



California Fair Political Practices Commission

June 30, 1994

Dorothy Miller, Treasurer
Johannessen for Senate
737 Auditorium Drive
Redding, CA 96001

Re: Your Request for Advice
Our File No. A-94-187

Dear Ms. Miller:

You have requested advice on behalf of State Senator Maurice Johannessen concerning the campaign provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

You have asked if it is permissible for Senator Johannessen to transfer the following contributions from the controlled committee established for the regularly scheduled 1994 election (Johannessen for Senate) to pay debts incurred by his controlled committee established for a special election held in 1993 (Johannessen for Senate-93):

NRA Political Victory Fund	\$4,000
Exxon Corporation	1,000
CA Defense Counsel PAC	1,000
Farmers Employees and Agents PAC	1,000

You have stated that the special election committee has received no previous contributions from these entities.

CONCLUSION

The contributions from Exxon, the Defense Counsel PAC and the Farmers PAC may be transferred. The contribution from the NRA

^{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.

Political Victory Fund may be transferred if the contributor has qualified as a "broad based committee" under the provisions of the Act.

ANALYSIS

For the most part, the Act no longer restricts a candidate's ability to transfer campaign funds among his or her controlled committees.^{2/} However, if the committee which is to receive the funds was established for a special election for any state or local office, the funds transferred must be in compliance with the special election limits of Section 85305.

Regulation 18535 (copy enclosed) provides:

(b) Unless otherwise prohibited by law, a candidate may transfer contributions from any other committee controlled by the candidate to the candidate's special election committee if all of the following apply:

(1) The contributions transferred to the candidate's special election committee, when aggregated with all other contributions from, and transfers attributable to, the same contributor do not exceed the amount the contributor could have contributed to the special election committee for the special election, and, where required, the special runoff election, pursuant to Government Code Section 85305.

(2) All contributions transferred to the special election committee are attributed to specific contributors to the transferring committee for the actual amount contributed. The fair market value of any inventory, equipment, or other assets to be transferred to the candidate's special election committee shall be similarly attributed to specific contributors at the time of transfer.

(3) The contributions transferred to the special election committee do not include contributions received from any other candidate.

^{2/} See Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission (9th Cir. 1992) 955 F.2d 1312, cert. den. 112 S.Ct. 3056 and 112 S.Ct. 3057.

Section 85305 imposes the following limits on contributions received by a candidate running in a special election during the special election cycle and the special runoff election cycle:

(a) Contributions from persons (e.g., individuals, business entities) are limited to \$1,000 per cycle;

(b) Contributions from political committees (a committee that receives contributions from two or more persons and makes contributions to five or more candidates) are limited to \$2,500 per cycle; and

(c) Contributions from broad based political committees (a committee which has been in existence for more than six months, receives contributions from 100 or ore persons, and makes contributions to five or more candidates) and political parties are limited to \$5,000 per cycle.

In order to make contributions of more than \$2,500 in a special election cycle or special runoff election cycle, a broad based committee must amend its statement of organization (Form 410) to indicate that it is a broad based political committee and the date on which it qualified as a broad based political committee. (Regulation 18502.1.)

Because Exxon, the Defense Counsel PAC and the Farmers PAC have made no previous contributions to the special election committee, their contributions of \$1,000 each may be transferred from the regular election committee to the special election committee. However, before transferring more than \$2,500 from the NRA Political Victory Fund, you must determine whether the Fund is a broad based committee under the Act.^{3/} Please note that Regulation 18535(c) also requires that records be maintained which identify transferred contributions and specifies the disclosure requirements for transferred contributions.

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

Sincerely,

Steven G. Churchwell
General Counsel

Carla Wardlow

By: Carla Wardlow
Division Chief
Technical Assistance Division

^{3/} The Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.)