



California Fair Political Practices Commission

March 21, 1994

Steve Johnson
1458 South 10th Avenue
Arcadia, CA 91006

Re: Your Request For Informal
Assistance
Our File No. I-94-74

Dear Mr. Johnson:

This is in response to your request for advice regarding the campaign provisions of the Political Reform Act.¹ Your letter states only a general question. Therefore, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c).²

QUESTION

Are contributions to candidates in the 20th State Senate District recall election subject to contribution limits?

CONCLUSION

No contribution limits are applicable to candidates involved in this election.

FACTS

A recall election for the 20th State Senate District will be held on April 12, 1994. A number of candidates are on the ballot for the voters to select if the recall is successful. In a telephone conversation, you indicated that you are the treasurer for Dolores White's campaign committee. You also indicated that she is one of the candidates on the recall election ballot and you are requesting this information on her behalf.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c)(3).)

ANALYSIS

In elections to state office, contribution limits only apply in special elections. (See Section 85305.)³ The question is whether the vote for candidates who appear on a ballot to succeed a state officer sought to be recalled constitutes a "special election" for purposes of Section 85305's contribution limits.⁴

Under Elections Code Sections 27310 and 27312, which apply to recall elections for state offices, both the recall question and the names of candidates nominated to succeed the state officer sought to be recalled appear on the same ballot.

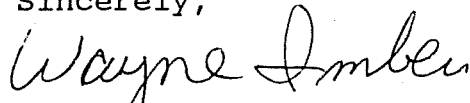
In this circumstance, the special election limits of Section 85305 will not apply. Section 85305 imposes special election contribution limits during the "special election cycle." Section 85305(b)(1) defines special election cycle as follows:

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

In a recall election for a state office, there is no vacancy because the new incumbent's election is simultaneous with the recall of the previous incumbent. Accordingly, in this circumstance, the special election limits of Section 85305 do not apply.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,



Wayne P. Imberi
Political Reform Consultant

³ Sections 85301, 85302 and 85303, which applied contribution limits in all other elections, were invalidated in Service Employees International Union, AFL-CIO, CLC v. Fair Political Practices Commission (9th Cir. 1992) 955 F.2d 1312, cert.den. 172 S.Ct. 3056, 112 S.Ct. 3057.

⁴ The Commission has previously advised that the recall itself is not an election to office but is instead a "measure" under Section 82043. (Roberti Advice Letter, No. A-89-358.) However, the Commission has never issued written advice on the issue of whether, once an incumbent is recalled, the election to fill the vacancy is an election to office subject to any applicable contribution limits.