

## Memorandum

To : Robert Summers  
Franchise Tax Board - Political  
Reform Unit

Date : December 28, 1976

A-76-582

From : FAIR POLITICAL PRACTICES COMMISSION  
Robert M. Stern *MS*

Subject: Percentage of Vote Mandatory Audit Criteria

The following are answers to questions raised by you in your November 23, 1976, memo to Michael Bennett:

I. A. In special elections, where the vacancy is filled in the special primary election (a candidate wins by receiving 50.1% of the vote in the primary), the Franchise Tax Board is not required to audit the statements of candidates who receive more than 15% of the total vote cast.

The Political Reform Act requires only mandatory audits of those candidates who obtain 15% of the vote in general elections, not primary elections, and we feel that the reference to special elections means only the special run-off election. Should a candidate spend more than \$25,000 in the special primary election, that candidate must be audited. Further, the Franchise Tax Board is given the option to audit any campaign or candidate.

B. The 15% figure applies to the total vote cast for the office in the run-off election.

C. The 15% figure only applies to the total cost cast for the office in the run-off election, and does not apply to the primary.

D. The 15% figure does not apply to the total vote cast for the office in both the special primary and run-off election.

December 28, 1976

II. In a primary election for the office of Superintendent of Public Instruction, if a candidate obtains more than 50% of the vote cast in the June primary and thus is elected to that office, the Franchise Tax Board is not required to audit each candidate who receives more than 15% of the total vote cast.

III. A. If a candidate for judicial office does not appear on the ballot because of Elections Code Section 25304, the candidate has not received 15% of the total vote cast and there is no mandatory audit.

B. If a candidate for judicial office wins in the primary election and thus there is no run-off, there is no mandatory audit required of each candidate who received more than 15% of the vote cast in the primary election.

Please call on me if you have any comments or further questions.

California  
**Memorandum**

: Michael Bennett  
 Executive Director  
 Fair Political Practices Commission  
 1100 K Street  
 Sacramento, CA 95814

Date : November 23, 1976

File No.:

From : Robert C. Summers

Subject: Percentage of Vote Mandatory Audit Criteria

A number of questions relating to the percentage of votes received and special elections have been raised. We are submitting the following information and related questions to you for your consideration.

Section 90001(b) of the Political Reform Act of 1974 states that the Franchise Tax Board shall audit the statements of each candidate who has received more than fifteen percent of the total vote cast for the office for which he was running in either a general or special election.

The California Elections Code defines a "special election" as an election, the specific time for holding of which is not prescribed by law. It would seem therefore, that both the special primary election and run-off election can be defined as special elections.

- I.
  - A. In those special elections where the vacancy is filled in the special primary election, does the Franchise Tax Board audit the statements of each candidate who has received more than fifteen percent of the total vote cast for the office for which he was running?
  - B. Does the fifteen percent apply to the total vote cast for the office in the run-off election?
  - C. Does the fifteen percent apply to the total vote cast for the office in the special primary election and the run-off election separately?
  - D. Does the fifteen percent apply to the total vote cast for the office in the special primary election and the run-off election combined?
  
- I.
  - A. In a primary election for the Office of Superintendent of Public Instruction where a candidate wins and is unopposed in the general election, does the Franchise Tax Board audit the statements for each candidate who has received more than fifteen percent of the total vote cast?



- III. A. In those elections where a candidate for judicial office whose name does not appear on the ballot by reason of Section 25304 of the Election Code, does the candidate receive more than fifteen percent of the total vote cast?
- B. In those elections where a candidate for judicial office wins in the primary election and there is no run-off election, does the Franchise Tax Board audit the statements for each candidate who received more than fifteen percent of the total vote cast?

Since the answers to these questions are necessary to enable us to determine mandatory audits, a prompt response will be appreciated.



Chief, Political Reform Audit Division

cc: Dan Converse  
Doug Dick  
Norman L. Fuller  
John J. Pavalasky