

MEMORANDUM OF LAW

DATE: December 13, 1989

TO: Honorable Mayor and City Councilmembers
FROM: City Attorney
SUBJECT: Propositions 68 and 73 (June 1988 Election);
Assembly Bill 2297; and, Political
Contributions in Non-Election Years

It has come to our attention that there is some question in Councilmembers' minds as to the status of Propositions 68 and 73 (June 1988 Election) and Assembly Bill 2297, particularly as they affect a candidate for local elected office's ability to raise funds in a non-election year. This memorandum is to clarify that status.

Proposition 68:

Proposition 68, passed by the voters of the state in the June 7, 1988 election, imposes restrictions on contributions that may be made to candidates for state legislative offices in year in which the candidate's name does not appear on the ballot. Government Code section 85309. This measure does not apply to candidates for local elected offices. The validity of Proposition 68 is being tested in the courts and we understand that this provision in particular (but not uniquely) is being challenged. There has been no final ruling by the courts to date.

Proposition 73:

Proposition 73 was also adopted by the voters in the June 1988 election. This proposition contains campaign contribution limits among other things, but contains no restrictions on non-election year fundraising for candidates for either state or local offices.

Assembly Bill 2297:

This bill, if adopted, as currently written and amended, would apply the Proposition 68 restrictions on non-election year fundraising to candidates (including incumbent officeholders) for local offices. The applicable provision of Government Code section 85309, as amended by Assembly Bill 2297, would read as follows:

Section 85309. Prohibition on Off-Year
Contributions

(a) No candidate for elective office or
elected officeholder or any controlled
committee of a candidate for elective office

or elected officeholder shall accept any contribution in any year other than the year in which the candidate for elective office or elected officeholder is listed on the ballot as a candidate for elective office.

(b) No legislative caucus committee or political party committee supporting or opposing candidates for elective office shall accept any contribution in an-odd numbered year. (Section 2 of Assembly Bill 2297.)

We understand that this bill is in the Senate and no action has been taken since August 31, 1989, when the bill was amended on the Senate floor. We further understand that no action is contemplated until after the first of the year. The bill contains an urgency clause. Therefore, if adopted, it will become effective immediately.

By copy of this memorandum, we are asking the City's Intergovernmental Relations Department to keep us informed of any activity on the bill.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:jrl:581.2(x043.2)

cc Intergovernmental Relations
Department

ML-89-117