



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3050 • Sacramento, CA 95811  
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## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **November 21, 2024**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on November 19, 2024.**

### BACKGROUND/OVERVIEW:

Section 85318 permits a candidate for elective state, county, or city office to raise general election campaign funds during the primary election for the same office. Upon the defeat of the candidate, Section 85318 requires the candidate to return the funds to contributors for the general election on a pro rata basis. While strict, the requirements of Section 85318 serve the purpose of preventing candidates defeated in a primary election from circumventing the Act's contribution limits by using general election funds raised during the primary election, which would otherwise exceed the primary election's applicable contribution limits, for purposes unrelated to the general election.

Sections 85306 and 85317 set forth parameters within which candidates are permitted to transfer and carryover funds from one committee to another. Section 85306 permits candidates to "transfer campaign funds from one controlled committee to a controlled committee for elective state, county, or city office of the same candidate." Moreover, Section 85306 requires candidates to attribute transferred contributions using either a "last in, first out" or "first in, first out" accounting method. Funds may not be transferred, if the funds attributed to a specific contributor exceed the contribution limits of Section 85301 or 85302 when aggregated with all other transfers attributed to, and contributions from, the same contributor.

On July 15, 2024, the Governor signed SB 948 (Limon – treatment of general election funds), which takes effect January 1, 2025. It amends Sections 85317 and 85318.

Specifically, this legislation amends Sections 85317 and 85318 to provide that (1) a candidate who raises funds for the general election before the primary election, and who does not file a declaration of candidacy to qualify for a primary election, may transfer these funds to a committee for the same or a different office, and (2) a candidate who wins the election outright in the primary may transfer general election funds to a committee for a subsequent election to the

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<sup>1</sup> 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 18104 through 18998 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.

same office, with attribution to specific contributors. As a result of this legislation, Commission staff proposes regulatory language requiring the refund of contributions when a candidate chooses to withdraw from the primary election after filing a declaration of candidacy and removing a regulatory definition of subsequent election superseded by the recent statutory amendments.

#### REGULATORY ACTION:

The Commission may review and consider all aspects of the refunding of general election contributions regulation, including, but not limited to, the adoption of regulatory language requiring the refund of contributions when a candidate chooses to withdraw from the primary election after filing a declaration of candidacy. While the Commission may review and consider any aspect of Regulations 18531.2 and 18537.1, it is anticipated that the Commission will specifically consider each of the following proposals made by Commission staff:

##### *Regulation 18531.2*

Amend 2 Cal. Code Regs. Section 18531.2 subdivision (a) to add language clarifying that withdrawal from a primary after filing a declaration of candidacy would qualify as a defeat and trigger the requirement to refund contributions

##### *Regulation 18537.1*

Amend 2 Cal. Code Regs. Section 18537.1 subdivision (c) to delete the now obsolete definition of “subsequent election.”

#### SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

#### FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

#### AUTHORITY:

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE:

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 85306, 85317, and 85318.

CONTACT:

Any inquiries should be made to Zachary Norton, Fair Political Practices Commission, 1102 Q St., Suite 3050, Sacramento, CA 95811; email: [znorton@fppc.ca.gov](mailto:znorton@fppc.ca.gov); telephone (279) 237-5967. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.