



November 15, 2022

Chair Miadich and Commissioners
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

Re: Staff Memorandum, Opinion on SB 1439 Pre-2023 Applicability to California Government Code Section 84308

Dear Chairman Miadich and Commissioners,

We would like to thank you and your staff for the thorough analysis of the “look back” issue raised by SB 1439 (Glazer, Chaptered 2022), specifically, whether this important legislation should be interpreted to apply to contributions that were received prior to SB 1439’s enactment.¹

California Common Cause agrees with the Commission staff’s thoughtful initial perspective that the expansion of Cal. Gov. Code § 84308 to additional government agencies could potentially be found to apply to contributions made and received in 2022, prior to SB 1439’s enactment. However, it is our view that, in the interest of fairness and ample notice, contributions made and received before January 1, 2023 should not be subject to a 12-month “look back” under SB 1439.

SB 1439 will hopefully increase public trust in government for decades to come by helping to prevent *quid pro quo* corruption and its appearance in elections and local governance. Thus, we suggest that limiting SB 1439’s application to contributions received after SB 1439’s enactment is both reasonable and fully within the letter and “spirit” of the new law. In short, this “looking forward” approach comports with the statutory language itself while ensuring that all those affected by the new law have been provided ample notice of their legal obligations under the law.

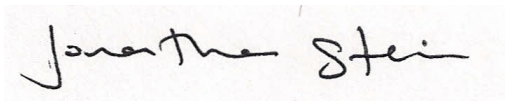
Finally, we also wish to underscore that we adamantly reject the assertion that contribution limits placed by SB 1439 impermissibly restrict speech. The law that SB 1439 has updated, and the restrictions it has put on a variety of public officials and entities making political contributions to them, have been in place in California for decades. For that entire time, it has properly and constitutionally sought to deter

¹ Cal. Gov. Code § 84308 (c) prohibits an officer from making, participating in making, or in any way attempting to use the officer’s official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than \$250 within the preceding 12 months from a party or a party’s agent, or from any participant or a participant’s agent if the officer knows or has reason to know that the participant has a financial interest in the decision. SB 1439 extended this provision to additional governmental agencies and officers. The chaptered statute takes effect January 1, 2023, pursuant to Art. IV, Sec. 8(c) of the California Constitution.

conduct that undermines the public's trust in fair governance. Indeed, SB 1439 solely broadens the application of this anti-corruption law to additional government agencies to whom common sense and sound public policy suggest it should apply most – local elected officials -- because of the close nexus of oversized campaign contributions to local elected officials and possible quid pro quo corruption and its appearance. Additionally, we note that SB 1439 is completely consistent with already-existing laws in dozens of California cities and many other states.

We again want to thank the Commission's excellent staff for their work on these important democracy-protection issues, and appreciate your consideration of our perspectives on this particular point. We look forward to our continuing dialogue with you and your staff as implementation work continues and regulations are promulgated on SB 1439.

Sincerely yours,

A handwritten signature in black ink on a light-colored background. The signature reads "Jonathan Stein" in a cursive, slightly slanted script. The first name "Jonathan" is written in a more fluid, connected style, while "Stein" is written in a slightly more upright, but still cursive, style.

Jonathan Mehta Stein
Executive Director, California Common Cause