



October 11, 2010

Chairman Dan Schnur
Fair Political Practices Commission
429 J Street, Suite 800
Sacramento, CA 95814

RE: Agenda Item 16- Definition of "Express Advocacy"

Dear Chairman Schnur:

On behalf of the League of California Cities City Attorneys FPPC Committee, I submit this letter for comment on the above-referenced agenda item. The Committee has followed with interest the Commission's consideration of this item, and in August sent a comment letter on the Commission's discussion of this regulation. (A copy of this letter is attached for your convenience.) As stated in that letter, the Committee is mindful of, and in agreement with, arguments made by the League of California Cities and allied associations in opposition to the Commission's adoption of regulations 18420.1 and 18901.1. These regulations also define the words, "unambiguously urges a particular result in an election," that are the subject of the proposed revisions to 18225(b)(2). As your staff has explained, there is now a two-pronged system for defining these words depending upon the maker of the expenditure. If the expenditure is made by a state or local government agency, the Commission will apply the standards set forth in 18420.1 and 18901.1 to determine whether the communication in question "unambiguously urges a particular result in an election." If the expenditure is made by any other person, the Commission will apply the standards set forth in 18225(b)(2).

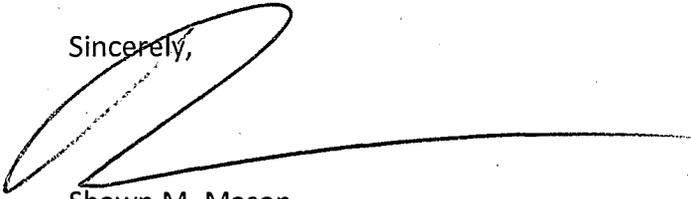
Putting aside the question of whether the Act intends this two pronged approach, choosing to implement the Act in this manner could result in confusion among the regulated community. Section 18225(b) defines "expenditures" made "by any person" other than candidates and committees. Presumably, this would include expenditures by state or local government agencies. Section 18225(b)(2) as proposed devotes 2 pages of text to explain when expenditures are made on communications that "unambiguously urge a particular result in an election." However, as your staff has explained the standards in 18225(b)(2) are not intended to apply to expenditures made by government agencies. The Committee would suggest that if the Commission chooses to adopt the proposed revisions to 18225(b)(2), then a provision should be added making it clear they do not apply to expenditures made by state or local

government agencies. Perhaps this could be accomplished by adding a prefatory clause to subsection (b)(2) as follows:

“(2) Except for those communications paid for with public moneys by a state or local government agency and subject to Regulation 18420.1, [a] communication ‘expressly advocates’ the nomination, election or defeat of ...”

I hope you find these comments helpful in your deliberations on the proposed amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn M. Mason", written over the word "Sincerely,".

Shawn M. Mason
City Attorney
City of San Mateo

cc: Scott Hallabrin, General Counsel
Lawrence T. Woodlock, Senior Commission Counsel

August 11, 2010

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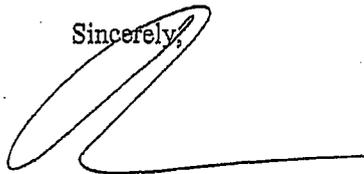
RE: Agenda Item 29: Review of Regulation 18225(b)(2)- Definition of Express Advocacy

Dear Chairman Schnur:

On behalf of the League of California Cities City Attorneys FPPC Committee, I submit this letter for comment on the above-referenced agenda item. Last month, the Committee discussed this proposal in advance of the announced IP meeting. At the IP meeting, a committee representative expressed the Committee's concerns about the impact of the proposal on cities. Since that time, conversations with your staff have clarified the FPPC's perspective that the expanded interpretation and application of 18225(b)(2) would not apply to the activities of government agencies. From the Commission's perspective, those activities are instead subject to the standards contained in section 18420.1. The Committee's concerns with the application of Section 18420.1 to the activities of cities have been previously expressed in the petitions to repeal sections 18420.1 and 18901.1 taken up by the Commission in April.

I would like to thank Staff Counsel Brian Lau for his time and efforts in clarifying this issue for me and the Committee. I hope you find these comments helpful in your deliberations on staff's proposal.

Sincerely,



Shawn M. Mason
City Attorney
City of San Mateo

CC: Scott Hallabrin
Brian Lau