



California Fair Political Practices Commission

June 21, 1988

Honorable Vera Robles DeWitt
Councilmember, City of Carson
City Hall
701 East Carson Street
P.O. Box 6234
Carson, CA 90749

Re: Our File No. I-88-228

Dear Councilmember DeWitt:

We have received your letter concerning the new restrictions on publicly-funded mass mailings under Proposition 73. We appreciate your comments on this subject.

Enclosed is a copy of our first advice letter interpreting the mass mailing restrictions. After examining the new statute and the analysis by the Legislative Analyst, we have concluded that the voters intended to restrict mailings by state and local elected officials, but did not intend to ban publicly-funded mailings entirely. In the future we expect to address additional questions concerning the mass mailing restrictions in Proposition 73, and we will include your name on our mailing list for information on the subject.

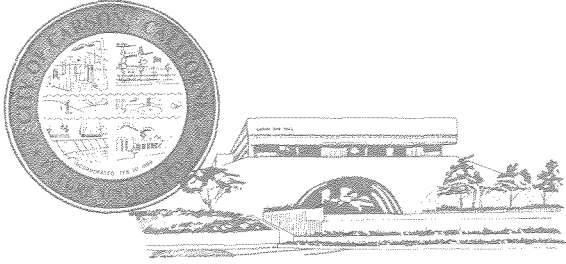
Sincerely,

Diane M. Griffiths
General Counsel

Kathryn E. Donovan

By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:plh



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CITY OF CARSON

June 17, 1988

Diane Griffiths
General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

Dear Ms. Griffiths:

As a Councilmember of the City of Carson, I am concerned about the effect that certain rulings on Proposition 73 might have on the operation of local governments.

While it seems clear that part of the intent of Proposition 73 was to end political mailers at public expense, a broad interpretation could preclude mailing notices of meetings, recreation schedules, surveys, or even sample ballots just to name a few. The law requires notification of hearings and such, but there are fears that the FPFC will interpret Proposition 73 literally and leave governments in the impossible position of not being able to legally mail out such notices.

Suggestions have been made of using local media to provide notifications. Three major newspapers and several smaller newspapers serve the City of Carson. Advertising in all of them to reach the target audience would be prohibitively expensive. If Proposition 73 was supposed to save the taxpayers' money, it will not be successful in this form.

I hope that you will take these points under consideration as you prepare your analysis for the Commission. As the matter stands now, we will be forced to decide which laws to obey and which to ignore.

Sincerely,

A handwritten signature in cursive script that reads "Vera Robles DeWitt".

Vera Robles DeWitt
Councilmember
City of Carson

cc: Mayor & City Council

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June 14, 1988

Mayor Kay Calas
City Council Members
Carson City Hall
P.O. Box 6234
Carson, California 90749

Re: Newsletter or other Mass Mailings Under
Proposition 73

Dear Mayor Calas and Council Members:

At Councilwoman DeWitt's request, I have reviewed the provisions of Proposition 73 which was adopted on June 7, 1988 with respect to its effect on the Carson Report, Park and Recreation calendar and other mailings by the City. As will be seen below, it is an ill-conceived, ill-considered and unfortunate piece of legislation insofar as City mailings are concerned, and should be corrected by legislation as soon as possible.

Analysis of Mass Mailing Provisions

The proposition became effective on June 8, 1988 as to the mass mailing provisions under Article 18, Section 4 of the California Constitution. The campaign contribution provisions are not effective until January 1, 1989.

The proposition amends the Government Code to define mass mailings as follows:

82041.5. "Mass mailing" means two hundred or more substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry."

Literally, it prohibits all mass mailings:

89001. "No newsletter or other mass mailing shall be sent at public expense."

By its literal terms it prohibits, in addition to newsletters, the mailing at public expense of 200 or more notices of an important council meeting, of an announcement of a concert in the Community Center, of a general plan or zoning hearing that may affect a large area, of a survey to determine the citizens' views on a matter under consideration by the City Council, of a warning regarding a matter of public health, of a notice changing the boundaries of a precinct, of a hearing on a proposed annexation, or even a notice of an election or a ballot pamphlet! All of these, and a myriad of other mailings which are sometimes made, are within the sweeping definition and prohibition of Proposition 73.

Lack of Information to the Public and Errors.

The publicity given the measure focused almost entirely, if not entirely, on the political contribution limitations and prohibition of transfer of funds between campaign committees. Neither the argument for, against, or the rebuttals even mention the mass mailing provisions. The mass mailing subject is mentioned in the title and the analysis by the Legislative Analyst.

The voters' pamphlet compiled by the Secretary of State and sent to all voters contains an incorrect statement of the changes made in existing Government Code Section 89001. Instead of showing the amendment's effect on Government Code Section 89001 as it existed at the time of the election, it shows the effect of the amendment on Section 89001 as it read prior to 1988.

Attached as Exhibit No. 1 is a copy of Government Code Section 89001 as it existed, when Proposition 73 was voted on. Attached as Exhibit 2 is a copy of page 63 of the ballot pamphlet on which the error appears. Obviously, the Secretary of State used a superseded statute in the ballot pamphlet. This error provides good ammunition for use in seeking legislative amendments.

Note that Proposition 73 (Exhibit 2) contains a severability clause so that if the amendment to Section 89001 should be held to be invalid, that holding would not affect

validity of the campaign contribution and transfer of funds among political committee provisions.

Effect and Application of the Mass Mailing Provisions.

If the mass mailing amendment is assumed to be effective (assuming no future legislative change), my present thinking is that I will rule that, notwithstanding its broad language, all notices required by law (official election mailings, notices regarding annexation proceedings, notices regarding redevelopment project proceedings, notices regarding general plan and zone change proceedings, etc.,) are impliedly and necessarily excluded from its application. This ruling would be based in part on the statutory interpretation principles that legislation is to be construed so as to avoid absurdity, and to harmonize and give effect to all existing statutes insofar as possible.

On the same theory I would probably rule that communications of an emergency nature affecting public health and safety are excluded by implication, if a mass mailing is necessary to protect the public in these circumstances. The City Council could hardly be precluded from acting under its police powers to protect its citizens from hazards by giving them written notice by mail.

That leaves mass mailings that are discretionary or optional. This is the real problem area. Public opinion surveys, park and recreation or other calendars, special events, etc., could not be the subject of a mailing at public expense to 200 or more people.

Possible alternatives:

A non-profit corporation funded by citizens or businesses in the area could mail newsletters, calendars, etc. Work on a newsletter by city staff, at public expense would probably be contrary to the new law, if the newsletter is to be mailed.

Park and recreation support groups, funded by private contributions, could mail park and recreation calendars. Obviously the Park and Recreation Department must prepare calendars of events, and these could be made available to the support group for reproduction and mailing.

Mayor Kay Calas
June 14, 1988
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Fewer than 200 newsletters, calendars, etc., could be mailed, to all sports teams, coaches associations, schools, home owners associations, etc., and copies could be posted at City Hall, libraries and other public places.

More than 200 copies could be printed and distributed by hand to places of business, schools, etc.

The only limitation is on mass mailings. In fact, the measure does not prohibit delivery by hand, carrier, or delivery boy or girl, or in any manner other than mailing. The measure is easily avoided if the mail is not used.

Calendars, etc., could be distributed as inserts in newspapers circulated in the City, if the newspapers would undertake to deliver them.

The City could place advertisements in the news media.

Publicity could be arranged through the cable television company as a public service.

No doubt there are other ways to communicate with the public, but none of the above would appear to violate the measure.

The City Council could elect to curtail the level of communication practiced in the past.

Recommendation: Consider an appropriate level of mailings in the interim and seek legislative amendment.

Very truly yours,



GLENN R. WATSON

GRW/sas

A211.80

enclosures

cc: City Administrator

trary notwithstanding, the order of names of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.

89001. Newsletter or Mass Mailing. No newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected officer to any person residing within the jurisdiction from which the elected officer was elected, or to which he or she seeks election, after the elected officer has filed either of the following:

(a) The nomination documents, as defined in Section 6489 of the Elections Code, for any local, state, or federal office to be voted upon at an election governed by Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code.

(b) The last document necessary to be listed on the ballot as a candidate for any local, state, or federal office to be voted upon at an election not governed by Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code.

History: Amended by Stats. 1986, Ch. 654, effective January 1, 1987; amended by Stats. 1987, Ch. 230, effective January 1, 1988

Chapter 10. Auditing. § 90000 - 90007

- § 90000. Responsibility.
- § 90001. Mandatory Audits and Investigations.
- § 90002. Audits and Investigations; Time.
- § 90003. Discretionary Audits.
- § 90004. Periodic Reports; Public Documents.
- § 90005. Confidentiality; Exception.
- § 90006. Audit and Investigation by Commission.
- § 90007. Auditing Guidelines and Standards.

90000. Responsibility. Except as provided in Section 90006, the Franchise Tax Board shall make audits and field investigations with respect to the following:

(a) Reports and statements filed with the Secretary of State under Chapters 4 and 6 of this title.

(b) Local candidates and their controlled committees selected for audit pursuant to subdivision (i) of Section 90001.

History: Amended by Stats. 1987, Ch. 230, effective January 1, 1988

90001. Mandatory Audits and Investigations. Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited. When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars (\$25,000) or more in contributions have been raised or twenty-five thousand dollars (\$25,000)

Exh. 1

The current constitutional limit on state and local government spending, known as the "Gann Limit," is essential in order to compel government to set priorities for spending within fiscally responsible limits and to hold government accountable to taxpayers. In addition, the Gann Limit should be improved and modernized as follows:

(a) State government should be required to maintain a permanent emergency reserve fund. To encourage funding for such a reserve, appropriations to the reserve should not be considered "appropriations subject to limitation." In addition, under urgent and unexpected circumstances, limited withdrawals from the reserve should not be subject to limitation if approved by the Governor and two-thirds of the Legislature.

(b) Local governments should be able to depend on their share of sales tax revenues, and the intent of this amendment is to secure those funds against maneuvering by the Legislature.

(c) Motorists consider the taxes and fees on motor vehicle fuels to be user fees, and the Gann Limit should be clarified to recognize them as such and to earmark them for road construction and transportation purposes. This would give the current system of highways a needed long-term commitment of funds for both new construction and repairs, without increasing any taxes. State programs remaining under the Gann Limit should be protected against any loss in spending authority due to this recognition of user fees.

(d) Taxpayers should be able to enforce the Gann Limit at the state and local levels. Further, it is the intent of the people that the Governor be responsible for calculation of the state spending limit.

(e) Passage of this amendment will not increase taxes.

Third—That Section 29 of Article XIII thereof be amended to read: SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them which is collected for them by the State. Before any such contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) The Legislature shall not reduce the rate in effect on January 1, 1987, for taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law.

Fourth—Section 5.1 shall be added to Article XIII B as follows:

SEC. 5.1. (a) There shall be maintained within the state general fund a reserve for emergencies and economic uncertainties, and each annual budget of the state shall include an appropriation in the budget bill to such reserve to the extent necessary to maintain a reserve of three percent (3%) of the total general fund budget. Any revenues appropriated to or retained in such reserve shall not be subject to Section 2 of this Article. Notwithstanding Section 5 of this Article, appropriations to such reserve shall not constitute appropriations subject to limitation and withdrawals from such reserve and expenditures of (or authorizations to expend) such withdrawals shall constitute appropriations subject to limitation.

(b) Any funds remaining on hand on June 30, 1988, in the Special Fund for Economic Uncertainties described in Chapter 135, Section 12.30 of the Budget Act of July 7, 1987, shall be transferred to the reserve established by subdivision (a), and such transfer shall not constitute appropriations subject to limitation.

(c) Notwithstanding subdivision (a), withdrawals from such reserve

budget bill or any appropriations bill as a special appropriation from the reserve for urgent and unexpected needs; provided, however, that during any fiscal year such special appropriations from the reserve for urgent and unexpected needs may not in the aggregate exceed two percent (2%) of the total general fund budget. This subdivision shall be repealed immediately upon the effective date of any amendment to Section 8 of this Article.

Fifth—Section 12 shall be added to Article XIII B as follows: SEC. 12. (a) The Governor shall calculate and report to the Legislature on February 1 of each year the amount of state "appropriations subject to limitation" and the state "appropriations limit" for the succeeding fiscal year.

(b) Any California taxpayer shall have the right to enforce any provision of this Article by bringing an action in the superior court in accordance with the provisions of the Code of Civil Procedure.

Sixth—That Section 7 of Article XIX of the California Constitution shall be amended to read:

SEC. 7. Except as provided in subdivision (b), this Article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

(b) Revenues derived from taxes imposed by the State pursuant to the Sales and Use Tax Law on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the purposes specified in Section 1 of this article, subject to the following limitations:

(1) From the revenues received in the 1988-89 fiscal year, an amount equal to one-third of the revenues received in the 1987-88 fiscal year shall be expended for those purposes.

(2) From the revenues received in the 1989-90 fiscal year, an amount equal to two-thirds of the revenues received in the 1988-89 fiscal year shall be expended for those purposes.

Seventh—Section 10 shall be added to Article XIX as follows:

SEC. 10. (a) Commencing on that July 1 following adoption of this section, for purposes of Article XIII B, revenues subject to this article shall be deemed user fees in determining the amount of appropriations subject to limitation.

(b) Notwithstanding subdivision (b) of Section 3 of Article XIII B, the appropriations limit of the state or any other entity of government for the 1988-89 fiscal year shall be decreased from what it would have been in the absence of the transfer caused by subdivision (a) of this section only by an amount equal to the revenues subject to Sections 1 and 2 of this Article received in the 1987-88 fiscal year.

(c) Any act enacted for the purpose of increasing state revenues subject to this Article, whether by increased rates or changes in methods of computation, shall be passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, or shall be approved by a majority of the voters voting at a regularly scheduled statewide election.

Eighth—Severability. If any provision of these amendments to Section 29 of Article XIII, or to Section 7 of Article XIX; or the addition of Section 5.1 or Section 12 to Article XIII B or Section 10 to Article XIX; or any application of such provisions to any person or circumstance shall be adjudged, declared, or held invalid, the remaining provisions and applications shall not be affected thereby, and are therefore severable.

Proposition 73: Text of Proposed Law
Continued from page 33

committee controlled by that candidate to exceed five thousand dollars (\$5,000) during any special election cycle or special runoff election cycle.

85306. Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office.

85307. The provisions of this article regarding loans shall apply to extensions of credit, but shall not apply to loans made to the candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

Article 4. Gifts and Honoraria

85400. No elected officeholder shall accept any gift or honorarium for any speech, article, or published work on a subject relating to the governmental process from any single source which is in excess of one thousand dollars (\$1,000), in any calendar year, except reimbursement

for actual travel expenses and reasonable subsistence in connection therewith.

SEC. 2. Section 88041.5 of the Government Code is amended to read:

88041.5. "Mass mailing" means two hundred or more identical or nearly identical substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

SEC. 3. Section 89001 of the Government Code is amended to read:

89001. No newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected officer to any person residing within the jurisdiction from which the elected officer was elected, or to which he or she seeks election; after the elected officer has filed the nomination documents, as defined in Section 6480 of the Elections Code, for any local, state, or federal office.

SEC. 4. If any provision of this act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this act to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this act are severable.

EXH. 2

Official Title and Summary Prepared by the Attorney General

CAMPAIGN FUNDING. CONTRIBUTION LIMITS. PROHIBITION OF PUBLIC FUNDING. INITIATIVE STATUTE. Limits annual political contributions to a candidate for public office to \$1,000 from each person, \$2,500 from each political committee, and \$5,000 from a political party and each "broad based political committee," as defined. Permits stricter local limits. Limits gifts and honoraria to elected officials to \$1,000 from each single source per year. Prohibits transfer of funds between candidates or their controlled committees. Prohibits sending newsletters or other mass mailings, as defined, at public expense. Prohibits public officials using and candidates accepting public funds for purpose of seeking elective office. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: Measure would result in net savings to state and local governments. State administrative costs would be about \$1.1 million a year when measure is fully operational. These costs would be more than completely offset by savings of about \$1.8 million annually resulting from ban on publicly funded newsletters and mass mailings. Local governments would have unknown annual savings primarily from the ban on publicly funded newsletters and mass mailings.

Analysis by the Legislative Analyst

Background

Federal law limits the amount of money that an individual may give as a political campaign contribution to a candidate for federal elective office or to the candidate's campaign committee. California law generally does *not* impose any similar limits on political campaign contributions. Both federal law and the state's Political Reform Act of 1974, however, require candidates for public office to report contributions they receive and money they and their campaign committees spend.

California law does not generally permit any public money to be spent for campaign activities. A few local government agencies, however, have authorized the payment of public matching funds to candidates for certain local elected offices.

Proposal

In summary, this measure:

- Establishes limits on campaign contributions for all candidates for state and local elective offices;
- Prohibits the use of public funds for these campaign expenditures; and
- Prohibits state and local elected officials from spending public funds on newsletters and mass mailings.

Limits on Campaign Contributions

The measure establishes separate limits for different types of contributors.

1. **Persons.** Contributions from any person to a candidate, or to the candidate's campaign committee, are limited to \$1,000 per fiscal year. Contributions to a political committee or political party are limited to \$2,500 per fiscal year. The measure defines "person" to include an individual, business firm, association, or labor organization.

2. **Political Committees.** Contributions from any committee to a candidate or the candidate's campaign committee are limited to \$2,500 per fiscal year.

3. **Political Parties and Broad-Based Political Committees.** Contributions from any political party or broad-

based political committee to a candidate or the candidate's campaign committee are limited to \$5,000 per year. A broad-based political committee is defined as one which receives contributions from more than 100 persons and makes contributions to five or more candidates.

4. Other Restrictions.

- No transfers of funds are permitted between individual candidates or between their campaign committees.
- State and local elected officials are prohibited from accepting more than \$1,000 in gifts or honoraria from any one source during a calendar year.

5. Other Provisions.

- This measure does not affect any existing limitation on campaign contributions enacted by a local government that imposes lower contribution limits. In addition, any local government may enact its own lower limitations.
- The personal contribution limits only apply to financial or other support provided to a political committee or broad-based political committee if the support is used for making contributions directly to a candidate. The contribution limits do not apply if the contributions are used by the committee for other purposes, such as administrative costs.
- The time periods over which the contribution limits apply are modified in the case of special elections and special runoff elections.

Public Funding Prohibition

No candidate may accept any public funds for the purpose of seeking elective office.

Newsletters and Mass Mailings

Public funds cannot be used by state and local elected officials to pay for newsletters or mass mailings.

Administration and Enforcement

The State Fair Political Practices Commission has the primary responsibility for administering and enforcing this measure.

Fiscal Effect

The measure would result in net savings to the state and local governments. State administrative costs will be about \$1.1 million a year, when the measure is fully operational, and would be financed from the state's General Fund. Most of this cost would be incurred by the Fair Political Practices Commission. These costs would be

offset by annual savings of about \$1.8 million resulting from the prohibition on the expenditure of public funds for newsletters and mass mailings.

Local government agencies also would experience unknown annual savings. These savings would result primarily from the prohibition on public expenditures for newsletters and mass mailings.

Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends and adds sections to the Government Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Chapter 5 (commencing with Section 85100) is added to Title 9 of the Government Code, to read:

CHAPTER 5. LIMITATIONS ON CONTRIBUTIONS Article 1. Applicability and Definitions

85100. *This chapter shall be known and cited as the "Campaign Contribution Limits Without Taxpayer Financing Amendments to the Political Reform Act."*

85101. (a) *Nothing in this chapter shall affect the validity of a campaign contribution limitation in effect on the operative date of this chapter which was enacted by a local governmental agency and imposes lower contribution limitations.*

(b) *Nothing in this chapter shall prohibit a local governmental agency from imposing lower campaign contribution limitations for candidates for elective office in its jurisdiction.*

85102. *The following terms as used in this chapter have the following meanings:*

(a) *"Fiscal year" means July 1 through June 30.*

(b) *"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and labor organization.*

(c) *"Political committee" means a committee of persons who receive contributions from two or more persons and acting in concert makes contributions to candidates.*

(d) *"Broad based political committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.*

(e) *"Public moneys" has the same meaning as defined in Section 426 of the Penal Code.*

85103. *The provisions of Section 81012 shall apply to the amendment of this chapter.*

85104. *The provisions of this chapter shall become operative on January 1, 1989.*

Article 2. Candidacy

85200. *Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office shall file with the commission a statement signed under penalty of perjury of intention to be a candidate for a specific office.*

85201. (a) *Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.*

(b) *Upon the establishment of an account, the name of the financial institution, the specific location, and the account number shall be filed with the commission within 24 hours.*

(c) *All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.*

(d) *Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.*

(e) *All campaign expenditures shall be made from the account.*

85202. (a) *A candidate may only accept contributions from persons, political committees, broad based political committees, and political parties and only in the amounts specified in Article 3 (commencing with Section 85300). A candidate shall not accept contributions from any other source.*

(b) *All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office for which the candidate has stated, pursuant to Section 85200, that he or she intends to seek or expenses*

associated with holding that office.

Article 3. Contribution Limitations

85300. *No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.*

85301. (a) *No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars (\$1,000) in any fiscal year.*

(b) *The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign contribution account.*

85302. *No person shall make and no political committee, broad based political committee, or political party shall solicit or accept, any contribution or loan from a person which would cause the total amount contributed or loaned by that person to the same political committee, broad based political committee, or political party to exceed two thousand five hundred dollars (\$2,500) in any fiscal year to make contributions to candidates for elective office.*

85303. (a) *No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars (\$2,500) in any fiscal year.*

(b) *No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars (\$5,000) in any fiscal year.*

(c) *Nothing in this Chapter shall limit a person's ability to provide financial or other support to one or more political committees or broad based political committees provided the support is used for purposes other than making contributions directly to candidates for elective office.*

85304. *No candidate for elective office or committee controlled by that candidate or candidates for elective office shall transfer any contribution to any other candidate for elective office. Transfers of funds between candidates or their controlled committees are prohibited.*

85305. (a) *This Section shall only apply to candidates who seek elective office during a special election or a special runoff election.*

(b) *As used in this Section, the following terms have the following meanings.*

(1) *"Special election cycle" means the day on which the office becomes vacant until the day of the special election.*

(2) *"Special runoff election cycle" means the day after the special election until the day of the special runoff election.*

(c) *Notwithstanding Section 85301 or 85303 the following contribution limitations shall apply during special election cycles and special runoff election cycles.*

(1) *No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars (\$1,000) during any special election cycle or special runoff election cycle.*

(2) *No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars (\$2,500) during any special election cycle or special runoff election cycle.*

(3) *No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any*

Continued on page 63

PREAMBLE

Second—The People of California find and declare that:

The current constitutional limit on state and local government spending, known as the "Gann Limit," is essential in order to compel government to set priorities for spending within fiscally responsible limits and to hold government accountable to taxpayers. In addition, the Gann Limit should be improved and modernized as follows:

(a) State government should be required to maintain a permanent emergency reserve fund. To encourage funding for such a reserve, appropriations to the reserve should not be considered "appropriations subject to limitation." In addition, under urgent and unexpected circumstances, limited withdrawals from the reserve should not be subject to limitation if approved by the Governor and two-thirds of the Legislature.

(b) Local governments should be able to depend on their share of sales tax revenues, and the intent of this amendment is to secure those funds against maneuvering by the Legislature.

(c) Motorists consider the taxes and fees on motor vehicle fuels to be user fees, and the Gann Limit should be clarified to recognize them as such and to earmark them for road construction and transportation purposes. This would give the current system of highways a needed long-term commitment of funds for both new construction and repairs, without increasing any taxes. State programs remaining under the Gann Limit should be protected against any loss in spending authority due to this recognition of user fees.

(d) Taxpayers should be able to enforce the Gann Limit at the state and local levels. Further, it is the intent of the people that the Governor be responsible for calculation of the state spending limit.

(e) Passage of this amendment will not increase taxes.

Third—That Section 29 of Article XIII thereof be amended to read:
SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them which is collected for them by the State state. Before any such contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) The Legislature shall not reduce the rate in effect on January 1, 1987, for taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law.

Fourth—Section 5.1 shall be added to Article XIII B as follows:

SEC. 5.1. (a) There shall be maintained within the state general fund a reserve for emergencies and economic uncertainties, and each annual budget of the state shall include an appropriation in the budget bill to such reserve to the extent necessary to maintain a reserve of three percent (3%) of the total general fund budget. Any revenues appropriated to or retained in such reserve shall not be subject to Section 2 of this Article. Notwithstanding Section 5 of this Article, appropriations to such reserve shall not constitute appropriations subject to limitation and withdrawals from such reserve and expenditures of (or authorizations to expend) such withdrawals shall constitute appropriations subject to limitation.

(b) Any funds remaining on hand on June 30, 1988, in the Special Fund for Economic Uncertainties described in Chapter 135, Section 12.30 of the Budget Act of July 7, 1987, shall be transferred to the reserve established by subdivision (a), and such transfer shall not constitute appropriations subject to limitation.

(c) Notwithstanding subdivision (a), withdrawals from such reserve

and expenditures of such withdrawals shall not constitute appropriations subject to limitation if they are separately designated in the budget bill or any appropriations bill as a special appropriation from the reserve for urgent and unexpected needs; provided, however, that during any fiscal year such special appropriations from the reserve for urgent and unexpected needs may not in the aggregate exceed two percent (2%) of the total general fund budget. This subdivision shall be repealed immediately upon the effective date of any amendment to Section 8 of this Article.

Fifth—Section 12 shall be added to Article XIII B as follows:

SEC. 12. (a) The Governor shall calculate and report to the Legislature on February 1 of each year the amount of state "appropriations subject to limitation" and the state "appropriations limit" for the succeeding fiscal year.

(b) Any California taxpayer shall have the right to enforce any provision of this Article by bringing an action in the superior court in accordance with the provisions of the Code of Civil Procedure.

Sixth—That Section 7 of Article XIX of the California Constitution shall be amended to read:

SEC. 7. ~~This article~~ (a) Except as provided in subdivision (b), this Article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

(b) Revenues derived from taxes imposed by the State pursuant to the Sales and Use Tax Law on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the purposes specified in Section 1 of this article, subject to the following limitations:

(1) From the revenues received in the 1988-89 fiscal year, an amount equal to one-third of the revenues received in the 1987-88 fiscal year shall be expended for those purposes.

(2) From the revenues received in the 1989-90 fiscal year, an amount equal to two-thirds of the revenues received in the 1988-89 fiscal year shall be expended for those purposes.

Seventh—Section 10 shall be added to Article XIX as follows:

SEC. 10. (a) Commencing on that July 1 following adoption of this section, for purposes of Article XIII B, revenues subject to this article shall be deemed user fees in determining the amount of appropriations subject to limitation.

(b) Notwithstanding subdivision (b) of Section 3 of Article XIII B, the appropriations limit of the state or any other entity of government for the 1988-89 fiscal year shall be decreased from what it would have been in the absence of the transfer caused by subdivision (a) of this section only by an amount equal to the revenues subject to Sections 1 and 2 of this Article received in the 1987-88 fiscal year.

(c) Any act enacted for the purpose of increasing state revenues subject to this Article, whether by increased rates or changes in methods of computation, shall be passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, or shall be approved by a majority of the voters voting at a regularly scheduled statewide election.

Eighth—Severability. If any provision of these amendments to Section 29 of Article XIII, or to Section 7 of Article XIX; or the addition of Section 5.1 or Section 12 to Article XIII B or Section 10 to Article XIX; or any application of such provisions to any person or circumstance shall be adjudged, declared, or held invalid, the remaining provisions and applications shall not be affected thereby, and are therefore severable.

Proposition 73: Text of Proposed Law

Continued from page 33

committee controlled by that candidate to exceed five thousand dollars (\$5,000) during any special election cycle or special runoff election cycle.

85306. Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office.

85307. The provisions of this article regarding loans shall apply to extensions of credit, but shall not apply to loans made to the candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

Article 4. Gifts and Honoraria

85400. No elected officeholder shall accept any gift or honorarium for any speech, article, or published work on a subject relating to the governmental process from any single source which is in excess of one thousand dollars (\$1,000), in any calendar year, except reimbursement

for actual travel expenses and reasonable subsistence in connection therewith.

SEC. 2. Section 82041.5 of the Government Code is amended to read:

82041.5. "Mass mailing" means two hundred or more identical or nearly identical substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to a an unsolicited request, letter or other inquiry.

SEC. 3. Section 89001 of the Government Code is amended to read:

89001. No newsletter or other mass mailing shall be sent at public expense by or on behalf of any elected officer to any person residing within the jurisdiction from which the elected officer was elected, or to which he or she seeks election, after the elected officer has filed the nomination documents, as defined in Section 6489 of the Elections Code, for any local, state, or federal office.

SEC. 4. If any provision of this act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this act to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this act are severable.

Campaign Funding. Contribution Limits. Prohibition of Public Funding. Initiative Statute

Argument in Favor of Proposition 73

Proposition 73 will reform the way political campaigns are financed in California WITHOUT GIVING YOUR TAX MONEY TO POLITICIANS!

Proposition 73 is the **ONLY CAMPAIGN FINANCE PROPOSAL THAT APPLIES TO ALL CALIFORNIA ELECTED OFFICES** including State Senate, State Assembly, statewide constitutional offices and local offices.

Clearly, too much money is being spent on political campaigns today. Candidates and officeholders can be unduly influenced by special interest groups that donate large amounts of money.

Currently in California there is **NO LIMIT** on the amount that any one **DONOR** can **CONTRIBUTE** to a **CANDIDATE** for office. Contributions of \$10,000, \$20,000 or \$30,000 are routine. \$100,000 contributions are becoming commonplace. Proposition 73 will place a reasonable contribution limit on how much any one donor can give to a candidate.

If Proposition 73 is enacted:

Individual contributions to a campaign would be limited to \$1,000 per year.

Contributions from businesses and labor unions would be limited to \$2,500 per year.

Contributions from political action committees would be limited to \$5,000 per year.

Proposition 73 would also:

Place a limit on the amount of money a candidate could take as an honorarium for such things as giving a speech.

Prohibit "transfers"—the practice of political power brokers collecting and transferring huge amounts of money to their anointed candidates.

MOST IMPORTANT OF ALL, PROPOSITION 73 ACCOMPLISHES THIS NEEDED REFORM OF CAMPAIGN FINANCING WITHOUT GIVING YOUR HARD-EARNED TAX MONEY TO POLITICIANS.

In fact, it flatly PROHIBITS candidates' use of any tax money in order to campaign for office.

Too much money is spent on political campaigns today! IT CERTAINLY MAKES NO SENSE TO OPEN THE BIGGEST

MONEY SOURCE OF ALL, THE TAXPAYERS' PURSES AND WALLETS.

Keeping government spending under control is hard enough. Imagine how much harder it will be to keep politicians from spending more tax money on the most important thing in their lives—getting elected and reelected.

TAXPAYER FINANCING OF POLITICAL CAMPAIGNS MAKES NO SENSE!

- **STATE SENATE AND ASSEMBLY RACES ALONE COULD COST TAXPAYERS \$70 MILLION EVERY TWO YEARS. THIS IS MONEY THAT COULD OTHERWISE PAY FOR POLICE PROTECTION, FIRE PROTECTION OR SCHOOLS.**

- Your tax money would be given to candidates you disagree with. In fact, it would allow **EXTREMIST CANDIDATES SUCH AS COMMUNISTS OR MEMBERS OF THE KU KLUX KLAN TO HAVE THEIR CAMPAIGNS PAID FOR WITH YOUR TAX DOLLARS.**

Fortunately, you have an alternative to taxpayer financing of political campaigns.

PROPOSITION 73 IS THAT ALTERNATIVE.

Every effort to reform the way political campaigns are financed without taxpayer money has been defeated in the State Legislature. In fact, a bill identical to Proposition 73 was defeated by the Legislature at its first committee hearing!

YOU KNOW, THE POLITICIANS WON'T CHANGE A SYSTEM WHICH IS RUN FOR THEIR BENEFIT BY ENACTING THESE VITALLY NEEDED REFORMS. YOU MUST DO THE JOB OR IT WON'T GET DONE AT ALL!!

We must control the overwhelming power that special interests have over our legislative process. It's time for campaign contribution reform.

VOTE YES ON PROPOSITION 73!

JOEL FOX

President, California Tax Reduction Movement

DAN STANFORD

Former Chairman, Fair Political Practices

Commission, 1983-85

Rebuttal to Argument in Favor of Proposition 73

DON'T BE FOOLED.

PROPOSITION 73 WAS WRITTEN BY THREE INCUMBENT POLITICIANS. ITS MAIN SUPPORTERS ARE SOME OF THE LARGEST SPECIAL INTEREST LOBBYISTS IN CALIFORNIA.

The proponents of Proposition 73 admit that too much money is being spent on political campaigns. *But Proposition 73 does nothing to limit campaign spending!* In fact, Proposition 73 would actually prohibit the citizens of California from imposing limits on campaign spending.

The proponents of Proposition 73 admit that candidates and officeholders are unduly influenced by large contributions from special interest lobbyists. *But Proposition 73 does nothing to reduce the influence of the special interests!*

Under Proposition 73's so-called "limits," a single special interest group could give incumbent legislators as much as \$600,000 per year, or \$1.2 million per election cycle. *That's even more than the state's largest lobbying groups contribute now. JUST IMAGINE HOW MUCH INFLUENCE \$1.2 MILLION CAN BUY!*

The proponents of Proposition 73 say that they want to limit campaign spending without any public financing. That sounds

nice. What they don't tell you is that the *U.S. Supreme Court has ruled that we can't limit campaign spending without providing some form of public funding.* And we can't have effective campaign reform without limiting spending.

PROPOSITION 68 LIMITS CAMPAIGN SPENDING.

PROPOSITION 73 DOES NOT.

PROPOSITION 68 ACHIEVES REAL CAMPAIGN REFORM.

PROPOSITION 73 DOES NOT.

PROPOSITION 68 IS THE CITIZENS' IDEA FOR REFORM.

PROPOSITION 73 IS THE POLITICIANS' AND SPECIAL INTEREST LOBBYISTS' IDEA OF "REFORM."

DON'T BE FOOLED!

VOTE "NO" ON PROPOSITION 73!

CAROL FEDERIGHI

President, League of Women Voters of California

LUCY BLAKE

Executive Director, California League of Conservation Voters

JOHN K. VAN DE KAMP

Attorney General, State of California

Campaign Funding. Contribution Limits. Prohibition of Public Funding. Initiative Statute

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Argument Against Proposition 73

DON'T BE FOOLED!!!

Proposition 73 is the politicians' and lobbyists' attempt to hold onto their power using the disguise of campaign reform.

Proposition 73 does nothing to reduce the influence of big-money contributors.

Proposition 73 would actually prohibit citizens from limiting campaign spending in California.

VOTE "NO" ON PROPOSITION 73!

PROPOSITION 73 IS A FRAUD PROMOTED BY THE POLITICIANS AND SPECIAL INTEREST LOBBYISTS.

The politicians and lobbyists in Sacramento have joined forces in hopes of confusing the public and preventing you from enacting true campaign reform. DON'T BE FOOLED! *Proposition 73 is not reform.*

- Proposition 73 was drafted by three incumbent politicians. Between them, they received *over \$2 million* in campaign money for their last elections. One of these legislators alone spent well over \$800,000, and *he didn't even have an opponent!* DO THESE SOUND LIKE SPONSORS OF REAL CAMPAIGN REFORM?
- Proposition 73 was placed on the ballot with over \$250,000 received from incumbent legislators and five of the largest special interest groups in the state. In the last election, *these five lobbying groups contributed over \$3 million to legislative candidates!* DO THESE SOUND LIKE SUPPORTERS OF REAL CAMPAIGN REFORM?

WHY DO THESE POLITICIANS AND LOBBYISTS WANT PROPOSITION 73? Because it serves their interests and protects them from *true* campaign reform!

PROPOSITION 73 WILL DO NOTHING TO REDUCE THE INFLUENCE OF SPECIAL INTEREST LOBBYISTS AND WILL ACTUALLY PREVENT MEANINGFUL CAMPAIGN FINANCE REFORM.

The real problem with today's election system is *runaway campaign spending*. By 1990, the average Assembly or Senate race will cost \$1 million. Yet not only does Proposition 73 fail to limit campaign spending, *it actually prohibits any spending limits in all future campaigns!* NO WONDER THE POLITI-

CIANS AND BIG-SPENDING LOBBYISTS SUPPORT PROPOSITION 73.

Without spending limits, legislators will continue to spend their time stuffing their war chests with money received from special interest groups who want something in return. *And the more money the politicians raise, the more we pay*—in higher taxes, in laws that give special breaks to big contributors, and in elected officials who ignore the needs of the average citizen.

Proposition 73's contribution limits will not solve the campaign finance problem. *Proposition 73's purported "limits" are so full of loopholes that they will have virtually no impact.* A single lobbying group can still give over \$2 million to candidates for the Legislature at a single election! NO WONDER THE POLITICIANS AND BIG-SPENDING LOBBYISTS SUPPORT PROPOSITION 73.

The civic and business leaders and organizations who have been working for real campaign finance reform—such as the League of Women Voters and Common Cause—do not support Proposition 73. Passage of Proposition 73 could prevent Proposition 68 from taking effect.

DON'T BE FOOLED!!!

PROPOSITION 73 IS A TRICK DESIGNED TO DEFEAT THE REAL CAMPAIGN REFORM CONTAINED IN PROPOSITION 68 AND TO PROHIBIT THE CITIZENS FROM EVER CONTROLLING CAMPAIGN SPENDING.

THE SUPPORTERS OF PROPOSITION 73 ARE THE VERY POLITICIANS AND LOBBYISTS WHO PROFIT FROM THE CURRENT SYSTEM.

DON'T BE FOOLED!!!

VOTE "NO" ON PROPOSITION 73!

WALTER ZELMAN

Executive Director, California Common Cause

ROY ULRICH

Chairman, California Tax Reform Association

TOM K. HOUSTON

Former Chairman, California Fair Political Practices Commission

Rebuttal to Argument Against Proposition 73

WE MUST REFORM THE WAY POLITICAL CAMPAIGNS ARE FINANCED!

YOU HAVE A CLEAR CHOICE!

Proposition 73 will *PROHIBIT* politicians and special interests from using your tax money to run their campaigns.

IN CONTRAST, Proposition 68 GIVES A BLANK CHECK WORTH MILLIONS OF YOUR TAX DOLLARS TO POLITICIANS, INCLUDING EXTREMISTS, SUCH AS COMMUNISTS OR MEMBERS OF THE KU KLUX KLAN!

The opponents of Proposition 73 understand we are part of a small minority in the Legislature fighting for campaign reform. But these special interests are so intent on increasing their political influence by using your tax money that they will tell any lie!

The *FACT* is that their rival initiative, Proposition 68, was placed on the ballot with nearly \$500,000 in contributions from California's largest corporations and other special interests, including insurance companies, banks, major developers and other huge corporations that contribute hundreds of thousands of dollars to political campaigns. These same special interests regularly lobby matters before the Legislature.

Under their plan, Proposition 68, contributions from corpo-

rations, labor unions and other special interests would be matched with \$3 of your tax money for each \$1 contributed. WHY ALLOW THESE SPECIAL INTERESTS TO MULTIPLY THEIR POLITICAL INFLUENCE WITH YOUR TAX MONEY?

TAXPAYERS SHOULD NOT BE FORCED TO SHELL OUT UP TO \$70 MILLION EVERY TWO YEARS FOR THEIR EXTRA VAGANT PLAN.

Join nearly 600,000 of your fellow Californians who placed Proposition 73 on the ballot. Support true campaign finance reform WITHOUT RAIDING THE STATE TREASURY.

Vote YES on Proposition 73.

QUENTIN L. KOPP

State Senator, 8th District

Independent/San Francisco and San Mateo Counties

JOSEPH B. MONTOYA

State Senator, 26th District

Democratic/Los Angeles County

ROSS JOHNSON

Member of the Assembly, 64th District

Republican/Orange County