

SUPERSEDED IN PART

by F-97-547 (Herr)



RAVI MEHTA
CHAIRMAN

FAIR POLITICAL PRACTICES COMMISSION

March 4, 1997

Richard D. Jones
Law Offices of Richard D. Jones
Brea Landmark Bank Building
390 North Brea Boulevard, Suite A
Brea, California 92621

**Re: Your Request for Advice
Our File No. A-97-084**

Dear Mr. Jones:

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

QUESTION

Section 89519 provides that surplus campaign funds may be "turned over to the General Fund." Does Proposition 208 distinguish between the state's general fund and a local entity's general fund?

CONCLUSION

We interpret the General Fund referenced in Section 89519(b) and Section 85313 (e) to mean the General Fund of the State of California, and not the general fund of a local jurisdiction.

FACTS

You represent the Cities of La Habra, Fullerton, Whittier and Westminster. You state that Proposition 208 does not define the term "General Fund" nor does Government Code Section 89519. You ask whether a candidate running for local office could turn over his or her surplus funds to the local entity's general fund.

ANALYSIS

¹ Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

ANALYSIS

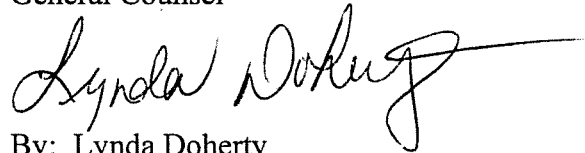
The Act contains numerous references to the General Fund of the State of California. In three instances the Act refers to the "General Fund of the state." Section 83116(c) (monetary penalties for violations of this title shall be paid to); Section 83122 (appropriation to the Commission shall come from); and Section 84304 (anonymous contributions shall be deposited in). In three other instances, the Act specifically provides that the funds must be paid either to the state General Fund or to the general fund of the relevant local jurisdiction. Section 89501(b)(2) regarding the return of prohibited honoraria states that the honoraria may be "delivered to the State Controller for donation to the General Fund, or in the case of a public official for local government agency, delivered to his or her agency for donation to an equivalent fund..." Section 91009 concerning amounts recovered in civil actions states: "The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction." Section 91013(c) states that the filing officer shall deposit fines for the late filing of statements or reports "into the general fund of the jurisdiction of which he or she is an officer."

Sections 89519(b) and 85313(e) state that funds must be paid over to "the General Fund." The use of the singular, capitalized term, and the absence of any reference to the general fund or treasury of a local jurisdiction, indicate that this refers to the General Fund of the State of California. (*Avila* Advice Letter, No. A-96-355.)

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Lynda Doherty
Political Reform Consultant, Legal Division

SGC:LD:ak