

Fair Political Practices Commission

Memorandum

To: Chair Remke and Commissioners Casher, Eskovitz, Wasserman and Wynne

From: Zackery P. Morazzini, General Counsel
Emelyn Rodriguez, Commission Counsel

Subject: Cost of Living Adjustment to Contribution Limits, Voluntary Expenditure Ceilings and Gift Limit:
Adoption of Amendments to Regulations 18545 - Campaign and Voluntary Expenditure Ceiling Amounts; 18703.4 – Economic Interests, Defined: Source of Gifts; 18730 – Provisions of Conflict of Interest Codes; and 18940.2 – Gift Limit Amount.

Date: November 10, 2014

Proposed Commission Action and Staff Recommendation: Adopt the proposed amendments to Regulations 18545, 18703.4, 18730, and 18940.2.

I. Contribution Limits and Voluntary Expenditure Ceiling Adjustments

A. Background

Proposition 34, known as the “Campaign Contributions and Spending Limits Act of 2000,” was a legislatively referred statute placed on the November 7, 2000 ballot that was approved by voters. Proposition 34 amended the Political Reform Act¹ (the “Act”) to create contribution limits and voluntary expenditure ceilings for state candidates (Sections 85301, 85302, 85303, and 85400).

Proposition 34 also added Section 83124, which requires the Commission to adjust contribution limits and voluntary expenditure ceilings biennially to reflect changes in the Consumer Price Index (“CPI”).²

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.

² The California Department of Finance (“DOF”) provides the annual CPI for all California urban consumers. In order to provide the adjustment in time for the new calendar year, the November CPI is used to make the final calculation. However, at the time of this memorandum, the November 2014 California CPI has not yet been released. As of September 2014, the average California CPI for all urban consumers was 246.56. The calculations in this memorandum use the September 2014 CPI. However, this is subject to change and the amounts for campaign contribution limits, voluntary expenditure ceilings, and gift limits may be adjusted when the November 2014 California CPI is finally released for 2014.

In 2002, the Commission adopted Regulation 18544. It created the following formula for the cost of living adjustment of the contribution limits and voluntary expenditure ceilings.

| | | | | |
|--------------------------|----------|---|---|-------------|
| Applicable Limit 2001 | \times | $\frac{246.56 \text{ (Sept. 2014 CPI)}}{174.8 \text{ (CPI from 2000)}}$ | = | 2015 limit* |
|--------------------------|----------|---|---|-------------|

*Rounded to the nearest \$100 for contributions limits; to the nearest \$1,000 for expenditure ceilings.

In 2006, Senate Bill (“SB”) 145 (Stats. 2006, Ch. 624, urgency) amended Section 85316, known as the “net debt” provision of the Act. The net debt provision prohibits post-election fundraising for any purpose other than to pay net debt. SB 145 added Section 85316(b), allowing the establishment of a separate officeholder account for officeholder expenses. Additionally, Section 85316(b) requires that:

- Contributors and elected state officers are subject to calendar year contribution limits for officeholder accounts.
- Elected state officers are subject to aggregate contribution limits to officeholder accounts on a calendar year basis.
- The contribution limitations will be adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index (rounded to the nearest \$100).

In 2006, the Commission amended Regulation 18544 to create the following formula for the cost of living adjustment of the contribution limits and aggregate limits applicable to officeholder accounts.

| | | | | |
|--------------------------|----------|---|---|-------------|
| Applicable Limit 2007 | \times | $\frac{246.56 \text{ (Sept. 2014 CPI)}}{210.5 \text{ (CPI from 2006)}}$ | = | 2015 limit* |
|--------------------------|----------|---|---|-------------|

*Rounded to the nearest \$100.

Regulation 18545, which provides the current year limits, is amended with the approval of this item. Using this formula, the revised limits in Regulation 18545 are:

| Campaign Contribution Limits | 2001 Amount | Existing Amount | Adjusted Amount |
|--|--------------------|------------------------|------------------------|
| Assembly, Senate, CalPERS/CALSTRS | \$3,000 | \$4,100 | <i>\$4,200</i> |
| Statewide, other than Governor | \$5,000 | \$6,800 | <i>\$7,100</i> |
| Governor | \$20,000 | \$27,200 | <i>\$28,200</i> |

| Small Contributor* Limits | 2001 Amount | Existing Amount | Adjusted Amount |
|--|--------------------|------------------------|------------------------|
| Assembly, Senate, CalPERS/CALSTRS | \$6,000 | \$8,200 | <i>\$8,500</i> |
| Statewide, other than Governor | \$10,000 | \$13,600 | <i>\$14,100</i> |
| Governor | \$20,000 | \$27,200 | <i>\$28,200</i> |
| PAC for State Candidates Section 85303(a) | \$5,000 | \$6,800 | <i>\$7,100</i> |
| Political Party Committees for State Candidates Section 85303(b) | \$25,000 | \$34,000 | <i>\$35,300</i> |

| Voluntary Expenditure Ceilings | 2001 Amount | Existing Amount | Adjusted Amount |
|---|--------------------|------------------------|----------------------------|
| Assembly, Primary | \$400,000 | \$544,000 | <i>\$564,000</i> |
| Assembly, General | \$700,000 | \$953,000 | <i>\$987,000</i> |
| Senate, Primary | \$600,000 | \$817,000 | <i>\$846,000</i> |
| Senate, General | \$900,000 | \$1,225,000 | <i>\$1,269,000</i> |
| Board of Equalization, Primary | \$1,000,000 | \$1,361,000 | <i>\$1,411,000</i> |
| Board of Equalization, General | \$1,500,000 | \$2,041,000 | <i>\$2,116,000</i> |
| Other Statewide, Primary | \$4,000,000 | \$5,444,000 | <i>\$5,642,000</i> |
| Other Statewide, General | \$6,000,000 | \$8,166,000 | <i>\$8,463,000</i> |
| Governor, Primary | \$6,000,000 | \$8,166,000 | <i>\$8,463,000</i> |
| Governor, General | \$10,000,000 | \$13,610,000 | <i>\$14,105,000</i> |

* Under Section 85203 a small contributor committee means any committee that meets the following criteria: (a) has a membership of at least 100 individuals; (b) all the contributions it receives from any person in a calendar year totals \$200 or less; (c) has been in existence at least six months; and (d) the committee makes contributions to five or more candidates.

| Officeholder Account Contribution Limits | 2007 Amount | Existing Amount | <i>Adjusted Amount</i> |
|---|--------------------|------------------------|-------------------------------|
| Assembly, Senate | \$3,000 | \$3,400 | <i>\$3,500</i> |
| Statewide, other than Governor | \$5,000 | \$5,700 | <i>\$5,900</i> |
| Governor | \$20,000 | \$22,600 | <i>\$23,400</i> |

| Aggregate* Officeholder Contribution Limits | 2007 Amount | Existing Amount | <i>Adjusted Amount</i> |
|--|--------------------|------------------------|-------------------------------|
| Assembly, Senate | \$50,000 | \$56,500 | <i>\$58,600</i> |
| Statewide, other than Governor | \$100,000 | \$113,000 | <i>\$117,100</i> |
| Governor | \$200,000 | \$226,000 | <i>\$234,300</i> |

B. Effective Dates of Adjusted Contribution Limits and Voluntary Expenditure Ceilings.

Pursuant to language in Regulation 18545 (a)(1) and (a)(2), the adjusted contribution limit amounts and adjusted voluntary expenditure ceilings will apply to all state elections taking place during the two-year period from January 1, 2015 to December 31, 2016. For example, the newly adjusted contribution limit would apply to a special Senate election, if it occurs in February of 2015, even if the fundraising started during the last months of 2014. Similarly, the current limit will apply for Senate candidates who raise funds after January 1, 2015, to pay down debts from the 2014 election. This method of calculation was approved by the Commission at the August 9, 2002, Commission meeting and as discussed in the memorandum, *Proposition 34 Regulations: Adoption of Proposed Regulation 18544, Formula for Campaign Contributions and Voluntary Expenditure Limits COLA* (July 29, 2002).

Regulation 18545(f) requires that the adjusted contribution limit amounts and the adjusted voluntary expenditure ceilings be applied to all state elections held after December 31, 2014 until those limits are adjusted by the Commission to reflect changes in the Consumer Price Index. For elections held after December 31, 2014, if the campaign/expenditure amounts are adjusted upward, then the state candidate would be permitted to raise additional funds in the amount of the difference between the lower initial amount allowed and the new higher amount allowed. If the amounts are adjusted downward, then the state candidate would not be in violation of the new lower limits or need to return excess contributions received prior to the effective date of the newly adjusted lower limits and ceilings.

*The total amount of contributions allowed from all sources per Section 85316(b).

II. Gift Limit Adjustment

Gift Limit Calculation: The following formula is used to calculate the adjusted gift limit.

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|--|
| $\begin{array}{l} \$250 \text{ (Limit in} \\ \text{1990)} \end{array} \times \frac{246.56 \text{ (Sept. 2014 CPI)}}{135 \text{ (CPI from 1990)}} = 2015 \text{ limit}^*$ |
|--|

*Rounded to nearest \$10.

Under the above formula, the gift limitation amount for January 1, 2015 through December 31, 2016 will be \$460, an increase of \$20 from the prior two-year period. Proposed amendments to incorporate this change include amendments to Regulations 18703.4, 18730, and 18940.2.

Attachments:

- Proposed Regulation 18545
- Proposed Regulation 18703.4
- Proposed Regulation 18730
- Proposed Regulation 18940.2.