

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

October 1, 1997

Shelba Powell  
City Clerk  
City of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802

**Re: Your Request for Advice  
Our File No. A-97-419**

Dear Ms. Powell:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup> This advice letter does not analyze other provisions of Measure M. That is the subject of a separate request for written advice submitted by the City of Long Beach, *Graves* Advice Letter, No. A-97-416.

### QUESTION

May a candidate running for office in the City of Long Beach use the city's form for accepting local expenditure limits required by the local ordinance in lieu of filing the Form 500 expenditure ceiling statement required by state law?

### CONCLUSION

No. A local candidate accepting voluntary expenditure limits must file a Form 500 with the Fair Political Practices Commission. A local ordinance may require an additional filing, but may not relieve its jurisdiction's candidates of the duty to file a Form 500.

---

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

## FACTS

On June 7, 1994, the electorate of the City of Long Beach voted into law Proposition M, the "Long Beach Campaign Reform Act." Proposition M contains voluntary spending limits. It provides that "[e]ach candidate for office, at the time of filing his or her nomination papers, shall file a statement accepting or rejecting the expenditure ceilings."

Proposition 208, effective January 1, 1997, provides that "nothing in this act shall nullify contribution limitations or other campaign disclosures or prohibitions of any local jurisdiction that are as or more stringent than set forth in this act." (Section 85706(a).) Also, Section 81013 of the Act provides that "nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail." (Section 81013.)

The City of Long Beach has created such a statement, and the Long Beach City Attorney's Office believes that the provisions of Proposition M supersede Proposition 208 on the issue of expenditure limitations, therefore allowing City of Long Beach candidates not to file Form 500, which is required by the Act.

## ANALYSIS

*The City of Long Beach's requirement that local candidates file the city's Statement of Acceptance/Rejection of Expenditure Limitations does not conflict with the state's requirement that local candidates accepting voluntary expenditure ceilings file a Form 500.*

Control over the conduct of city elections is, by definition, a "municipal affair." (*Johnson v. Bradley*, 4 Cal.4th 389, 398 (1992); Cal. Const. art. XI, § 5(b)(3).) Charter cities have the exclusive power to regulate the manner of electing municipal officers (e.g., the manner in which, the method by which, the times at which, and the terms for which the several municipal officers will be elected). (*Johnson v. Bradley, supra*, 4 Cal.4th at p. 398.) However, this municipal authority is always subject to limitation by a state statute when a matter of statewide concern is posed. Therefore, when a municipal statute and a state statute are in **actual conflict**, the courts will use the framework articulated in *California Fed. Savings & Loan Assn. v. City of Los Angeles*, 54 Cal.3d 1, 283 (1991) (*CalFed*) to decide if the local and state enactments can co-exist or if the local law is preempted.

For there to be an actual conflict, the purported conflict between state and local law must be in fact a genuine one, unresolvable short of choosing between one enactment and the other. (*Johnson v. Bradley, supra*, 4 Cal.4th at p. 399.) If there is no conflict, no preemption analysis is required. (*Ibid; CalFed., supra*, 54 Cal.3d at p. 16.) The requirement in Proposition M that City of Long Beach candidates file with the city a "Statement of Acceptance/Rejection of Expenditure Limitations" does not pose an actual conflict with state law (Section 85401, Regulation 18541) which requires local candidates accepting voluntary expenditure limits to file with the Fair

Political Practices Commission Form 500;<sup>2</sup> thus, your question does not require a preemption analysis.<sup>3</sup> (See *Angus* Advice Letter, No. A-97-173; *Carnevale* Advice Letter, No. A-97-104.)

Rather, each required filing can operate independently and concurrently, each fulfilling its respective utility under state and local law as was intended in Section 81013.<sup>4</sup> Therefore, any City of Long Beach candidate accepting voluntary expenditure limitations must continue to file a Form 500 with the Fair Political Practices Commission in the methods prescribed in Section 85401 and Regulation 18541 in addition to any forms or statements required by municipal law. (See attached.)

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Douglas White  
Graduate Assistant, Legal Division

SGC:DW:jlw  
Enclosures

---

<sup>2</sup> See *Hawthorn* Advice Letter, No. A-97-316; *Lapsley* Advice Letter, No. A-97-014, copies enclosed.

<sup>3</sup> It is within a charter city's authority to regulate the manner, method, times, and terms of city elections. (Cal. Const. art. XI, section 5(b); *Mackey v. Thiel*, (1968) 262 Cal.App.2d 362, 364, 68 Cal.Rptr. 717, 719; *Johnson v. Bradley*, (1992) 4 Cal.4th 389, 403, 841 P.2d 990, 999, 14 Cal.Rptr.2d 470, 479.) However, the integrity of the electoral process is a matter of statewide concern. (*Johnson, supra* at 406; *Moll* Advice Letter, No. A-96-315.) It is not necessary to reach this issue in this case since we conclude there is no actual conflict.

<sup>4</sup> Section 81013 provides, "Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail."