



# California Fair Political Practices Commission

February 14, 1995

Sue Herbers, City Clerk  
City of Torrance  
3031 Torrance Blvd.  
Torrance, CA 90509-2970

Re: Your Request for Informal  
Assistance  
Our File No. I-95-030

Dear Ms. Herbers:

You have requested advice concerning the contribution limitation provisions of the Political Reform Act.<sup>1/</sup> Because your questions are general in nature, we will treat your letter as a request for informal assistance pursuant to Regulation 18329(c).<sup>2/</sup>

## QUESTION

The City of Torrance recently enacted an ordinance setting contribution limits for candidates. You have asked how the transfer ban contained in the Act will affect city candidates and committees.

## DISCUSSION

Proposition 73, which was passed by the voters in June 1988, added contribution limits to the Act. (Sections 85301-85303.) In addition, Section 85304 was enacted prohibiting the transfer of campaign funds between candidates. However, in Service Employees International Union, AFL-CIO, CLC v. Fair Political Practices Commission (9th Cir. 1992) 955 F. 2d 1312, cert. den. 112 S. Ct. 3056, 112 S. Ct. 3057, the Ninth Circuit Court of Appeals invalidated the Act's contribution limits insofar as the limits

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<sup>1/</sup> 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.

<sup>2/</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

were calculated on a fiscal year basis. The Court did not invalidate Proposition 73's special election limits, as they are based on an election cycle rather than a fiscal year.

The result of the Court's decision was that Section 85304's inter-candidate transfer prohibition was also invalidated with regard to fiscal year contribution limits, but not with regard to limits based on an election cycle. Therefore, transfers between candidate committees are only prohibited when the candidate who will receive the transfer is running in a special election, or if the candidate who will receive the transfer is subject to local jurisdiction contribution limits which are based on an election cycle.

In addition, Section 85304 is only applicable to the transfer of campaign funds. There is nothing in the Act which would prohibit a candidate from making a contribution from his or her personal funds to another candidate. For purposes of contribution limits, the contributing candidate's personal funds would be treated the same as the personal funds of any other individual.

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

Sincerely,



Carla Wardlow  
Division Chief  
Technical Assistance Division