election and does not participate in a general election. Simply put, our preference is in the order the options are presented: **Option 1, followed by Option 2, then Option 3**. A candidate that wins outright in a primary election should be allowed to carry the fruits of his or her fundraising efforts forward into the next election cycle, and not be forced to return contributions just because they were able to win in a single election.

We also have some suggested edits to the language of each option for Regulation 18537.1.

Option 1

If a candidate receives a majority of the votes cast for an office at the primary election, so that the candidate is elected to the office without advancing to the general election, the remaining campaign funds may be ~~transferred~~ **"carried over"** to a committee for a subsequent election to the same office without attributing funds to specific contributors **as provided in Section 85317.**

Because Option 1 focuses on “carry over” without attribution, instead of transfer with attribution, we suggest replacing the word “transferred” with “carried over” and making a reference to the statute allowing carry over without attribution, Section 85317.¹

Option 2

If a candidate receives a majority of the votes cast for an office at the primary election, so that the candidate is elected to the office without advancing to the general election, the remaining campaign funds **raised for the primary election** may be ~~transferred~~ **“carried over”** to a committee for a subsequent election to the same office without attributing funds to specific contributors **as provided in Section 85317**. Funds raised for the general election ~~transferred to a committee for a subsequent election to the same office~~ **to a controlled committee for elective state, county, or city office of the same candidate** shall be attributed to specific contributors as provided in Section 85306 and Regulation 18536.

Because the first clause focuses on “carry over” without attribution for funds raised for the primary election, instead of transfer with attribution, we again suggest replacing the word “transferred” with “carried over” and again making a reference to Section 85317, as in Option 1.

To mirror the language of Section 85306, we suggest replacing the language “*to a committee for a subsequent election to the same office*” (which comes from the attribution exception in Section 85317) with “*to a controlled committee for elective state, county, or city office of the same candidate*” which is consistent with the language of Section 85306.

Option 3

If a candidate receives a majority of the votes cast for an office at the primary election, so that the candidate is elected to the office without advancing to the general election, the remaining campaign funds **raised for the primary election** may be ~~transferred~~ **“carried over”** to a committee for a subsequent election to the same office without attribution **as provided in Section 85317**, while funds raised for the general election must be refunded under Section 85318 and Regulation 18531.2.

Here, we suggest specifying that the first portion of the subsection only refers to funds raised for the primary election (because the latter portion specifically references general election funds), and changing the word “transferred” to “carried over” to be consistent with the “carry over” exception in Section 85317.

¹ Notably, Section 85317 allows “carry over” for a subsequent election for the same elective state, county, or city office without attributing funds. Reference to Section 85317 in Regulation 18537.1 use the same terminology – “a subsequent election.” However, the language in subdivision (c) of the Regulation narrows “carry over” to “the” next election.

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Thank you again for consideration of our comments, and we look forward to providing further comment on these Regulations ahead of their adoption.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kathie Jenkins". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

KC Jenkins

Bell, McAndrews & Hiltachk, LLP

Chair, Regulatory Committee, CPAA