



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

June 25, 2008

Angela Ivey
City Clerk
City of Solana Beach
635 South Highway 101
Solana Beach, CA 92075-2215

Re: Your Request for General Information
Our File No. G-08-084

Dear Ms. Ivey:

This letter is in response to your request for general information regarding the proposed amendment to the Election Code (the "Code") of the City of Solana Beach. You have asked us to review the proposed amendment for conformity with the requirements of the Political Reform Act (the "Act").¹ We have the following suggestions.

Definitions – Section 2.24.030

We recommend that you eliminate the definition of "contribution" and instead use the Act's definition contained in Government Code Section 82015 and Regulation 18215. Of particular concern is how Section 82015(b)(2)(B)(iii) provides that while payments made principally for legislative, governmental, or charitable purposes are not considered contributions, such payments that are made at the behest of a candidate who is an elected official (such as a city council member) must be reported to the official's agency within 30 days if the aggregate of such payments from one source reaches \$5,000 in a calendar year. This requirement is dropped from your definition. Also, there are quite a few exceptions in Regulation 18215 that we think you would want to make available to your candidates and committees.

We also question your definition of "candidate" and subsequent use of that term throughout the Code. The definition in subsection B-6 appears to limit that term to

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

candidates seeking election to the city council. Once the term is so narrowly defined, its use throughout the Code, especially in the definitions of "city committee," "primarily formed committee," "general purpose committee," and "sponsored committee" is confusing. (We realize that these definitions come from Government Code Sections 82027.5 and 82048.7.) If it is, indeed, your intent that all provisions of the Code dealing with candidates are limited to candidates for city council, then you should review each use of the term to be sure that its use conveys the intended meaning. A better approach, we believe, is by use of the terms "city candidate" or "candidate for city elective office" in various parts of the Code. You could use the Government Code Section 82007 definition for "candidate" and then separately define "city candidate."

If you are limiting the operation of this code to candidates for city council, you may want to delete the language in subsection B-(6)(iii) stating "whether or not the specific elective office for which he or she will seek nomination is known at the time the contribution is received or the expenditure is made"

"Fundraiser event" does not need to be defined because we did not find it used anywhere in the Code.

Expenditures – Section 2.24.050

We suggest changing subsection B to read: "City committees not controlled by candidates that make expenditures in support of or in opposition to a candidate or measure shall clearly"

In subsection C, third line, we believe you should replace "person" with "city committee." "Person" is very broadly defined. It would include, for example, a state independent expenditure committee that supports both a local candidate and candidates or measures being voted on in more than one county. This goes beyond the city's jurisdiction. The city can only regulate city committees.

In subsection E, we question the use of the word "committee" when describing who can draw checks.

Election campaign accounts – Section 2.24.070

As written, subsection E-3 appears in conflict with Government Code Section 85201(e), which requires that all campaign expenditures shall be made from the campaign bank account. Subsection E-3 treats some expenditures as if they had been made from the campaign bank account when, in fact, they were not. Regulation 18526 sets forth the circumstances under which expenditures can be reimbursed from a campaign bank account. We recommend that you add this as an additional proviso in this section. It would look something like this:

"For purposes of this section, any expenditures shall be deemed

made by check drawn against the election campaign account, provided that: (i) the maker of the expenditures is reimbursed by such check; (ii) the expenditure is reported as provided in SBMC 2.24.080; and (iii) the requirements of Section 18526 of Title 2 of the California Code of Regulations are met.”

Media Exemptions - Section 2.24.100

In subsection A-5, in the second line from the bottom, it seems that “he” should be replaced by “it” because it refers to a “person (other than an individual).”

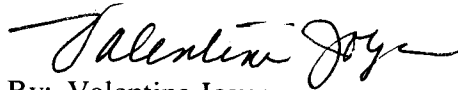
Enforcement - Section 2.24.130

In subsection B, there’s a typo in the last sentence. “Council” should be “counsel.”

If you have questions on this matter, please contact me at (916) 322-5783.

Sincerely,

Scott Hallabrin
General Counsel



By: Valentina Joyce
Counsel, Legal Division

VJ:jgl