



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

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

From: Hyla P. Wagner, General Counsel
L. Karen Harrison, Commission Counsel

Subject: Cost of Living Adjustment (COLA) to Contribution Limits, Voluntary Expenditure Ceilings and Gift Limit; Adoption of Amendments to the following Regulations:
18544 - Campaign Contribution and Voluntary Expenditure COLA Formula
18545 - Campaign and Voluntary Expenditure Ceiling Amounts
18700 - Basic Rule and Guide to Conflict of Interest
18730 – Provisions of Conflict of Interest Codes
18940.2 – Gift Limit Amount

Date: November 4, 2016

I. Overview

A. COLA Adjustments to the Political Reform Act¹ Statutory Limitations

Government Code sections 83124, 85316(b)(4), and 89503(f) charge the Commission with making COLA adjustments to reflect changes in the Consumer Price Index (CPI), in January of every odd-numbered year, to the following statutory limits:

- Contribution limits and voluntary expenditure ceilings applicable to candidates for elective state office (sections 85301, 85302, 85303, and 85400),
- State Officeholder account contribution limits (section 85316(b)), and
- Gift limits (section 89503).

B. Proposed Commission Action and Staff Recommendation

Adopt the proposed amendments to Regulations 18544, 18545, 18700, 18730, and 18940.2 to make COLA adjustments required by the Act and clarify the source for the updated annual Consumer Price Index.

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 Regulations 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source unless otherwise indicated.

II. Background on the COLA Process

Section 82001 defines the COLA adjustment as follows:

“Adjusting an amount for cost-of-living changes” means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

Regulation 18544 sets forth the three formulas for making the COLA adjustments to the contribution, voluntary expenditure, and state officeholder account limits stated in Sections 85301, 85302, 85303, 85400, and 85316(b), respectively. Each formula multiplies the initial limit (according to the year the limitation was enacted), by the product of: the updated annual CPI, divided by the base annual CPI (for enactment year). The equation for each formula is provided below.

Regulation 18544(c) specifies the source for the CPI figure as follows:

The adjustments shall be based upon the September forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for the calendar year immediately preceding the year in which the adjustment is to take effect.

As detailed in past staff memoranda, the intent of the above regulation language was to “mirror” the earlier established gift limit COLA formula, and as such, to use the CPI figure obtained from the California Department of Finance (DOF), which bases its CPI calculations on Bureau of Labor Statistics figures. The DOF Consumer Price Index Forecast, May Revise (dated April 2016) states that the applicable forecast annual 2016 California CPI is “255.0.”

III. Amendments to Regulation 18544: Clarification of CPI Source

A forecast annual California CPI is used due to the fact that the actual CPI for a given year is not available until mid-January of the following year.² The attached amendments clarify the CPI source as the Department of Finance Consumer Price Index Forecast, May Revise. This is a readily obtainable and commonly used source for state statutory cost of living adjustments. Minor amendments to Regulation 18544(c) are desirable to eliminate confusion.³

² See http://www.dof.ca.gov/Forecasting/Economics/Eco_Forecasts_Us_Ca/index.html, CPI-U all items for 2016, for the relevant CPI figure.

³ The Department of Finance recently indicated that only the May Revise forecast is the available and appropriate forecast for the annual CPI. Additionally, the reference to “September” caused some confusion, and mis-references to the monthly CPI figures available from DOF. Regulation 18544 states that the CPI is for the “calendar year,” which requires an annual CPI figure.

IV. Amendments to Regulation 18545: Contribution Limit, Voluntary Expenditure Ceilings, State Officeholder Account Limit Adjustments and Effective Dates

A. Contribution limits and voluntary expenditure ceilings applicable to candidates for elective state office (Sections 85301, 85302, 85303, and 85400) ⁴

1. COLA formula for contribution limits, Sections 85301, 85302 and 85303:

Regulation 18544(a)(1) states:

The contribution limitations in Government Code Sections 85301, 85302 and 85303 shall be adjusted biennially by the Commission to reflect changes in the California Consumer Price Index (CPI). The adjustments shall be made using the following formula: the contribution limit amount in effect January 1, 2001, multiplied by the annual CPI, divided by the base CPI from 2000, rounded to the nearest one hundred dollars (\$100). (*Fn. omitted.*) The resulting figure shall be the adjusted contribution limitation in effect for all state elections held until the next odd numbered year.

This language is expressed as the following equation:

Applicable Limit 2001	\times	$\frac{255.0 \text{ (2016 annual CPI) }^*}{174.8 \text{ (2000 base CPI)}}$	=	2017 limit**
--------------------------	----------	--	---	--------------

* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2016.

**Rounded to the nearest \$100 for contribution limits

2. COLA formula for Voluntary Expenditure Ceilings limits, Section 85400:

Regulation 18544(a)(2) states:

The voluntary expenditure ceilings in Government Code Section 85400 shall be adjusted biennially by the Commission to reflect changes in the California Consumer Price Index. The adjustment shall be made using the following formula: the voluntary expenditure ceiling amount in effect January 1, 2001, multiplied by the annual CPI, divided by the base CPI from 2000, rounded to the nearest one thousand dollars (\$1,000). (*Fn. omitted.*) The resulting figure shall be the adjusted voluntary expenditure limitation in effect for all state elections held until the next odd numbered year.

⁴ These limits were added under the “Campaign Contributions and Spending Limits Act of 2000,” approved by voters as Proposition 34, Stats. 2000, c. 102. Section 85301 limits contributions from persons; Section 85302 limits contributions from small contributor committees; Section 85303 limits contributions to committees and political parties; and Section 85400 sets voluntary expenditure ceilings. Base year figures for these limitations are from year 2000.

This language is expressed as the following equation, and differs from the above equation only in the rounding to the nearest \$1,000 requirement.

Applicable Limit 2001	\times	$\frac{255.0 \text{ (2016 annual CPI) }^*}{174.8 \text{ (2000 base CPI)}}$	=	2017 limit**
--------------------------	----------	--	---	--------------

* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2016.

**Rounded to the nearest \$1,000 for expenditure ceilings.

B. State officeholder account contribution limits (Section 85316(b))⁵

Regulation 18544(b) states:

For purposes of Government Code Section 85316(b), beginning the year 2006 the cost of living adjustment shall be calculated as follows.

(1) The contribution limitation shall be adjusted biennially by the Commission to reflect changes in the California Consumer Price Index (CPI). The adjustment shall be made using the following formula: the contribution limit amount in effect January 1, 2007, multiplied by the annual CPI, divided by the base CPI from 2006, rounded to the nearest one hundred dollars (\$100). The resulting figure shall be the adjusted contribution limitation in effect for all state officeholders until the next odd numbered year.

This language is expressed as the following equation:

Applicable Limit 2007	\times	$\frac{255.0 \text{ (2016 annual CPI) }^*}{210.5 \text{ (CPI from 2006)}}$	=	2017 limit**
--------------------------	----------	--	---	--------------

* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2016.

**Rounded to the nearest \$100.

Regulation 18545 states the current per year limits and is amended with the approval of this item to reflect the required cost of living adjusted limits for calendar years 2017 to 2018. Regulation 18545(f) provides that these limits will continue until such time as the limits are adjusted by the Commission, and is amended with approval of this item to update the time period language.

⁵ Subdivision (b) of Section 85316, allowed the establishment of a separate officeholder account for officeholder expenses subject to calendar year contribution limits, to be given a COLA adjustment in odd-numbered years to reflect changes in the CPI. This subdivision was added by Stats. 2006, c. 624. Base year figures for these limitations are from year 2006.

Using the above formulas and CPI figure, the COLA adjusted amounts are summarized in the following tables:

Campaign Contribution Limits	2001 Limit	Existing Amount	Adjusted Amount 2017-2018
Assembly, Senate, CalPERS/CALSTRS	\$3,000	\$4,200	4,400
Statewide, other than Governor	\$5,000	\$7,000	7,300
Governor	\$20,000	\$28,200	29,200

Small Contributor Committee* Limits *defined in Section 85203	2001 Limit	Existing Limit	Adjusted Limit
Assembly, Senate, CalPERS/CALSTRS	\$6,000	\$8,500	\$8,800
Statewide, other than Governor	\$10,000	\$14,100	\$14,600
Governor	\$20,000	\$28,200	\$29,200

PAC for State Candidates Section 85303(a)	\$5,000	\$7,000	\$7,300
Political Party Committees for State Candidates Section 85303(b)	\$25,000	\$35,200	\$36,500

Voluntary Expenditure Ceilings	2001 Limit	Existing Limit	Adjusted Limit
Assembly, Primary	\$400,000	\$564,000	\$584,000
Assembly, General	\$700,000	\$987,000	\$1,021,000
Senate, Primary	\$600,000	\$846,000	\$875,000
Senate, General	\$900,000	\$1,269,000	\$1,313,000
Board of Equalization, Primary	\$1,000,000	\$1,410,000	\$1,459,000
Board of Equalization,	\$1,500,000	\$2,115,000	\$2,188,000

General			
Other Statewide, Primary	\$4,000,000	\$5,640,000	<i>\$5,835,000</i>
Other Statewide, General	\$6,000,000	\$8,460,000	<i>\$8,753,000</i>
Governor, Primary	\$6,000,000	\$8,460,000	<i>\$8,753,000</i>
Governor, General	\$10,000,000	\$14,100,000	<i>\$14,588,000</i>

Officeholder Account Contribution Limits	2007 Limit	Existing Limit	Adjusted Limit
Assembly, Senate	\$3,000	\$3,500	<i>\$3,600</i>
Statewide, other than Governor	\$5,000	\$5,900	<i>\$6,000</i>
Governor	\$20,000	\$23,400	<i>\$24,200</i>

Aggregate* Officeholder Contribution Limits	2007 Limit	Existing Limit	Adjusted Limit
*The total amount of contributions allowed from all sources per Section 85316(b).			
Assembly, Senate	\$50,000	\$58,500	<i>\$60,600</i>
Statewide, other than Governor	\$100,000	\$117,100	<i>\$121,100</i>
Governor	\$200,000	\$234,200	<i>\$242,300</i>

C. Note on Application of Limits

Regulation 18545, subdivisions (a) and (b), states that the adjusted contribution limit amounts and adjusted voluntary expenditure ceilings apply to all state elections occurring during the two-year period from January 1, 2017 to December 31, 2018. For special elections, the appropriate limit corresponds to the year of the election. For example, the newly adjusted contribution limit would apply to a special election if it occurred in February 2017, regardless of the date fundraising began. For paying down past campaign debt, the appropriate limit also corresponds to the year of the election. For example, an elected Senator with debts from the 2016 election is subject to the 2016 contribution limits, even if the fundraising to pay down this election debt takes place in 2017.

V. Amendments to Regulations 18700, 18730 and 18940.2: Gift Limit Adjusted to \$470⁶

Section 89503(f) charges the Commission with adjusting the gift limitation, and states as follows:

(f) Beginning on January 1, 1993, the Commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

Regulation 18940.2(a) states the gift limit amount and the applicable time period:

(a) For purposes of Section 89503, the adjusted annual gift limit amount in effect for the period January 1, 2015, to December 31, 2016, is \$460.

The following formula is used to calculate the adjusted gift limit:

$\begin{array}{l} \$250 \\ \text{(base limit, 1990)} \end{array} \times \frac{255.0 \text{ (2016 annual CPI) }^*}{135 \text{ (CPI from 1990)}} = \text{2017 limit}^{**}$
--

* As forecast in the DOF Consumer Price Index Forecast, May Revise, dated April 2016.

**Rounded to nearest \$10.

Using the above formula, and the Department of Finance 2016 estimated CPI figure, the gift limitation amount for January 1, 2017 through December 31, 2018 will be \$470. This is an increase of \$10 from the prior two-year period. Regulations 18700, 18730, and 18940.2 are amended to reflect the adjusted gift limit with approval of this item.

Attached Proposed Amendments:

Regulation 18544
Regulation 18545
Regulation 18700
Regulation 18730
Regulation 18940.2

⁶ Section 89503, gift limits, was originally added by Stats. 1990, c. 84. The base year figure for this limitation is from year 1990.