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CONTACT:
David Tristan (213) 978-1960

Proposed FPPC Regulation Would Undermine Independent Expenditure Reporting at Local Level

Rule Would Ignore a Charter City's Authority to Govern its Own Elections, Encourage Non-Compliance with Local Laws, and Undercut Public Matching Funds Program, Ethics Director Says

Local regulation of independent expenditure activity in municipal elections would be significantly undermined by a proposed regulation being considered January 15 by the state Fair Political Practices Commission, according to a letter issued today by the Los Angeles City Ethics Commission. In the letter to the FPPC on draft Regulation 18247.5—a proposed state rule to create new definitions for political committees active in state, county and local elections—Ethics Commission Executive Director LeeAnn Pelham cited her agency's serious concerns about the policy implications of the proposed regulation. According to the letter, the proposed rule was designed to promote uniformity for reporting by political committees but would thwart a city's ability to inform its citizenry and effectively regulate independent spending in its own elections. Calling the draft regulation "overreaching," Pelham urged the state ethics agency to reject its adoption.

"The proposed rule goes too far in protecting the interests of committees over the interests of the local voting public," Pelham said. "By labeling some committees that participate in city elections as non-city committees, the proposed regulation interferes in municipal affairs and encourages those committees to ignore local laws."

As drafted, the regulation would define a "city general purpose committee" as one that makes 51 percent or more of its total contributions and expenditures in one city and does not spend more than \$50,000 on state and county elections. The numbers would be calculated over one year if the committee is a major donor or independent expenditure committee and over three years if it is a recipient committee. The proposed rule would also define a "primarily formed

committee” as one that makes more than 70 percent of its total contributions and expenditures—again, in either one year or three years, depending on the type of committee—on a single candidate, a single measure, or a group of either candidates or measures that are being voted on in the same election. Under these new definitions, certain committees that attempt to influence a city’s elections by making independent expenditures could avoid classification as a city committee simply by spending the same amount in other jurisdictions—or \$50,000 in state and county elections—over the prior two years. This has significance for local elections because if a committee can claim that it is not a city committee, then it might also claim it is not subject to the city’s laws regarding independent expenditures—even when it is purposefully attempting to influence city elections. In turn, this would impede public disclosure and undermine public financing programs that help participating candidates respond when independent spending affects their campaigns.

Independent expenditures are funds spent by labor unions, businesses, other organizations and individuals in an effort to influence the outcome of elections but that are not made in coordination or consultation with the affected candidate. In the City of Los Angeles, independent spending has increased dramatically in recent years, growing from \$19,927 in 1997 to over \$4.3 million in 2005. Over the same period, the City Ethics Commission has levied over \$75,000 in fines for violations of the city’s independent expenditure laws.

[A copy of Pelham’s letter](#) is attached. For more information about the City Ethics Commission and the campaign finance and reporting laws it administers, please visit the Commission’s website at <http://ethics.lacity.org/campaignfinance.cfm>. Information about independent expenditure cases resolved by the City Ethics Commission appear at http://ethics.lacity.org/enforcement/enf_stips.cfm?category_subcategory=Independent%20Expenditures.

The City Ethics Commission is a semi-independent agency created by Los Angeles voters in 1990 to impartially administer and enforce the governmental ethics, campaign finance, and lobbying laws of the City of Los Angeles. With a staff of 27 and an annual budget of \$2.3 million, the Commission conducts training, provides advice, audits political campaigns, and makes legislative recommendations. It also is authorized by the voters to conduct investigations and levy administrative penalties against violators of the laws under its jurisdiction.