

May 14, 2015

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (A.G. File No. 15-0012) that amends state law to impose new limitations on money received by candidates, committees, and slate mailer organizations.

BACKGROUND

State Campaign Finance and Disclosure Laws. California's Political Reform Act of 1974, an initiative adopted by the voters, established the state's campaign finance and disclosure laws. The act applies to state and local candidates, but does not apply to federal candidates or officials. The state's Fair Political Practices Commission (FPPC) (1) interprets and enforces the requirements of the act, including investigating alleged violations, and (2) provides administrative guidance to the public by issuing advice and opinions regarding FPPC's interpretation of the act. The act distinguishes between certain types of individuals and organizations including:

- ***Candidates.*** Individuals who seek nomination for—or election to—state or local elective office.
- ***Committees.*** Any combination of one or more individuals, businesses, labor unions, or organizations who directly or indirectly receives or spends above a specified threshold of money to support or oppose a candidate or ballot measure.
- ***Slate Mailer Organizations.*** An organization that receives money for the purpose of producing one or more mass mailing that supports or opposes a total of four or more candidates or ballot measures.

Local Campaign Finance and Disclosure Laws. In addition to the requirements established by the act, some local governments have campaign finance and disclosure requirements for local candidates, ballot measures, and officials. These ordinances are established and enforced by the local government.

Political Spending. Many individuals, groups, and businesses spend money to support or oppose state and local candidates or ballot measures in California. This political spending can take different forms, including contributing money to candidates or committees, donating services to campaigns, and producing ads to communicate opinions. Under state campaign finance laws, there are three types of political spending.

- **Political Contributions.** The term political “contribution” generally includes giving money, goods, or services (1) directly to a candidate, (2) at the request of a candidate, or (3) to a committee that uses these resources to support or oppose a candidate or ballot measure. Current law limits the amount of political contributions that individuals, organizations, and businesses may give to a state candidate (or to committees that give money to a state candidate).
- **Independent Expenditure.** Money spent to communicate support or opposition of a candidate or ballot measure generally is considered an independent expenditure if the funds are spent in a way that is not coordinated with (1) a candidate or (2) a committee established to support or oppose a candidate or a ballot measure. For example, developing a television commercial urging voters to “vote for” a candidate is an independent expenditure if the commercial is made without coordination with the candidate’s campaign. Current law does not limit the amount of money individuals, organizations, and businesses may spend on independent expenditures. These expenditures, however, must be disclosed to election officials.
- **Other Political Spending.** Some political spending is not considered a political contribution or an independent expenditure. This broad category includes “member communications”—spending by an organization to communicate political endorsements to its members, employees, or shareholders. This spending is not limited by state law and need not be disclosed to election officials.

Political Spending From Sources Outside of California. The act permits political spending by any individual who is a citizen or lawfully admitted permanent resident of the United States of America and any business or other organization with its principal place of business within the United States of America. Accordingly, individuals, businesses, and organizations from other states may spend money to support or oppose a candidate or ballot measure in California. Political spending from sources outside of California are subject to FPPC’s enforcement authority.

Nonresidents of California. The act does not define “nonresident.” However, this term has meaning in other parts of state government and law including the state income tax as well as public higher education admissions and tuition. In its administration of California’s state income tax, the Franchise Tax Board defines a nonresident to be any individual who is not (1) present in California for other than a temporary or transitory purpose or (2) domiciled in California.

PROPOSAL

The measure amends the Political Reform Act to prohibit a candidate, committee, or slate mailer organization from receiving political contributions from nonresidents of the State of

California. The measure does not define who is a nonresident. The measure's terms do not apply to federal elections.

FISCAL EFFECTS

The state and local governments would experience minor increased costs to administer and enforce the measure. These costs likely would be highest in the year immediately following implementation of the measure, possibly in the range of a few hundred thousand dollars.

Summary of Fiscal Effects

This measure would have the following fiscal effects:

- Increased state and local costs to administer and enforce campaign finance and disclosure laws, possibly in the range of a few hundred thousand dollars initially.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance