

MEMORANDUM OF LAW

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DATE: July 1, 1988

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Proposition 73

Your memorandum of June 14, 1988 to City Attorney John Witt containing several questions regarding recently adopted Proposition 73 has been referred to me for response.

First, we agree with the Fair Political Practices Commission that a portion of Proposition 73 governing mass mailings took effect the day after its passage, that is, June 8, 1988, pursuant to article II, section 10(a) of the California Constitution. Second, Proposition 73 amends the Political Reform Act of 1974 by adding Chapter 5 to, and amending existing sections of, the Government Code 81000 et seq. The Fair Political Practices Commission (FPPC), the agency charged with interpreting and enforcing the provisions of the Political Reform Act, has indicated that it intends to issue an emergency regulation interpreting the new "mass mailing" provisions at their next meeting, scheduled for July 26th.

Meanwhile, the FPPC has issued Private Advice Letter No. A-88-220 to several local officials that contains some useful guidelines and answers many of your questions (copy attached). According to this letter, the FPPC clearly interprets the legislation to be directed to elected officials, not public agencies themselves. Hence, legal noticing requirements and sample ballot mailings should not be affected by Proposition 73. On the other hand, sending newsletters and other mass mailings (i.e., 200 or more pieces of substantially similar mail) containing the name or picture of a councilmember or mayor would be prohibited. (See page 8 of the FPPC private advice letter, items g and i.)

If you have specific questions on the new mass mailing legislation before the emergency FPPC regulation is published, please let me know. We will of course send you a copy of the emergency regulation once we receive it.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:mb:930.62:(x043.2)

Attachment

ML-88-65