

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

January 21, 1997

Stanley E. Remelmeyer
Assistant City Attorney
City of Redondo Beach
415 Diamond Street
Post Office Box 270
Redondo Beach, California 90277-0270

**Re: Your Request for Advice
Our File No. I-96-339**

Dear Mr. Remelmeyer:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹

Thank you for contacting us regarding certain recommendations you have received for campaign finance reform in the City of Redondo Beach.

You have sent us copies of two memoranda sent to you by City Councilmember Joe Dawidziak and City Councilmember Bob Pinzler. Since Mr. Pinzler's proposals are included in Mr. Dawidziak's recommendations, I will respond point-to-point to the recommendations in Mr. Dawidziak's letter. Since both proposals are general in nature only and not in draft form we are providing only informal advice. (Regulation 18329.)

Generally, the Act permits local governments to impose additional requirements relating to campaign finance, disclosure and ethics, as long as those requirements do not prevent persons from complying with the provisions of the Act. (Section 81013.)

In addition, Section 85706, added by Proposition 208, grants local jurisdictions a degree of autonomy to enact their own body of campaign finance provisions.

¹ Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18000 - 18995, of the California Code of Regulations.

Section 85706 states:

(a) Nothing in this Act shall nullify contribution limitations or other disclosures or prohibitions of any local jurisdiction that are as or more stringent than set forth in this Act.

(b) The governing body of a local jurisdiction may impose lower contribution limitations or other campaign disclosures or prohibitions that are as or more stringent than set forth in this Act. A local jurisdiction may impose higher contribution or expenditure limitations only by a vote of the people

(c) . . . [protects local programs involving the use of matching funds.]

City Council Recommendations 1A-G and 2.

A. Spending limit of \$.50 per eligible director.

Mandatory expenditure ceilings have been struck down by the United State Supreme Court. *Buckley v. Valeo* 424 U.S. 1 (1976). Therefore, the drafters of Proposition 208 established voluntary expenditure ceilings and created incentives for candidates to accept those voluntary expenditure ceilings. Voluntary expenditure ceilings for statewide races were set explicitly in Proposition 208. However, local jurisdictions were given the discretion on whether or not to establish voluntary local expenditure ceilings and if so at what level.

Section 85400(c), added by Proposition 208, provides:

“Any local jurisdiction, municipality or county may establish voluntary expenditure ceilings for candidates and controlled committees of such candidates for elective office not to exceed \$1 per resident for each election in the district in which the candidate is seeking elective office. Voluntary expenditure ceilings may be set at lower levels by the local governing body.”

A voluntary expenditure ceiling of \$.50 per eligible elector by a candidate [and controlled committees of such candidates] appear to be the type of limit contemplated by Proposition 208 and may be set by the local governing body.

B. Seventy-five percent [or 50 percent] of all funds raised must come from eligible electors.

There is nothing in state law that would prohibit such an ordinance. However, the constitutionality of such a measure may be suspect after *Vanatta v. Keisling* (D.Or. 1995) 899 F. Supp. 488. In *Vanatta*, the federal district court held that a measure that limited the amount of campaign contributions from out-of-district donors to 10 percent of a candidate's total campaign funding violated out-of-district donors' First Amendment rights. Since the facts of that case may differ from your situation in the City of Redondo, I recommend that you read *Vanatta* and making your own conclusion. Keep in mind that an appellate court review of *Vanatta* is pending and a decision is expected in the near future.

C-D. Restrictions on campaign contributions to certain city officials from contractors doing business with the city, and an ordinance prohibiting such officials from voting on issues involving contributors to their election.

I will repeat here the advice given to you by Staff Counsel Hyla Wagner in her letter to you dated August 30, 1996,:

“Redondo Beach may adopt an ordinance disqualifying campaign contributions because the requirements of such an ordinance would not prevent the persons affected from complying with provisions of the Act. (*Benson* Advice Letter, No. 77-103.) Numerous cities and counties have similar ordinances. Some are patterned on Section 84308 of the Act which applies to appointed members of boards and commissions who are also elected officials.”

(*Remelmeyer* Advice Letter, No. 96-226.)

E. No anonymous contributions over \$25.

Section 84304 prohibits anonymous contributions of \$100 or more. However, for a local jurisdiction to prohibit a lower amount would not prevent the persons affected from complying with the provisions of the Political Reform Act. (*Benson* Advice Letter, No. 77-033.)

F. Application of the local ordinance.

This is a political question which must be left to the discretion of the council.

F2-G. Enforcement of the local ordinance.

The Fair Political Practices Commission only enforces violations of the Political Reform Act. Though local ordinances are contemplated by the Political Reform Act and may supplement the Political Reform Act, those local ordinances are not part of the Political Reform Act itself. Therefore, enforcement of local ordinances will be left to the city and county.

2. Question of whether to pass by ordinance or to place before the voters.

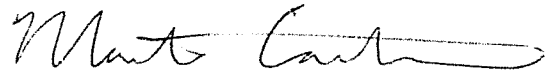
This is a political question which must be left to the discretion of the council. However, keep in mind Section 85706(b), which states "a local jurisdiction may impose higher contribution or expenditure limitations only by a vote of the people."

If you have any other questions regarding this matter, please contact me at (916) 322-5660. Because the Fair Political Practices Commission is required to maintain up-to-date copies of all local campaign finance ordinances, we would appreciate your forwarding us a copy of any ordinance that the Redondo Beach City Council adopts.

Sincerely,

Steven G. Churchwell
General Counsel

By: Marte Castaños
Staff Counsel, Legal Division



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