

Financing California's Local Elections

Money ^{and} Politics in the Golden State

Report and Recommendations of the
California Commission on Campaign Financing

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Both volumes of the Commission's previous report, *The New Gold Rush: Financing California's Legislative Campaigns*, plus a *1987 Update* to that report, are available from the Commission for \$9.95 plus \$2.00 shipping and handling. The *1987 Update* is available for \$5.00 (including shipping and handling). Send order to the publisher, Center for Responsive Government, 10951 West Pico Boulevard, Suite 300, Los Angeles, California 90064. Telephone (213) 470-6590.

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Prefatory Note

This report on local campaign financing is published in two volumes. The first volume is a summary of the Commission's report and includes as an appendix a detailed outline of the contents of the second volume. The second volume contains the Commission's full report (including the summary), 17 chapters examining individual cities and counties, two chapters analyzing the overall impact of contribution and expenditures on local races, two chapters outlining the Commission's recommendations and the constitutionality of these recommendations, one chapter summarizing local campaign financing ordinances in California and a fully drafted model ordinance as well as an abbreviated model ordinance.

The Commission has carefully studied campaign financing patterns in 17 representative California cities and counties containing two-thirds of California's population. A number of criteria were used in selecting these local jurisdictions, including variations in population (small, medium and large), differences in location (Northern and Southern California), various types of cities or counties (urban, rural and suburban), the presence of a distinctive campaign finance provision or the recent enactment or repeal of a campaign finance ordinance. The cities and counties studied are:

Agoura Hills: a newly formed city which has recently experienced both expensive and inexpensive elections.

City of Alturas and Modoc County: a city and county which are among the smallest local jurisdictions in the state, where candidates still campaign by walking door-to-door and attending town meetings.

Gardena: a city with one of the most innovative ordinances in the state, prohibiting a person who negotiates or contracts with the city from making any contributions during the negotiation or the pendency of the contract.

Irvine: a city with strongly competitive elections in which incumbents are typically challenged by well-financed opponents, a highly unusual situation.

Long Beach: a city moving from low-budget campaigns to expensive elections and with an active citizen organization that is pushing for campaign finance reforms.

City of Los Angeles: the largest city in the state, with a tough campaign finance ordinance which has not cut spending substantially or increased voter participation.

Los Angeles County: the county with the largest election districts in the nation, where no local campaign financing laws have ever been adopted.

Orange County: a county with one of the most unusual campaign finance laws in the country, requiring county supervisors to disqualify themselves on matters directly affecting contributors who give over certain amounts during a four-year period.

Pasadena: a city which moved from at-large voting to district-by-district voting but still saw campaign costs skyrocket despite districts one-seventh their previous size.

City of Sacramento: a city whose campaign finance law has failed to cut campaign spending or developer influence.

Sacramento County: the first county in the nation to enact a comprehensive campaign finance law with expenditure ceilings, contribution limits and limited public financing.

City of San Diego: the city with the country's toughest campaign finance ordinance (only individuals may make contributions, and these are drastically limited in size) but with continuing allegations of excessive special interest influence.

San Francisco: a city and county which recently slashed its contribution limits in half, hoping thereby to reduce campaign expenditures, but still saw spending jump dramatically in the next election.

San Rafael: a city which repealed its contribution limitations ordinance.

Santa Monica: a city dominated by slates of candidates and highly competitive elections.

Signal Hill: a small city with a tough campaign financing ordinance that has not been effectively administered or enforced by local officials.

West Covina: a city where independent expenditures have dominated recent elections.

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Foreword

This report is the summation of three years of study by the California Commission on Campaign Financing into the impact of local campaign financing practices on city and county government. Local campaign financing absorbs as much as one-fifth of all money spent in American politics, yet no in-depth study of local campaign spending has ever been conducted in this country. The Commission therefore believes its report is important and timely.

The Commission, formed in 1984, is a bipartisan, non-profit, private organization. Twenty-five prominent Californians from the state's business, labor, agricultural, legal, political and academic communities, about equally divided between Democrats and Republicans, currently serve as its members. The Commission's broad purpose is to study and make recommendations for improving California's system of campaign financing so that it might better serve the citizens of this state. Commissioners Burgener, Hawley, Hernandez, Nogales, Richardson and Rosser joined the Commission after this study was substantially completed and did not participate in developing the Commission's recommendations.

This is the third report issued by the Commission. The Commission's first report, *The New Gold Rush: Financing California's Legislative Campaigns*, published in 1985, focused on the problems of campaign financing in the state Legislature. The 353-page report, now in its second printing, was the basis for the first comprehensive local ordinance adopted in California—by Sacramento County in 1986—and served as the model for statewide Proposition 68 approved by 53% of California's voters in June 1988. An *Update* to the 1985 *New Gold Rush* was published in August 1987.

The Commission's study of city and county campaign financing was funded by the William and Flora Hewlett Foundation, the James Irvine Foundation, the Ralph M. Parsons Foundation and the Weingart Foundation. In addition, the John Randolph and Dora Haynes Foundation contributed special funding toward the Commission's study of local jurisdictions in the Los Angeles metropolitan area, which study is being published separately. The Commission wishes to thank these foundations which were so generous in their support.

The Commission also wishes to express particular gratitude to its Executive Director Tracy Westen and Co-Director Robert M. Stern, who together oversaw the Commission's study and were responsible for the preparation of this report. Matthew Stodder, Nanette Leuschel, Catherine Cole Thompson and Roselyn Smith were principal researchers. Dr. James Platler, assisted by Jess Buck and Tom Saenz, created a computerized data base and entered information from thousands of pages of campaign statements analyzed by the Commission. Attorney Catherine Rich helped edit the final product. Robert Herstek assisted in the layout of the charts and graphs and the printing process. Administrative Assistant Janice Lark designed and coordinated the report's entire production. Susie Sugerman and Jerry Greenberg assisted in its final preparation.

The Commission extends its warm appreciation to hundreds of public officials, reporters, political experts, academicians, political consultants and concerned citizens for the generous assistance they provided the Commission and its staff. A list of these people appears in Appendix C to the full report. We thank them for their help. Any errors are of course the full responsibility of the Commission.

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Robert R. Dockson—Chairman of the Board, CalFed, Inc. and California Federal Savings and Loan Association, Los Angeles; former Dean of the School of Business and the Graduate School of Business Administration, University of Southern California, and President, California Chamber of Commerce.

Walter B. Gerken—Chairman of the Executive Committee, Pacific Mutual Life Insurance Company, Newport Beach; member of the Board of Directors of United Way of

America; former Supervisor of Budget and Administrative Analysis for the State of Wisconsin and Chairman of the California Business Roundtable.

Marvin L. Goldberger—Director, The Institute for Advanced Study, Princeton; former President of the California Institute of Technology, Pasadena, and member of the President's Science Advisory Committee, 1965-69; member of National Academy of Sciences Committee on International Security and Arms Control.

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Neil E. Harlan—Retired Chairman of the Board of the McKesson Corporation, San Francisco; former Assistant Secretary of the Air Force and Professor at the Harvard Business School.

Philip M. Hawley—Chairman of the Board and Chief Executive Officer, Carter Hawley Hale Stores, Inc., Los Angeles; Trustee, University of Notre Dame and California Institute of Technology; senior member, The Conference Board.

Aileen C. Hernandez—President of Aileen C. Hernandez Associates, San Francisco; former member, Equal Employment Opportunity Commission, appointed by President Johnson; Vice-Chair, National Advisory Council, American Civil Liberties Union; past President, National Organization for Women.

Ivan J. Houston—Chairman of the Board and Chief Executive Officer of the Golden State Mutual Life Insurance Company, Los Angeles; former Co-Chairman, National Conference of Christians and Jews and Chairman of the Board, Los Angeles Urban League.

Michael Kantor—Partner in the Los Angeles law firm of Manatt, Phelps, Rothenberg & Phillips; key strategist for several major political campaigns.

Donald Kennedy—President of Stanford University; former Commissioner of the U.S. Food and Drug Administration.

Melvin B. Lane—Co-Chairman of the Board of Lane Publishing Co. (Sunset Magazine), Menlo Park; former Chairman, California Coastal Commission, San Francisco Bay Conservation and Development Commission and Sierra Club National Advisory Commission.

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Luis Nogales—Former President, Univision, Los Angeles; former Chairman of the Board and Chief Executive Officer, United Press International; member of the Board of Directors, Bank of California, San Francisco; Trustee, Stanford University; former Chairman, Mexican American Legal Defense and Educational Fund (MALDEF), Los Angeles.

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Third Appellate District (1971-1974); retired Solicitor, Department of the Interior; past President, Sacramento County Bar Ass'n.

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James M. Rosser—President, California State University, Los Angeles; member, American Council on Education, Director of Southern California Edison, KCET public television, United Way of Greater Los Angeles, Los Angeles Urban League and Los Angeles Chamber of Commerce.

Peter F. Scott—Chairman and Chief Executive Officer of Di Giorgio Corporation, San Francisco; Chairman of the California Chamber of Commerce; Director of the California Business Roundtable.

Jean R. Wente—Chairman of the Wente Bros. Winery, Livermore; past President of the Oakland Museum Association; Chairman, California College of Arts and Crafts.

Samuel L. Williams—Partner in the Los Angeles law firm of Hufstedler, Miller, Kaus & Beardsley; former President of the State Bar of California and President of the Los Angeles Board of Police Commissioners.

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Robert M. Stern—Co-Director and General Counsel to the Commission; former General Counsel, California Fair Political Practices Commission; principal co-author of the Political Reform Act of 1974 (Proposition 9).

Janice Lark—Administrative Assistant and graphic designer for the Commission; experienced office manager and executive secretary for law firms in Boston and Los Angeles.

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Matthew T. Stodder—Senior Researcher for the Commission; former Deputy Statistics Coordinator to a U.S. Senatorial campaign's voter registration and get-out-the-vote effort.

Catherine Cole Thompson—Senior Researcher for the Commission; independent writer for business and non-profit organization; former External Affairs staff member, AT&T Communications of California.

Introduction and Summary

A Study in Extremes

California's local elections are a study in extremes. More California cities and counties (over 60) have enacted local campaign finance laws than have all the rest of the cities and counties in the United States combined. Yet California's local campaigns still range from the least expensive to the most costly in the nation. A wide-ranging mixture of the exemplary and the excessive, the picture of money and politics in the Golden State illustrates the best and the worst in local campaign financing.

At one end of the spectrum, candidates in some California communities raise contributions from friends and individual supporters, spend minimal to moderate sums, emphasize voter communications, debate their opponents on

significant local issues, walk their districts door-to-door and personally meet many of the voters. But in other California communities, candidates exhibit the worst excesses of a system drunk with cash. They isolate themselves from the voters, rely on phalanxes of paid political advisors, raise contributions around the clock, accumulate huge war chests in non-election years, scare off challengers, solicit contributions from persons with financial interests pending before them, spend large sums on entertainment, fundraising and travel, and communicate with the public through orchestrated media campaigns.

In the far northeastern corner of the state, for example, no candidate for mayor of the City of Alturas has ever spent more than \$300 on a campaign, and many local candidates routinely

spend *no money* other than candidate filing fees on their election bids. In San Francisco, by contrast, three mayoral candidates spent *over \$1 million each* on their 1988 campaigns, making the election the most expensive in local California history.

County supervisorial races also display dramatic contrasts. In California's northern Modoc County, for example, candidates never spend over \$500 in an election. Many campaign by walking from house to house, meeting the voters and discussing local issues. By contrast, 650 miles to the south, one 1988 Los Angeles County supervisorial candidate spent over \$2.8 million on his reelection campaign, with most of it devoted to direct mail, television and radio advertising.

California's widely varying local campaign financing ordinances make it the perfect laboratory to analyze the role of money, politics and political reform at the city and county level. In smaller, more rural jurisdictions, candidates run nineteenth century campaigns replete with political picnics, barbecues, door-to-door canvassing and town hall meetings. In larger or strongly competitive jurisdictions, candidates utilize the most sophisticated electoral techniques in the nation, with computerized demographic targeting, paid fundraisers, professional consultants and a steady stream of direct mail.

This enormous diversity of electoral styles among California's 453 cities and 58 counties makes generalizations concerning local campaign financing difficult. Yet despite these complexities, some broad campaign financing themes are nonetheless apparent:

- Campaign spending is rising sharply in many local jurisdictions, particularly in the larger cities and counties. Spending jumps of over 1,300% in 10 years have been experienced in some jurisdictions.
- Money from real estate developers plays a major role in candidate fundraising. Many California residents believe that local zoning and land use decisions are improperly influenced by campaign contributions.
- Incumbents dominate fundraising in most local campaigns. They outspend challengers by an average of 4-to-1 in many jurisdictions and up to 9-to-1 in some.
- Incumbents rely on non-election year fundraising to cement their powerful financial advantage over challengers. While incumbents raise an average 60% of all their money in non-election years, challengers raise only 1%. Of all off year moneys received, incumbents raise 99.5%.
- Deprived of traditional contributor resources, challengers are increasing their own personal funding and now pay 15% of their campaigns out of their own pockets.
- Businesses have become the dominant campaign contributors in larger jurisdictions, and the principal business contributors are real estate developers. While incumbents in small jurisdictions raise twice as much money from individuals as from businesses, incumbents in large jurisdictions raise 67% of their money from businesses and only 25% from individuals.
- Candidates spend surprisingly little money actually communicating with the voters—through literature, advertising and other informational materials—particularly when unopposed, despite the overall increase in local campaign spending.
- Although local candidates are spending more and more, residents of the

state are voting less and less.

Approximately 68% of California's registered voters voted in statewide elections between 1980 and 1986 but only 41% voted in a representative sampling of local elections. For the local 1989 Los Angeles city election, only 23% voted.

- Campaign financing ordinances adopted by California cities and counties have failed to stem the rapid escalation in campaign spending experienced by many. In all but the smallest communities, new approaches appear to be needed to address today's campaign finance problems.

The Commission's Recommendations

Approximately one-fifth of all moneys spent in American political campaigns is spent at the local level. Yet no in-depth analysis of local campaign financing in the United States has ever been conducted. The Commission's analysis of local campaign financing patterns is thus the largest and most detailed ever completed in the nation—and perhaps the only one of its kind in existence.

To undertake its research, the Commission carefully examined the campaign financing practices of 17 California cities and counties representing two-thirds of California's population. These include large and small communities, northern and southern, urban and rural, industrial and agricultural, and those with and without local campaign finance ordinances. To further its analysis, the Commission created the largest local campaign finance computer data base of its kind in the country, entered over 100,000 local campaign contribution and

expenditure items totalling nearly \$84 million, analyzed the timing, size and source of these contributions, and reviewed candidate expenditure patterns in hundreds of races. (The Commission's Data Analysis Project is described in detail in Appendix D to the Commission's full report.) The Commission also interviewed hundreds of local candidates, elected officeholders, reporters, consultants and city officials, and it researched a decade of relevant local literature in over a dozen jurisdictions.

Based on its analysis, the Commission believes that long-run solutions to local campaign financing problems in most jurisdictions will require *a comprehensive package of reforms, including contribution limits, voluntary expenditure ceilings and incentives for candidates to accept such expenditure ceilings, preferably limited public matching funds*, if this proves feasible under recently adopted statewide Proposition 73.

This comprehensive approach has been successfully tested in local elections, first in Seattle, Washington, and then in Tucson, Arizona, and Sacramento County, California. New York City has adopted comparable reforms starting with its 1989 elections. As fully described in the Commission's 1985 publication, *The New Gold Rush: Financing California's Legislative Campaigns*, a number of states have successfully adopted this comprehensive approach, and federal presidential elections have been conducted under contribution limits, expenditure ceilings and limited public matching funds for years.

To assist cities and counties, the Commission has drafted two comprehensive model campaign finance ordinances for possible use in California and in other states as well. The first is a com-

plete ordinance which addresses the full range of potential campaign financing problems; the second is a short-form ordinance for jurisdictions preferring simplicity to overall inclusiveness.

(These two model ordinances are respectively contained in Appendices A and B to the Commission's complete report.)

The Commission suggests the following principal provisions:

- *Expenditure ceilings on the total amount of money a candidate can spend in any one election.* The Commission's model ordinances allow individual cities and counties to select ceilings most appropriate for their own elections.
- *Limited public matching funds for those candidates who accept expenditure ceilings, raise threshold sums in private contributions and face serious opponents.* The feasibility of using matching funds as an incentive to the acceptance of expenditure ceilings in the aftermath of California's Proposition 73 is discussed below; other incentives, such as "variable contribution limits," may have to be considered.
- *Contribution limits on the amounts of money a person or organization can give to candidates for local office.* The Commission's proposed ordinances allow a range of contribution limits for each election but suggest \$250 per contributor for the average small jurisdiction.
- *Total limits on contributions from all sources for each election.*
- *A ban on transfers of funds between candidates (now prohibited in California by Proposition 73).*
- *Prohibitions or limits on fundraising in non-election years.*
- *Restrictions on contributions from persons who have negotiated or are negotiating contracts with local governments.*

- *Disclosure requirements stricter than those under state law.*
- *Tough criminal and civil remedies and new enforcement agencies to deter violation of the ordinance's provisions.*

Although the Commission believes its recommended comprehensive approach is the only effective long-run solution to pervasive local campaign financing problems, Proposition 73, adopted during the June 1988 California statewide election, unwisely prohibits the expenditure of any public money to assist any candidates for any office throughout the state. This provision may prevent many local jurisdictions from providing candidates with limited public matching funds, thus making unobtainable the best incentive for candidates to accept expenditure ceilings and gravely reducing the possibility of effective campaign finance reform. For this reason, the Commission has proposed a new technique, called "variable contribution limits," to encourage candidates to accept expenditure ceilings voluntarily.

Further details of the Commission's recommendations are contained in this Introduction and Summary under the caption, "Synopsis of the Commission's Proposals." A one-page summary chart appears at the end of this Introduction and Summary. Comprehensive analyses of the Commission's proposals will be found in Chapters 23 and 24 and Appendix A of the full Commission report.

Rising Campaign Spending

Campaign spending in many California cities and counties is on the rise. Different rates of increase among the various jurisdictions depend, however, on a variety of factors. These include the size of the jurisdiction, the amount of

competition in each election and the existence of open seats when incumbents decide not to seek reelection.

Campaign Costs Are Escalating Rapidly

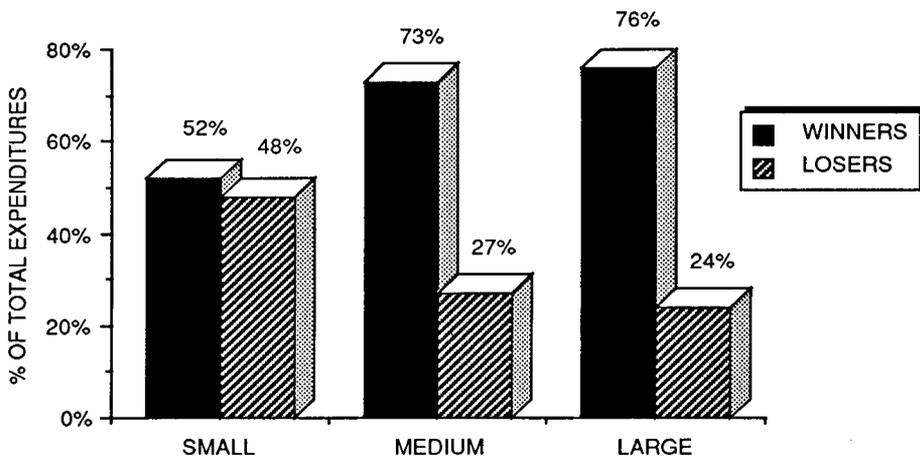
In cities and counties with a population under 10,000, it is still possible to run winning campaigns without spending any money, except for filing fees and ballot statement costs. But even in small cities, with populations between 10,000 and 150,000, candidates are often required to spend substantial sums. In Santa Monica (population 96,000), for example, average candidate spending rose from \$4,600 (or \$1 per vote) in 1974 to \$60,000 (or \$4 per vote) in 1985—a 1,300% spending jump. In Irvine, the average city council candidate spent \$7,000 in 1975; in 1986, the average candidate spent \$32,000—a fourfold jump. For cities and counties under 150,000 persons, spending can range from \$10,000 per candidate in Gardena

to over \$100,000 in Beverly Hills.

In medium-sized cities and counties, with populations between 150,000 and one million persons, a candidate can spend between \$25,000 running for city council in Long Beach to over \$1 million running for mayor in San Francisco. In Long Beach, for example, all city council candidates in 1975 combined spent \$73,000; by 1986, all candidates combined spent a total of \$414,000—a five-and-one-half-fold jump.

In large cities and counties, with populations over a million persons, candidates must budget at least \$150,000 if they expect to have a serious chance at success. In many races, however, the minimum threshold is \$300,000 to \$600,000 depending on the jurisdiction and the extent of fundraising by the opposition. Los Angeles County has witnessed the highest individual candidate expenditures in the state. In 1984, County Supervisor Deane Dana spent \$1.65 million when he ran

Table 1
SPENDING BY WINNERS AND LOSERS
IN SELECTED SMALL, MEDIUM AND LARGE CALIFORNIA JURISDICTIONS



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

for reelection against County Assessor Alexander Pope who spent \$670,000. In 1988, County Supervisor Mike Antonovich spent \$2.8 million in his reelection. His runoff challenger, former supervisor Baxter Ward, spent \$47,000.

The ratio of spending between winners and losers also depends on the size of the jurisdiction. Winners and losers in small jurisdictions spend about the same amount, with winners accounting for 52% of total expenditures. But in medium-sized and larger jurisdictions, winners outspend the losers by about three-to-one. (See generally Table 1.)

Competition Triggers Higher Election Costs

In most California cities and counties, spending is directly linked to competition: the stronger the competition, the higher the costs. In the City of Sacramento, for example, the incumbent mayor ran unopposed in 1979, spending only \$31,000 on his reelection. Four years later, no incumbent was running. The three competing open seat candidates each spent an average of \$283,000, with a high of \$383,000—a nine-fold jump in just one election cycle.

In many jurisdictions, especially large ones, races are typically non-competitive whenever an incumbent seeks reelection. Incumbents hold such a fundraising dominance that challengers rarely take them on. In 1986, for example, incumbent Los Angeles County Supervisor Pete Schabarum ran completely unopposed, even though he occupied one of the most powerful posts in the state. In Orange County, incumbent Supervisor Harriett Wieder offered her campaign consultant a \$25,000 bonus if no serious candidate challenged her

1986 reelection bid. (The consultant collected the bonus.)

As a result, campaign spending generally remains low whenever incumbents run for reelection and skyrockets when seats fall open. An exception to this rule occurs in larger jurisdictions where incumbents routinely spend huge sums of money as an accoutrement of office, even when they are not faced with significant competition.

Open Seat Races Are the Most Costly

Candidates who want to be a city councilperson or county supervisor naturally wait for an open seat rather than taking on a strong incumbent who has been stockpiling money. But when open seat contests do occur, they are among the most expensive local races in the state. In Orange County, for example, open seat candidates were responsible for 48% of all campaign expenses compared to 2% for challengers during the election years surveyed. In Sacramento County, open seat candidates accounted for 65% of campaign spending while challengers (to incumbents) spent only 2%. Open seat elections are expensive because they are competitive and because candidates can raise money from sources who need not be concerned about offending an incumbent.

Types of Expenditures

The Commission analyzed candidate spending in two categories: expenditures on *voter contacts*, including campaign literature and television, radio, outdoor billboard and newspaper advertising; and expenditures on *overhead*, including fundraising, travel, personnel, professional campaign consultants and other administrative costs.

Candidates Spend Surprisingly Little on Voter Contacts

In 17 cities and counties studied, candidates spent only 38% of all the funds they raised on direct contacts with the voters. Candidates spent the least on voter contacts in the largest jurisdictions; in Los Angeles City and County, San Diego City and Orange County, candidates spent only 33%. In medium-sized cities and counties, candidates spent 49%, and in small communities they spent 57%.

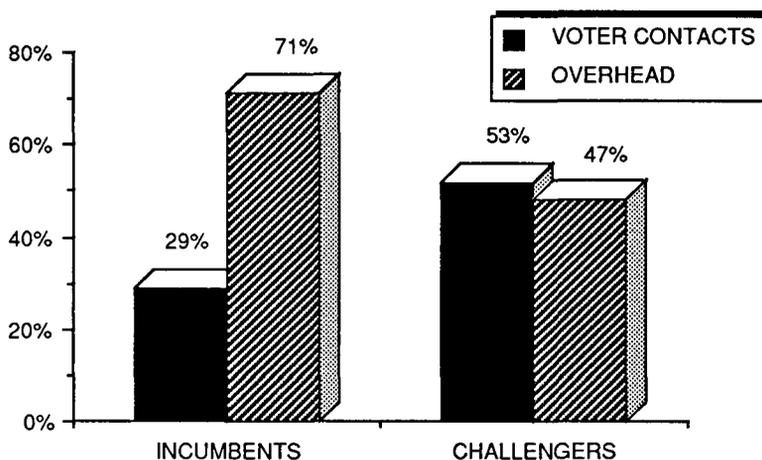
Incumbents spent almost half as much on voter contacts as challengers—only 29% for incumbents compared to 53% for challengers. (See Table 2.) In Los Angeles, for example, two incumbent supervisors, Ed Edelman and Pete Schabarum, spent less than 5% of their total expenditures communicating directly with voters during their 1986 election bids. Although Schabarum was

unopposed, he spent a total of \$1.5 million during the entire election period but only \$35,500 on voter contacts (compared to \$400,000 on fundraising).

Incumbent supervisors in Orange County facing little competition spent even less on voter contacts out of their war chests. Supervisor Bruce Nestande, running for reelection in 1984, spent a total of \$300,000 on his campaign but only \$2,700 on voter contact expenditures.

Much of what candidates now collect in campaign contributions is used to build war chests and deter serious challengers. Because incumbents raise substantial funds in non-election years, the money they spend on fundraising events pays them dividends by discouraging prospective opponents. This tactic not only deprives voters of a choice, it also deprives them of the opportunity to hear the candidate's views.

Table 2
INCUMBENT/CHALLENGER
VOTER CONTACTS AND OVERHEAD EXPENDITURES
IN SELECTED CALIFORNIA JURISDICTIONS



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

Incumbents are insulated even further from public review.

Low Voter Contact Expenditures Diminish Voter Interest

One consequence of low voter contact spending is reduced voter awareness and interest in local government. In Sacramento County, for example, at a time when voter contact spending was low, Supervisor Jim Streng, walking door-to-door during his bid for election, was surprised at the lack of voter knowledge concerning county government. Streng reported having to spend most of his time explaining to voters the job of a supervisor before trying to win their votes.

Voter Contact Expenditures Are Higher in Competitive Races

In most competitive campaigns, on the other hand, voters are given ample opportunity to learn about the candidates. In Agoura Hills, for example, candidates spent 34% of their budget on voter contacts in 1984 when competition was moderate. But in 1985, facing intense competition, candidates spent 77% on voter contacts and dramatically increased their spending on campaign literature over the prior year. In Irvine, where every recent race has been competitive, candidates spent nearly 72% of their funds on voter contacts.

Candidates Are Spending Large Sums on Overhead

The bulk of candidate expenditures in the larger jurisdictions goes for overhead expenditures such as office rent, telephone and other operating expenses. In large cities and counties, more money is expended on administrative costs (25%) than for any other category, in-

cluding campaign literature (23%). Fundraising costs eat up another large chunk of the expenditures, accounting on average for 15% of candidates' funds.

Professional consultants are absorbing an increasingly large portion of all candidates' budgets. Even low-budget candidates are now turning to professional consultants to manage their campaigns. The Commission's data show that an average of about 10% of each campaign dollar is spent on professional consultants. While candidates in the largest jurisdictions spend the highest percentage (11%) on consultants, candidates in the smallest cities and counties spend comparable sums (8%) on such consultants.

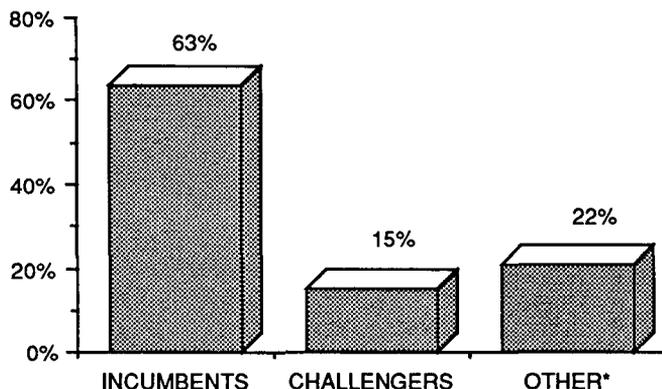
The use of professional consultants may help candidates spend their campaign dollars more effectively; for example, most consultants will advise candidates not to use newspaper ads which in many areas are an inefficient way to reach the voters. But an increasing reliance on professional fundraisers requires candidates to raise more money to pay expensive consulting fees.

Incumbents Dominate Challengers in Spending

In the races studied by the Commission, incumbents outspent challengers by a 4-to-1 margin. Incumbents accounted for 63% of the spending while challengers spent only 15%. Open seat candidates and noncandidate committees accounted for the rest. (See Table 3.) The average incumbent in the Commission's data base spent \$145,000 per campaign, while the average challenger spent only \$26,700.

In some jurisdictions, however, incumbent dominance over challengers

Table 3
TOTAL CAMPAIGN SPENDING
INCUMBENTS VERSUS CHALLENGERS
IN SELECTED CALIFORNIA JURISDICTIONS



***Other* includes open seat candidates and independent expenditure committees supporting or opposing candidates.*

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

reaches extremes. In the City of Los Angeles, for example, incumbents spent 76% of all campaign funds, while their challengers accounted for only 18%. San Francisco incumbents spent 85% of all campaign moneys, while Los Angeles County incumbents spent a staggering 90% of all funds. During the 1981-1986 period, Los Angeles County candidates spent a total of \$7.7 million, but challengers accounted for under \$750,000 of that figure—and almost all of this was spent by one candidate, Alex Pope, running against Supervisor Deane Dana in 1984.

High spending does not automatically mean that a candidate—even an incumbent—will win, but the exceptions are few. Perhaps the biggest upset of a well-funded incumbent occurred in a 1987 Los Angeles City Council race when Council President Pat Russell, who spent nearly \$900,000 on her reelection

campaign, was defeated by challenger Ruth Galanter, who only spent \$195,000. Galanter aligned herself with slow-growth, which in some California cities has shown itself to be an issue which can occasionally overwhelm the spending advantage of the incumbent.

While well-funded incumbents are rarely defeated in larger jurisdictions, incumbents in small cities can be beaten. In small jurisdictions, the campaign money advantage is less effective as a deterrent to a challenger. In San Rafael, located north of San Francisco, challenger Joan Thayer ousted incumbent Richard Nave who outspent her 3-to-1. Similar upsets occurred in Pasadena, where a challenger defeated an incumbent despite being outspent 2-to-1, and in Agoura Hills where several successful challengers spent less than \$4,000 each, but all finished ahead of an incumbent who spent \$10,000.

Candidates Often Make Transfers in Larger Jurisdictions

Unlike candidates in smaller jurisdictions, candidates in larger cities and counties transfer substantial sums to other candidates and ballot measure committees. Los Angeles County Supervisor Pete Schabarum has been described as the "Willie Brown of local politicians," because he frequently transfers significant portions of his funds to other politicians and causes throughout the state. In 1986, for example, Schabarum lent over \$100,000 to a campaign committee opposing the retention of Chief Justice Rose Bird and two other Supreme Court justices on the November ballot.

District Elections Substantially Increase Election Costs

All counties, with the exception of the City and County of San Francisco, elect their five supervisors in individual districts. Most cities in California, however, with the exception of some of the largest, elect their city council candidates in at-large elections in which all voters vote for all candidates on the ballot. Some cities have a hybrid system which requires candidates to run in separate geographical districts in the primary, with the two top candidates in each district competing in an at-large general election.

It is often argued that district elections give residents closer contact with their representatives and enhance the possibilities for minorities to win elections. But contrary to the popular wisdom, district elections may not reduce the costs of running for office even though the size of the district and the number of voters are smaller. Pasadena's experience, for example, indicates

that district elections increase competition so significantly that campaign costs may escalate rather than diminish.

Pasadena was forced by a lawsuit to change its elections from at-large contests to district elections. The resulting increase in election costs was dramatic. In 1979, running in an at-large election, ten candidates spent a total of \$62,000 to communicate with all the voters. But in 1983, ten candidates running in individual districts one-seventh the size of the city spent nearly \$200,000, tripling election costs in just four years. In the election surveyed, candidates in Pasadena's district elections averaged \$22 a vote, the highest of any city or county studied by the Commission. One unsuccessful incumbent spent over \$70 a vote.

Independent Expenditures Are Rare in Most Campaigns

Independent expenditures are expenditures by a person or organization that are not coordinated with a candidate or his or her campaign staff. Independent expenditures are rarely made in California elections, whether state or local, but such expenditures have played a significant role in a few local races.

West Covina experienced the highest independent spending of any local community studied. Until the early 1980s, elections in West Covina were quiet. But when controversy erupted over the continued operation of a toxic waste dump, the BKK Corporation, owner of the dump, poured over \$250,000 into three elections in an attempt to elect favorable candidates and defeat a ballot measure. In one election, BKK even supported more candidates than could be elected to the council. In that election, one of the candidates asked BKK to stop making expenditures on her behalf.

BKK complied and the candidate lost. Three others supported by BKK were elected.

Some local jurisdictions have discovered that independent expenditures are actually encouraged by low contribution limits. The City of San Diego's extremely strict contribution limits, for example, which prohibit all corporate, labor and non-individual contributions and allow only \$250 in individual contributions, have been blamed by some for the increase in independent expenditures in that city's elections.

Sources of Local Campaign Contributions

Local candidates in California receive contributions from five principal sources: businesses, individuals, political organizations, labor unions and the candidates themselves. Of all these contributor sources, businesses give the lion's share; and of all the potential recipients—incumbents, challengers and open seat candidates—incumbents receive the largest percentage.

Incumbents Dominate Local Fundraising

California's local elections are dominated by incumbents, and incumbents derive much of their power from money. Incumbents receive 83% of all the contributions raised by incumbents and challengers combined.

Specific contributor comparisons also show the power of incumbency. Businesses give 95% of their contributions to incumbents and 5% to challengers. Individuals give 83% of their contributions to incumbents and 17% to challengers. Labor gives 83% of its money to

incumbents and 17% to challengers. Political organizations give 65% of their contributions to incumbents and 35% to challengers. Candidates, however, give themselves 65% of their own money when they are challengers and only 35% when they are incumbents.

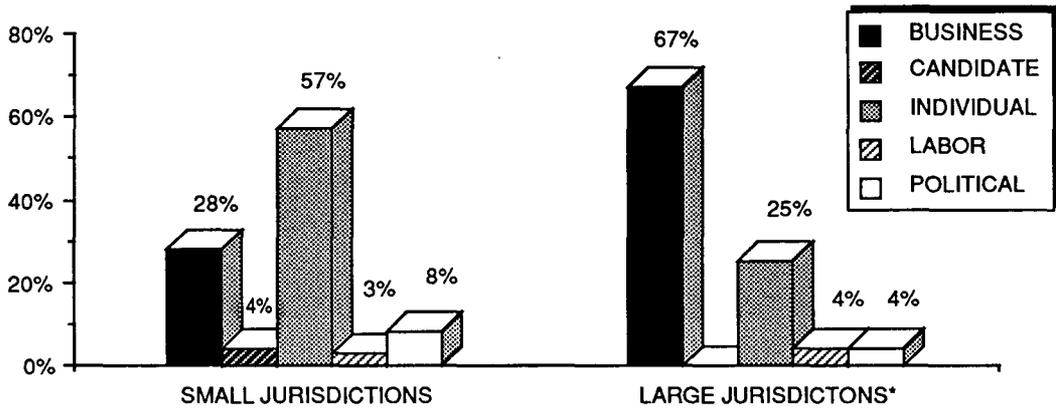
Although some jurisdictions have adopted contribution limits, they have not diminished incumbent dominance. In Gardena, the City of Sacramento and San Francisco, where individual and PAC contributions are both limited, incumbents still receive 63%, 61% and 86%, respectively, of all incumbent and challenger contributions. In jurisdictions without contribution limits, such as Long Beach and Los Angeles County, incumbents raise 64% and 91%, respectively, of all incumbent and challenger contributions.

Businesses Are Dominant Contributors in Larger Jurisdictions

Businesses give nearly all their money (95%) to incumbents. In dollar figures, the average incumbent receives \$96,000 from business sources; the average challenger receives less than \$6,000. As Los Angeles City Councilmember Zev Yaroslavsky comments, "If you were a developer or an investment banker, wouldn't you wish to give to an incumbent instead of a speculative challenger?"

Incumbents in small jurisdictions raise funds from different sources than do incumbents in larger cities and counties. (See Table 4.) In small communities, incumbents obtain funds primarily from individuals—who give them twice as much as businesses do. In contrast, incumbents in large jurisdictions receive the bulk of their funds from businesses, 67% versus 25% from individuals.

Table 4
INCUMBENT SOURCES OF CONTRIBUTIONS
IN SELECTED SMALL AND LARGE CALIFORNIA JURISDICTIONS



*Incumbents gave less than 1% to their own campaigns.

Source: California Commission on Campaign Financing Analysis (data for years 1979-1986)

The *Los Angeles Times* conducted a poll of contributors to Los Angeles city races and found that 42% of those surveyed either did business with the city or needed the city's approval for work done by them or their clients. Businesses relying on the city government for approval of contracts or zoning decisions feel they must contribute in order to stay competitive.

Nowhere are business contributions to incumbents more prevalent than in Los Angeles County. In the 1982 and 1986 elections, challengers running for supervisor *failed to report a single dollar* from business contributors, yet incumbents raised nearly \$2.5 million in business contributions. In 1984, challengers collected \$205,000 from businesses, of which then-County Assessor Alex Pope raised \$202,750. The *average* incumbent raised \$560,000 in business money—twice as much as *all Los Angeles County challengers combined*.

In Orange County, the disparity between incumbents and challengers is just as wide, despite the county's TinCup ordinance which requires supervisors to disqualify themselves on decisions affecting major campaign donors. Incumbents on the average raise \$138,800 from business, while the average challenger collects \$230, a ratio of 603-to-1.

Small Contributions Are More Important in Smaller Jurisdictions

In small jurisdictions, with populations under 150,000 persons, candidates receive about 30% of their money in amounts under \$100. But in cities and counties with populations over 150,000, the importance of small contributions is greatly diminished. In medium-sized cities and counties, candidates receive only 12% of their funds in amounts under \$100, while in large jurisdictions they receive only 4%. Candidates in the City of San Rafael (population 46,000)

actually received more money in under \$100 contributions (\$92,000) than did candidates running for supervisor in Orange County (\$58,000) with a population of over two million.

Non-Election Year Fundraising Makes Local Races Less Competitive

Off year fundraising contributes significantly toward the lack of local competition. In large jurisdictions, all candidates combined collected 49% of all their money in non-election years, while candidates in small jurisdictions raised only 6%. But *incumbents* in all jurisdictions collected 60% of their funds in non-election years (\$17.4 million in a 17 jurisdiction sample), while challengers raised only 2%—an incumbent advantage of 180-to-1. And of all the moneys gathered in non-election years, incumbent city councilmembers and county supervisors collected 99.5%.

Non-election year fundraising has been a major factor in the larger cities

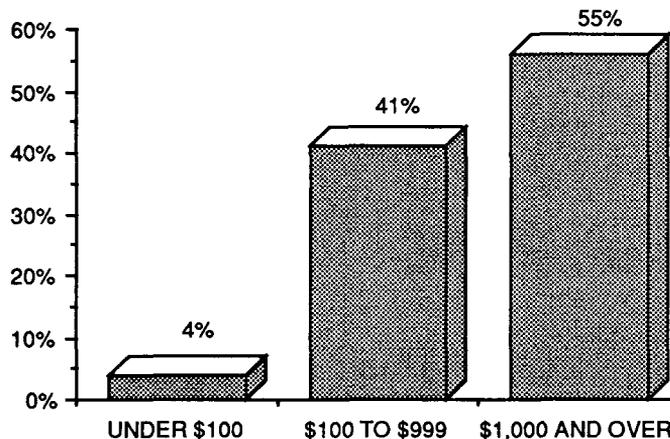
and counties. In both Los Angeles and Orange Counties, incumbent supervisors collected almost three-quarters of their overall funds in off years. Perhaps as a consequence, three Orange County incumbents in 1982 and 1984 faced no opposition whatsoever.

Large contributions dominated off year funding. (See Table 5.) Candidates gathered over 55% of their non-election year money in amounts that equaled or exceeded \$1,000, while only 4% of all contributions came in amounts under \$100.

Non-election year collection of campaign funds is so incumbent-dominated at the local level that competition suffers greatly. The huge sums collected in non-election years provide incumbents with additional insurance against potential challengers and allow incumbents to transfer funds to other candidates. Moreover, it is widely believed that funds given in non-election years are more closely tied to decisions made by

Table 5

NON-ELECTION YEAR CONTRIBUTION SIZES IN SELECTED CALIFORNIA JURISDICTIONS



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

the governing body. Contributions in election years, on the other hand, are made to candidates who usually need them for their election campaigns.

Off year fundraising may become even more important in small and medium sized jurisdictions with the passage of Proposition 73, which limits contributions on a fiscal year basis (July 1 to June 30). Because candidates can only raise up to \$1,000 from individuals or up to \$5,000 from PACs per year under Proposition 73, they will be encouraged to raise the maximum amounts in each year preceding their next election.

Candidates' Own Money Is Important for Non-Incumbents

Challengers and open seat candidates are often forced to fund sizeable portions of their campaigns out of their own pockets. While candidate money accounts for less than 1% of total funds raised by incumbents, it amounts to 15% of challenger contributions. In total funds given, candidate money donated by challengers is over twice the amount given by incumbents.

Candidate funds are also important in open seat contests, accounting for 25% of total contributions received. Jim Streng, running for an open supervisory seat in Sacramento County, contributed \$40,000 of his own funds to his race and said he was willing to spend up to \$100,000 if necessary. In the City of San Diego, one 1983 mayoral candidate spent \$560,000 of her own money in an unsuccessful attempt. In 1985, a San Diego City Council candidate spent \$240,000 of her own money, stating her personal contribution was "an investment in good government."

"Friends" Committees Create a Serious Loophole in Two Ordinances

Officials in San Francisco and the City of Los Angeles have circumvented local contribution limitations ordinances by establishing separate committees or PACs which they manage. Incumbents use these PACs to raise contributions well in excess of local contribution limits. Since incumbents do not use these funds *directly* for campaign-related expenses, they claim the donations are not subject to local contribution limits.

Los Angeles councilmembers primarily have used these funds for local charitable contributions, travel and political junkets. San Francisco supervisors have used much of these funds for office furniture, staff and additional office space. In 1988, newly elected Mayor Art Agnos collected nearly \$500,000 through a "Friends" committee which funded his campaign aides' work on local ballot propositions. With the passage of Proposition 73, however, these "Friends" committees may be curtailed, depriving incumbents of a substantial benefit. (See Chapter 22, "Proposition 73.")

Impact of Contributions on the Governmental Process

One Los Angeles-based lobbyist who regularly appears before both the Los Angeles County Board of Supervisors and the Los Angeles City Council told the Commission, "If we did in the smaller cities what we do in the larger jurisdictions, the officials in the smaller cities would call it bribery."

The flood of money from business interests to incumbent mayors, city councilmembers and county supervisors

has given many members of the public the impression that campaign contributions improperly influence votes. This perception is particularly prevalent concerning developer contributions and local land use decisions.

Many developers *only* contribute to local officials or candidates when they may be voting on a developer's project. As one developer told the *Los Angeles Times*, "We certainly are not going to support candidates where we have no business." In West Covina for example, when the BKK toxic dump site was being threatened with closure by election of a new city council, BKK poured hundreds of thousands of dollars into the campaigns of candidates who were its supporters. After the dump closed, BKK's contributions dried up altogether.

Some contributors in Los Angeles County privately comment that their donations are "part of the cost of doing business in the county." Contributors fear that they must make contributions if they want approval for ventures that may require clearance by the board of supervisors. Whether or not these comments are accurate, they create the *perception of undue influence* over local decisions.

Between 1980 and 1985, for example, the Summa Corporation contributed \$136,000 to Los Angeles County supervisors, and it has given another \$60,000 since 1985, all during the pendency of its proposal to develop a \$1 billion marina community on 1,000 acres of coastal property near Marina del Rey. One analyst commented, "Summa invested a lot of campaign money in the supervisors and it paid off."

In another instance, one interested developer contributed over \$63,500 to Los Angeles County supervisors from 1981 to 1986, while they were considering a proposal to develop Malibu land. Once the project was approved, the contributions ceased. An observer commented, "[I] just can't imagine all that campaign money not having an influence."

A backlash against developer contributions has occurred in some communities. In Agoura Hills, the incumbent mayor, who accepted a \$1,000 campaign contribution from a developer with a project pending before the city council, was defeated at the next election. In Los Angeles, it is generally believed that City Council President Pat Russell was defeated by slow-growth advocate Ruth Galanter because of the public perception that Russell was more responsive to developers and their campaign contributions than to her own constituents. In San Diego, a successful candidate for mayor made developer contributions to her opponent a campaign issue. She was elected to fill the seat of Roger Hedgecock who was convicted of receiving illegal contributions.

Press stories have also focused on developer dominance in local campaign financing. The *San Francisco Examiner* ran a series of articles which attempted to link developer contributions to San Francisco's downtown development. One San Francisco supervisor commented that developer donations were "legalized corruption." The *Sacramento Bee* has also reported that Sacramento County supervisorial candidates received a third of their contributions from developers and that Sacramento city council candidates collected about half of these funds from developers.

Campaign Financing Patterns in Specific California Cities and Counties

Over 60 of California's local jurisdictions have adopted their own campaign finance ordinances. The enormous diversity in these local ordinances distinguishes California from all other states in the nation. No other state has as many cities and counties with their own campaign financing ordinances; in fact, all other states combined have less than ten local campaign finance laws.

California's Cities and Counties Have Experimented With a Variety of Campaign Finance Reforms

Most of California's cities and counties have enacted limits on contributions, but many have experimented with provisions not found anywhere else in the country. The City of San Diego, as well as San Diego County, prohibits *all* contributions from non-individuals. Gardena and three other cities prohibit contributions from persons negotiating or entering into contracts with the city. The City of Los Angeles and the City of Sacramento suspend their contribution limits for opponents of wealthy candidates who put more than a certain amount of their own money into a race. Orange County and Modesto disqualify public officials from participating in matters affecting contributors who give over a certain amount. Sacramento County restricts non-election fundraising and offer partial matching funds for candidates who agree to limit their expenditures.

As a result, California's local jurisdictions are true laboratories of reform, offering many insights into the pros and cons of various campaign financing

ordinances. The Commission has carefully examined those cities and counties which have the most unique laws. The briefest highlights of their experiences, taken from the Commission's sample of 17 cities and counties, are given below. Extended discussions of each of these cities and counties and the Commission's suggestions as to each are provided in the Commission's full report.

City of Agoura Hills

One of California's newest cities, Agoura Hills has no campaign finance law. Yet in less than seven years since the city's incorporation, the bucolic community has been embroiled in an intense debate over "growth versus no-growth." Campaign spending skyrocketed, an incumbent mayor was defeated and pro-development interests launched an unsuccessful recall campaign against four incumbent councilmembers. Shell-shocked by these explosive events, the city council has begun to debate an ordinance which would limit contributions and lower the contribution disclosure threshold.

City of Alturas and Modoc County

Representative of California's smallest jurisdictions, the City of Alturas and the County of Modoc, located in the northeastern corner of the state, do not have the campaign financing problems of larger urban areas. No candidate has ever spent more than \$500 in any local race. Candidates conduct their campaigns the old-fashioned way, walking door-to-door, talking with the voters and participating in a public town hall meeting covered by the local newspaper. Small, often rural jurisdictions like Alturas and Modoc County do not need contribution limits or other substantive campaign finance reforms. At most, such

communities might require the disclosure of contributions as low as \$25 or \$50—contributions smaller than those currently required to be disclosed under existing state law.

City of Gardena

Gardena, a small city in the Los Angeles metropolitan area, has one of the most innovative campaign finance provisions in the country. Gardena prohibits persons who contract with the city from making any campaign contributions during the pendency or negotiation of the contract. This provision has helped eliminate public concern that city council decisions are biased toward major contributors, particularly during recent cable television contract negotiations. On the other hand, the city has allowed a significant loophole to undercut its local ordinance: it has failed to apply the city's contribution limits to loans to candidates. As a result, major donors can give candidates large sums of money by designating them "loans" instead of "contributions." Gardena may wish to eliminate this loophole, as well as consider expenditure ceilings with a matching funds incentive, if possible, or a variable contribution incentive (discussed below).

City of Irvine

Irvine, one of the nation's largest and most successful master-planned communities, holds elections which could be models for other cities and counties throughout the country. Virtually every election year sees highly competitive contests. Challengers and incumbents are usually well-funded, but individual contributors, not businesses, donate the bulk of the funds. Expenditures on voter contacts are extremely high, providing the electorate with substantial informa-

tion about the candidates. Yet despite a low contribution limit of \$150 per election, intense competition has quadrupled candidate spending in Irvine elections over eight years. Adoption of expenditure ceilings might allow Irvine to continue as a model city for other jurisdictions to emulate.

City of Long Beach

Once ranked sixth on a national list of moribund cities, Long Beach has rebounded as one of California's most dynamic communities. Vigorous competition for local elective office is frequent, challengers are often able to defeat incumbents and candidates spend a majority of their funds on voter contacts, primarily campaign literature. Danger signs, however, have recently appeared: spending has increased five-and-a-half times over the past 10 years; local observers worry that real estate developers exercise a disproportionate influence over city council decisions; and high election costs have deterred potential candidates from running. Yet the city council has repeatedly declined to enact meaningful campaign finance reforms. Without comprehensive measures, including expenditure ceilings, Long Beach may soon encounter the serious problems currently faced by larger jurisdictions.

City of Los Angeles

In 1985, the City of Los Angeles enacted a strict campaign finance ordinance designed to reduce campaign spending and the influence of special interests on governmental decisions. But lack of enforcement by the city clerk and city attorney has allowed candidates and incumbents to circumvent the new law's provisions. Incumbents have created special PACs to raise contributions in

excess of the local \$500 contribution limits for councilmembers. Business contributors and developers have maintained their influence by “bundling” contributions. Newspaper reports continue to decry the persistence of “special interest” influence. Average councilmember campaign budgets continue to hover around \$350,000. Most incumbents, particularly those seeking city-wide offices, run unopposed or face minimal opposition. For these reasons, Los Angeles at least needs to eliminate existing loopholes in its law. Expenditure ceilings should also be considered or the city will continue to see incumbent-dominated and noncompetitive races.

Los Angeles County

Los Angeles County’s supervisorial districts are the largest in the country. A candidate walking door-to-door and speaking to two people for 10 minutes would need 50 years of eight hour days to meet every constituent. County supervisors also raise money on a grand scale—the most extreme in the state—but the county has never adopted a campaign finance law. Candidates raised \$9 million and spent over \$7.6 million in two recent election cycles. Over 90% of these funds were collected by incumbents, who rarely faced competitive opponents. Indeed, despite the large districts and huge fundraising, candidates spend little communicating with the voters. In one election, an incumbent spent over 60% of his funds on fundraising and only 3% on voter contacts (he was reelected). Such profigate fundraising and spending have suppressed electoral competition, heightened the appearance of undue contributor influence and left many voters disinterested or apathetic. Proposition 73’s contribution limits and ban on transfers from one candidate to another may

change some incumbent supervisors’ practices. But unless the county adopts a comprehensive campaign financing ordinance, lack of competition and voter suspicion can only worsen.

Orange County

Ten years ago, Orange County adopted one of the most innovative campaign finance reforms in the country. Its “TinCup” ordinance requires supervisors to *disqualify* themselves on any matter affecting a campaign contributor who gives them more than \$1,808 during a four-year period. The ordinance has proven to be extremely popular with citizens, officeholders and even contributors. Yet it has failed to halt several disturbing trends. Competitive supervisorial races remain few and far between. When they do occur, spending has soared. County policies continue their strong pro-development appearance, despite public opposition. Few Orange County residents know their supervisors or what they do. In addition to tightening amendments to TinCup, Orange County should consider banning non-election year fundraising. Since it is not a charter county, Proposition 73 will prevent it from offering public matching funds to candidates who agree to expenditure ceilings. Variable contribution limits to candidates accepting expenditure ceilings could be an alternative.

City of Pasadena

Pasadena is an example of a small city experiencing big-city campaign financing problems. One city councilmember had to increase his spending tenfold over four years to hold his seat; another incumbent spent \$70 per vote during one election and still lost. In 1983, Pasadena converted from at-large to district-by-district elections in which

candidates run in areas one-seventh the size of the city. Although election costs were expected to diminish, the intense competition sent election spending soaring. In 1985, Pasadena witnessed the most expensive city council campaign in its history—an almost 14-fold increase over the average candidate's expenditures in 1979. Despite these changes, Pasadena has not adopted campaign finance reforms.

City of Sacramento

Once a sleepy government town, Sacramento's image has changed dramatically with a new National Basketball Association franchise and the possibility of attracting Major League Baseball and the National Football League to a recently constructed stadium. The city council had hoped to diminish the potential dominance of developer campaign contributions through passage of a contribution limitations ordinance in 1983. But after five years and three elections with the ordinance, campaign spending has continued to escalate and the widespread perception persists that developer contributions unduly affect city council decisions. Several members of the council and the mayor are currently exploring the feasibility of a comprehensive reform ordinance, similar to Sacramento County's, which would include expenditure ceilings and partial public matching funds.

Sacramento County

Sacramento County surprised the entire state when its voters made it the first county in the nation to adopt a comprehensive campaign financing law, including expenditure ceilings and limited public financing for supervisorial campaigns, despite the opposition of a major local newspaper and the Chamber

of Commerce. (Two cities, Seattle and Tucson, had previously adopted similar reforms.) Although the law was passed in 1986, no candidate in 1988 opted to receive any public money, as incumbents faced only minor opposition. Proposition 73, enacted statewide in 1988, prohibits the expenditure of any public funds in state and local elections; if upheld, it would invalidate Sacramento County's expenditure ceilings and matching funds. In 1989, the county filed suit against Proposition 73, arguing that *charter* county elections are immune from state regulation. If the suit is successful, the county's new law is expected to receive its first significant test in the 1990 elections. After the 1990 elections, the county should determine whether the expenditure ceiling amounts have been set appropriately.

City of San Diego

The City of San Diego perhaps best illustrates the proposition that contribution limit ordinances by themselves, in strongly competitive environments, are ineffective. San Diego has enacted the toughest contribution limitation ordinance in the country. Only individuals may contribute and they can only give up to \$250 per candidate per election. Corporate, labor union and PAC contributions are prohibited. The district attorney has aggressively pursued ordinance violations. Yet campaign costs continue to climb, and allegations of undue developer influence over city council decisions persist. Between 1983 and mid-1986, city councilmembers raised \$4.2 million in contributions and made \$1 million in personal loans to their own campaigns. Organized contributors avoided San Diego's low contribution limits by "bundling" large numbers of small contributions. One councilmember running for mayor raised over

half of his contributions from development sources. San Diego's strict contribution limits have failed to address the city's mounting problems. San Diego should consider whether additional comprehensive reforms, such as expenditure ceilings, would help to reduce campaign costs.

City and County of San Francisco

San Francisco's local law also illustrates the inadequacies of a stand-alone contribution limits ordinance. The city has long sought to limit excessive campaign spending. It was the first California jurisdiction to impose expenditure ceilings on local candidates (court decisions nullified the ordinance), and San Francisco voters recently lowered the city's contribution limits from \$1,000 to \$500 per election. But in the very next election and for the first time in San Francisco history, three mayoral candidates spent over \$1 million each. San Francisco might consider reinstating the expenditure ceilings law it enacted nearly 20 years ago and couple it with matching funds (if possible) or variable contribution limits.

City of San Rafael

San Rafael has twice experimented with local campaign finance ordinances, but in both instances city officials failed to give the local laws a realistic chance to work. An expenditure ceilings law was repealed before any elections were held under its provisions, and a contribution limitations law was repealed after only one election. Although San Rafael elections have not been as costly as those in other cities its size, recent races have become more intense. Between the early 1970s and 1983, spending in mayoral campaigns jumped 650%. In 1987, one independent organization

donated \$6,700 in non-monetary contributions to an anti-growth candidate who successfully defeated several well-funded challengers and an incumbent. San Rafael's officeholders are reluctant to be interviewed about the city's campaign financing problems, but growing pressures may soon force the community seriously to consider comprehensive reforms.

City of Santa Monica

Santa Monica's elections are among the most distinctive in California. Completely dominated by Eastern-style big-city "slate politics," they have been conducted under the highest contribution limit (\$1,491) in the state. Over the past decade, the city's elections have been polarized by the issue of rent control, with each slate of competing candidates seeking to regulate rents more aggressively than the other. This fierce competition has driven average campaign spending up 1,300% in ten years. While competition has increased between the slates, candidates unaffiliated with a slate, with rare exceptions, have had little chance of success. Proposition 73 may make this "war between the slates" only an historical footnote, but since Santa Monica's campaigns are among the most creative in the state, future battles may be waged by independent expenditure committees supporting or opposing slates of candidates. The city may wish to consider a comprehensive ordinance containing lowered contribution limits and expenditure ceilings with appropriate incentives (matching funds or variable contribution limits) for candidates to accept them.

City of Signal Hill

Signal Hill is one of the smallest cities in the state to adopt a contribution

limits law. Responding to widespread charges of corruption, the city has also adopted the strictest disclosure requirements of any local California jurisdiction. Candidates must file disclosure statements monthly and list their contributors in both chronological and alphabetical order. Unfortunately, Signal Hill may also have the loosest enforcement of any ordinance in the state. The city's small size and strict disclosure requirements have not prevented the city clerk from losing many campaign disclosure reports. The city might consider some technical amendments to its ordinance, and it should take steps to ensure that its laws are enforced and implemented by appropriate city officials.

City of West Covina

West Covina offers a striking example of a city affected by large independent expenditures. Low-cost elections were the rule until the early 1980s, when controversy erupted over the possible closure of a toxic waste dump. Enormous sums were spent by BKK, the dump's operator, and another company wanting to build a housing development near the dump. The expenditures successfully helped thwart a ballot measure to close the dump and a recall of councilmembers who sought to keep the dump open. After the dump was finally closed and in a reaction to BKK's massive independent expenditures, the council enacted a contribution limitations ordinance. Elections since the dump's closure have been relatively inexpensive, although candidates themselves now spend more money than in the past. West Covina needs to make some minor amendments to its contribution limits law and should review the most recent election to determine whether more comprehensive reforms are needed.

Existing Inadequate Reforms

Although California has more local campaign finance ordinances than all the other states combined, many ordinances have proven to be inadequate to restrain excessive spending, diminish undue contributor influence or strengthen electoral competition. Proposition 73, adopted by the voters in the 1988 statewide election, unfortunately pursues the major prevailing reform shown *not* to work and prohibits the experience-tested approach with the most promise.

Stand-Alone Contribution Limits Are Inadequate

Most California cities and counties adopting campaign finance reforms have chosen only to limit the size of contributions. Although many jurisdictions hoped to reduce high campaign costs, diminish excessive contributor influence and increase competition, few have succeeded. Campaign costs have soared; competition has actually decreased; and allegations of excessive contributor influence have not lessened.

In San Francisco, for example, voters recently reduced the city's contribution limits from \$1,000 to \$500, hoping to curtail campaign spending. Yet in the first election conducted under the stricter contribution limits, three mayoral candidates each broke the \$1 million mark for the first time. In the City of Sacramento and the City of San Diego, strict contribution limits have also failed to restrain rising campaign costs. In Contra Costa County, one supervisor commented, "Our main reason for adopting . . . [contribution limits] was to limit campaign spending. We have to admit it didn't work." California's many local contribution limit laws

offer compelling evidence that such remedies, when subjected to the stresses of modern political campaigns and if not coupled with additional reform measures, fail to accomplish most of their stated objectives.

Proposition 73 May Make Effective Reforms More Difficult

Proposition 73, adopted in the June 1988 California election, ironically adopts the only campaign finance reform—contribution limits—which has been proven *ineffective* in highly competitive elections. Proposition 73 may also prevent some, and possibly all, cities and counties from adopting the only reforms that do work—contribution limits combined with expenditure ceilings supported by limited public matching funds.

Proposition 73 imposes the identical contribution limits on *all* state and local candidates, so that even those cities and counties which have not passed local ordinances must now enforce the initiative's basic contribution limits. While Proposition 73 allows cities and counties to adopt lower contribution limits than its own, it expressly forbids the use of even limited public financing in local campaigns. In so doing, it deprives cities and counties of the only constitutionally tested incentive for voluntary expenditure ceilings—the *sine qua non* of reform, in the Commission's view.

Two possible courses of action may still enable local governments to enact expenditure ceilings. First, because the California Constitution specifically permits *charter cities* (those cities which have legally chosen to govern themselves by their own and not state laws) to enact local rules governing elections, it is possible that California's 80 charter

cities are exempt from Proposition 73's restrictions on public financing. These cities may be able to offer limited public matching funds to those candidates who agree to limit their spending. It is also possible, although less certain, that *charter counties*, such as Sacramento County, are free to adopt comprehensive laws which include limited public matching funds. Non-charter, general law cities and counties, on the other hand, must look to the state for laws to govern the conduct of their elections. In these cities and counties, Proposition 73 will clearly apply and will prohibit the use of public money in campaigns, unless Proposition 73 itself is held to be invalid. For an expanded discussion of these current legal issues, see Chapter 22, "Proposition 73."

A second course of action for cities wishing to adopt expenditure ceilings is to couple them with "variable contribution limits"—allowing candidates who limit their spending to raise contributions in larger amounts up to the permissible Proposition 73 maximums. This as-yet constitutionally untested approach is summarized below.

Synopsis of the Commission's Recommendations

Campaign financing problems in California cities and counties range from the benign to the pernicious. In some communities, typically the smaller or more rural ones, candidates campaign for office in a virtual "state of grace"—raising moderate sums of money, spending it on voter communications, campaigning on the issues and, once in office, raising little or no money until the next election. Elections are competitive; legislation is uninfluenced by contributions; voters are generally informed; and

electoral office is deemed a public service. In these smallest jurisdictions, no reforms may be required.

In other jurisdictions, particularly small to medium-sized jurisdictions which are only beginning to experience campaign financing abuses, simplified reforms may be sufficient. These might include contribution limits in amounts lower than Proposition 73's limits, improved disclosures and prohibitions on contributions from city contractors or franchisees. Based on the Commission's study, however, such measures will succeed only temporarily. As campaigns become more competitive, as real estate development begins to accelerate or as local issues become more heated, campaign spending will inevitably rise. Stopgap contribution limit ordinances will crumble under the onslaught. These and other similar jurisdictions, however, may temporarily stave off campaign financing problems by eliminating loopholes in their existing ordinances.

But as pressures to increase campaign spending intensify, campaigns in these jurisdictions will experience the problems that cry out for reform—rapidly rising expenditures, large contributions from interested parties, off year fundraising, incumbent dominance, loss of competition, independent expenditures, last-minute hit pieces and allegations of undue influence over the governmental process. As these problems escalate, public disaffection will grow.

These predictable patterns suggest, particularly in the larger and more competitive jurisdictions, that no local campaign finance ordinance will ultimately succeed without comprehensive reforms. Contribution limits by themselves can be evaded; stand-alone expenditure ceilings have been declared unconstitutional by the United

States Supreme Court; and public financing will not diminish campaign spending unless coupled with expenditure ceilings.

The Commission therefore recommends and has drafted a comprehensive Model Ordinance containing expenditure ceilings, contribution limits, a prohibition on non-election year fund-raising, limited public matching funds and strong local law enforcement.

Not every jurisdiction, of course, will need to adopt every proposed reform. Smaller cities and counties, where local candidates run low-cost grassroots campaigns, may need no campaign finance reforms. Larger jurisdictions may need only partial reforms. Cities and counties seeking a simplified but comprehensive approach may choose the shortened version of the Commission's Model Ordinance. (See Appendix B to the full Commission report, "Model Local Campaign Finance Ordinance, Short Version.") Communities with specialized problems may need only to enact those parts of the Model Ordinance which fit their particular exigencies. Others may go beyond the Commission's recommendations and develop new measures to redress currently unforeseen problems. But the Commission believes that in the long run most local jurisdictions suffering from growing campaign financing problems will find that the proposed Model Ordinance offers the most comprehensive and effective solutions.

California's cities and counties are so diverse that they have experienced almost every imaginable campaign financing problem and attempted nearly every solution, in at least one or more jurisdictions. The Commission's Model Ordinance has sought to draw on the best elements of these local reforms.

Local Campaign Finance Reforms Must Seek Balanced Objectives

Successful campaign finance reforms in California cities and counties must achieve a number of important policy objectives:

- To lower or slow the rise in campaign spending;
- To decrease the time candidates spend on fundraising and increase the time spent on policy and legislation;
- To decrease the perception that local officials are unduly influenced by large contributors with financial or other interests in pending governmental actions;
- To increase competition between candidates for local office;
- To increase the involvement of individual citizens in campaigns;
- To offer all individuals and interest groups regardless of wealth a fair and equal opportunity to participate in local electoral and legislative processes; and
- To restore or enhance public confidence in local governmental institutions.

These objectives can only be achieved with a balanced package of reforms.

Expenditure Ceilings Are the Key to Effective Reform

The Commission believes that expenditure ceilings must be the cornerstone of effective campaign finance reforms. Spending caps free candidates from the constant necessities of fundraising, the fear of last-minute spending blitzes and the temptation to exchange votes for contributions. At the same time, expenditure ceilings encourage newcomers to enter political contests, increase the time candidates have to address relevant issues and abate the fundraising wars.

When the Commission issued its first major report, *The New Gold Rush: Financing California's Legislative Campaigns*, it proposed specific expenditure ceiling amounts in state legislative races. Its Model Code suggested spending caps of \$600,000 for state Senate candidates and \$375,000 for Assembly candidates in the primary and general elections combined.

While the Commission recommends that cities and counties adopt a similar comprehensive ordinance, containing appropriate contribution limits, expenditure ceilings and (if possible) limited public matching funds as an incentive for candidates to accept those expenditure ceilings, the Commission does not recommend that all cities and counties adopt the same expenditure cap amounts. Each city and county must look to its own individual circumstances and campaign histories to determine which limits are appropriate, based on the costs of past—especially competitive—elections. A spending cap for Los Angeles County, for example, will be far greater than one for Santa Monica, even though Santa Monica's expenditure ceiling will allow a higher cost per vote. (See Appendix D for the range of spending and cost per vote figures in the 17 jurisdictions studied by the Commission.)

Lawmakers must resist the temptation to set expenditure ceilings too low—a tactic which would benefit incumbents. Challengers will need to reach a certain threshold level of spending before they gain name and issue recognition. It is relatively easy and tempting for incumbents to look back on past reelection campaigns and conclude that they spent very little. Incumbent supervisors in Sacramento County, for example, adopted an expenditure ceiling of

\$75,000 per election. While this ceiling may have seemed reasonable to incumbents who faced little competition, it is far below the amounts spent in Sacramento County's competitive open seat elections in 1986.

In adopting a particular expenditure ceiling, lawmakers should examine those races where at least two viable candidates contested an available seat. Setting expenditure ceilings substantially lower than these amounts may favor incumbents and make it nearly impossible for a challenger to mount a successful competitive race. At the same time, the most expensive races previously run in the jurisdiction should not necessarily be the standard for expenditure ceilings. Excessively high ceilings may perpetuate existing extremes.

Contribution Limits Should Vary According to the Size of the Jurisdiction

Traditionally, contribution limits have been the most frequently imposed restrictions on candidates. Over half the states and nearly 50 cities and counties in California now limit contributions to candidates. The limits vary tremendously—from \$50 in Davis and Del Mar to \$1,491 in Santa Monica. With the passage of Proposition 73, however, all California cities and counties will be subject to *maximum* limits of \$1,000 per fiscal year from individuals, \$2,500 per fiscal year from "committees" of two or more persons (a strange provision discussed in somewhat more detail in Chapter 22, "Proposition 73") and \$5,000 per fiscal year for large political action committees.

These limits will affect campaigns in large jurisdictions, such as Los Angeles County, which have no existing cam-

paign reforms. But Proposition 73 will have little impact in most other cities and counties. In some of these communities, contributors typically do not give more than Proposition 73's maximum amounts. In others, local ordinances already impose lower contribution limits than those in Proposition 73.

Although contribution limits by themselves may be inadequate to solve most campaign finance problems, they can be a useful part of local reforms when combined with expenditure ceilings, particularly when limited public matching funds are provided as the incentive for acceptance of expenditure ceilings. Contribution limits lessen the impact of individual contributors on the governmental process and encourage candidates to seek their funding from a wider range of sources. Although contribution limits tend to favor incumbents over challengers and require candidates to spend more time raising money, these deficiencies would be offset by limited matching funds and expenditure ceilings which, taken together, supplement candidates' budgets, diminish their fear at being vastly outspent and reduce the time they must spend on fundraising.

The enormous variety in California's local jurisdictions makes it impossible for the Commission to recommend a specific contribution limit for each city and county. On average, however, a maximum limit of \$250 in most small cities should allow candidates to raise sufficient money to run for office. In most larger communities, especially when partial public matching funds and expenditure ceilings are also offered, a \$500 limit should be appropriate. Locally adopted contribution limits are essential in all cases, if only to overcome the astonishing loophole in Proposition 73 that allows *any two individuals*

to form a so-called “committee” which may give \$2,500 per fiscal year to a candidate.

Prohibitions on Contributions From Persons Doing Business With a Jurisdiction Should Be Considered

The Commission does not support a prohibition on contributions from corporations, labor unions, PACs and other non-individuals, as do San Diego City and County and the Model Law recently adopted by the League of California Cities. The Commission has not found that contributions from these sources “corrupt” or unduly influence candidates or elected officials any more than do contributions from individuals. Moreover, prohibitions on corporate contributions can be avoided with relative ease—for example, by the “bundling” of contributions from individual corporate employees.

The Commission does believe, however, that Gardena’s approach of prohibiting contributions from persons contracting with city government or bidding on a contract with city government is desirable. Such a ban substantially reduces the temptation of city officials to solicit, and city contractors to give, contributions which can create the appearance of attempts to further special interest goals. Such restrictions also increase public confidence in the integrity of local government.

Limited Public Matching Funds Create an Incentive for Candidates to Accept Expenditure Ceilings Voluntarily

The Commission recommends, if it proves to be feasible, that cities and counties give candidates who voluntarily accept expenditure ceilings the option to accept limited public matching funds.

All candidates should not be eligible for matching contributions—only those who agree to limit their expenditures, raise a minimum threshold of private contributions in small amounts and face a “serious opponent” who has also raised or spent a certain amount or has qualified for limited public matching funds. These appropriate restrictions will effectively limit the overall cost of any carefully drafted matching fund program.

To date, limited matching funds are the only constitutionally approved technique by which candidates can be encouraged to accept expenditure ceilings. Matching funds also benefit candidates who wish to raise sums of money from individual constituents in smaller amounts, since under most matching funds plans small contributions are doubled or multiplied by the amount of the match.

Variable Contribution Limits Are an Alternative to Matching Funds

Because Proposition 73 contains a prohibition of the expenditure of public funds in elections, at least in non-charter cities and counties, the Commission has suggested a new and as yet untested plan by which local governments might still encourage candidates to accept expenditure ceilings voluntarily. This proposal would allow candidates to raise contributions in higher amounts than those otherwise allowed under local law if they voluntarily agree to accept expenditure ceilings. The proposal, in other words, creates a set of “variable contribution limits”: lower limits for candidates rejecting expenditure ceilings, and higher contribution limits for candidates accepting spending limits.

Under the Commission’s alternative proposal, a city or county would adopt a

relatively low contribution limit for all candidates—perhaps between \$100 and \$250 per contributor. Those candidates who voluntarily agreed to limit their expenditures would be able to raise contributions up to the limits imposed by Proposition 73 (except for Proposition 73's aberrational limit of \$2,500 per year for "committees" of two or more persons), which range from \$1,000 for individuals to \$5,000 for broad-based political committees. Candidates who declined to accept expenditure ceilings would be required to comply with the local jurisdiction's lower contribution level.

The Commission's "variable contribution limits" proposal would offer candidates a choice. They could raise and spend as much money as possible, but under low contribution limits. Or they could raise money more quickly and easily under higher contribution limits, but only if they agreed to spend no more than a specified expenditure ceiling. Candidates wishing to free themselves from the constant pressure of raising money in small amounts would thereby be encouraged to accept the jurisdiction's stated expenditure ceilings.

The Commission believes its alternative proposal is constitutional under the guiding United States Supreme Court precedent in *Buckley v. Valeo*, which specifically allows the imposition of expenditure ceilings on candidates who agree to accept limited public matching funds. The Supreme Court concluded that government had the power to offer candidates a benefit (such as limited public matching funds) in exchange for an appropriate condition (such as candidate acceptance of expenditure ceilings).

A system of "variable contribution limits" would seem to fit the *Buckley v. Valeo* model. Local governments already

have the power to set contribution limits in widely varying amounts—from \$50 in some California communities up to the \$1,000 limit allowed under Proposition 73. The Supreme Court has stated that it will not review the legislative wisdom of fixing a particular contribution limit amount. If a local jurisdiction can adopt *either* a \$50 or a \$1,000 contribution limit, then it would also appear to have the power to *waive* a lower contribution limit in exchange for a higher one coupled with a candidate's acceptance of expenditure ceilings.

Variable contribution limits might be considered by general law cities and counties which will clearly not be allowed to offer matching funds under Proposition 73. The Commission believes that a plan for partial matching funds is the better solution for those charter cities and counties which undertake to enact meaningful campaign reforms, assuming that the courts determine that Proposition 73 does not affect their ability to do so.

Strengthened Enforcement Remedies May Be Necessary to Ensure Compliance

Most cities and counties which have enacted local campaign finance ordinances have made violations of these local laws subject to misdemeanor penalties like other white collar crimes. Such violations are not a high priority for local prosecutors and are difficult to enforce in a criminal setting. The Commission suggests civil remedies similar to those in the Political Reform Act, which could be brought by local prosecutors and by citizens in the jurisdiction. In some of the larger jurisdictions, a local enforcement agency, similar to the Fair Political Practices Commission, should be considered.

Smaller Jurisdictions May Consider Lowering Disclosure Thresholds

State law requires candidates to disclose campaign contributions and expenditures of \$100 or more, but many smaller cities and counties have lowered the state disclosure threshold because their candidates raise and spend substantial sums of money in amounts under \$100. Some cities even require candidates to itemize *all* contributions received. These cities argue that all contributions should be listed so that no money is laundered or hidden from public view.

The Commission believes that some cities and counties may have special justifications for requiring lower disclosure thresholds than the state's \$100 threshold. However, a requirement that *all* contributions and expenditures should be listed appears excessive. Candidates should not be forced to keep records on the purchase of a campaign button or bumper sticker. A minimum threshold of *at least* \$10 is suggested.

The Need to Examine Local Campaign Financing

Few scholars have scrutinized local elections and their financing. Virtually no publications exist on this important subject. Yet local campaign financing draws *up to one-fifth of all the money spent on American electoral politics*. This lack of academic interest in local campaign financing is surprising, given the vast amount of information which is

filed during each election cycle by candidates and the major donors supporting or opposing them. Moreover, officials in many cities and counties are increasingly examining spending and contribution patterns in their local communities to determine whether to enact or amend local campaign financing ordinances.

The passage of Proposition 73 may cause some cities and counties to delay new attempts at local campaign finance reform. Local officials may justifiably wish to wait until the California Fair Political Practices Commission and the courts have determined which parts of Proposition 73 apply to them and how the new law will work. But once the provisions of the measure are interpreted and implemented by the courts and the Fair Political Practices Commission, local bodies will again begin to enact laws to address their own special campaign finance problems. The need for research and analysis into city and county campaign financing problems and solutions will grow.

No campaign finance reform can be etched in stone. Campaign tactics by candidates and committees will constantly change, either in response to new technologies or in attempts to find loopholes in existing ordinances. The Commission nonetheless believes that its proposed Model Ordinance currently offers the best and most comprehensive solution to the diverse and wide-ranging problems of local money and politics today facing cities and counties in the Golden State.

THE COMMISSION'S CAMPAIGN FINANCE PROPOSAL FOR CALIFORNIA CITIES AND COUNTIES

Expenditure Ceilings, Contribution Limitations and Limited Matching Funds

I. Expenditure Cellings (per election)

Small Jurisdictions	\$10,000 to	\$40,000
Medium Jurisdictions	\$50,000 to	\$500,000
Large Jurisdictions	\$150,000 to	\$1,000,000

II. Contribution Limitations (per election)

Basic limit (individual, business, labor union, PAC)	\$100 to \$1,000
PACs receiving all contributions in amounts of \$50 or less ("Small Contributor PACs")	\$500 to \$5,000
Transfers	Prohibited
Non-election year contributions	Prohibited or Limited
Aggregate contributions received from non-individuals per election	One-third of expenditure limits
Contributions to PACs per year	\$100 to \$1,000

III. Limited Matching Funds

Maximum amount of funds per candidate	One-half the expenditure ceilings
Candidates cannot receive limited matching funds unless at least one opponent raises or spends at least \$10,000	
Contributions matched on a 1:1 to 3:1 ratio but only contributions under a certain amount are matched	Matches contributions under \$25 to under \$500

IV. Miscellaneous

Limits on receipt of gifts and honoraria in any two-year period from individuals, businesses, labor unions, PACs and small contributor PACs	Same as contribution limit
Local administration and enforcement	
Cost of living adjustments	
Disclosure of contributors' occupation and employer before contributions may be used	
Return of surplus matching funds to government	

PART I

Local Campaign Financing in California's Cities and Counties: Problems, Consequences and Possible Solutions

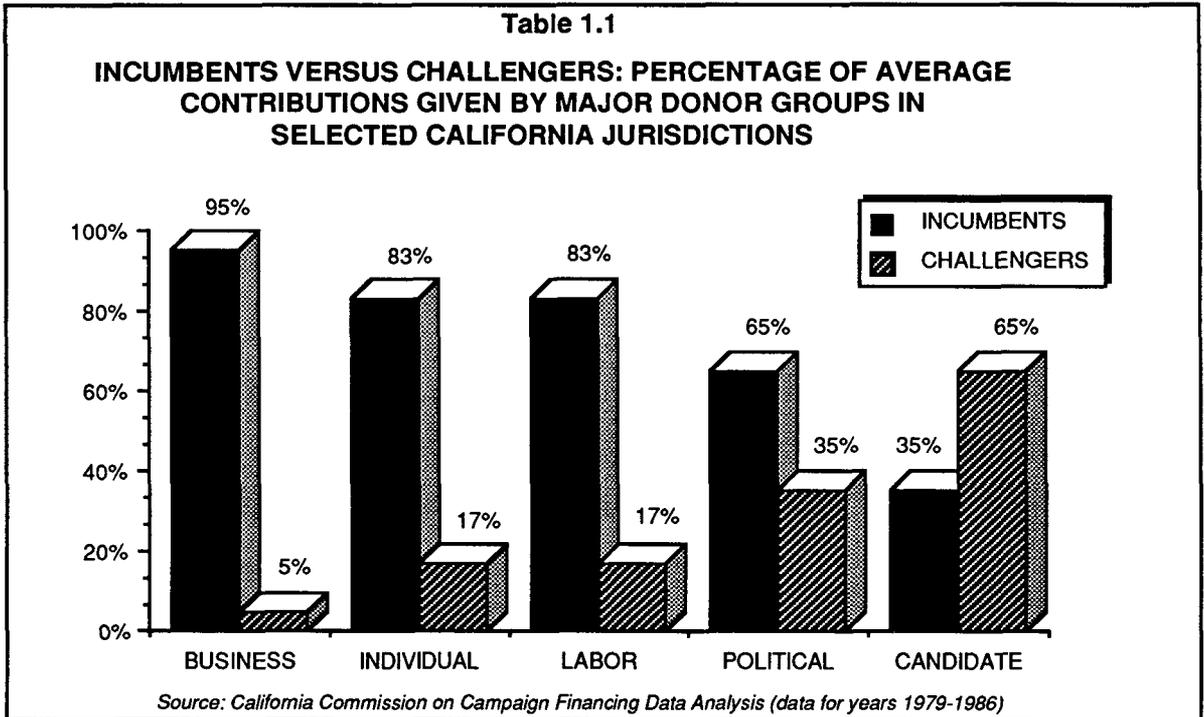
CHAPTER 1

Campaign Contributions: The Dominance of Incumbents

Fundraising in California cities and counties is incumbent dominated and driven. In some jurisdictions, incumbents receive an average of up to twenty-four times more contributions than challengers. The constant struggle by incumbents to maintain their funding superiority, and by challengers to diminish it, has inspired extraordinary methods of securing campaign money—including solicitations of large campaign contributions from individuals or organizations who have matters pending before the recipient, massive contributions by candidates to their own campaigns, “bundling” of campaign contributions from numerous small donors and stockpiling of campaign war chests in non-election years. While the intensity of this fundraising is directly related to the sizes of various jurisdictions, the resulting impact on cities and counties throughout California has been to undermine competition between candidates and erode the public’s perception of clean and effective local government.

Contribution patterns in 17 small, medium and large local California jurisdictions¹ studied by the Commission reveal a number of important trends. Incumbents raise by far the most campaign money; most campaign money is contributed by businesses; and significant fundraising by challengers is rare.

California's local elections are dominated by incumbents, and incumbents derive much of their power from campaign money. Incumbents receive 83% of all the contributions given to incumbents and challengers, and incumbents raise 68% of all moneys raised by incumbents, challengers and open seat candidates combined. Business contributors, on average, give a striking 95% of all their contributions to incumbents. Individual contributors, on average, also overwhelmingly favor incumbents with 83% of their contributions. Because incumbents dominate most contribution sources, challengers are forced to become their own major supporters—contributing 65% of all the moneys that candidates give to their own campaigns. (See Table 1.1.)



Actual dollar contribution amounts show incumbent fundraising dominance even more conclusively. From business sources, the average incumbent receives approximately \$96,000; the average challenger receives less than \$5,500. Individuals give the average incumbent more than \$48,000 and the average challenger less than \$10,000. Political organizations also favor the average incumbent, giving him or her over \$6,000 while giving the average challenger less than \$3,500. The average incumbent also receives more than \$5,000 from labor sources while the average challenger receives less than \$1,100.

Business contributors overwhelmingly favor incumbents because they see them as a surer bet. "If you were a developer or an investment banker," comments Los Angeles City Councilmember Zev Yaroslavsky, "wouldn't you wish to give to an incumbent instead of a speculative challenger?"²

In jurisdictions with contribution limit ordinances, incumbents still receive the largest share of contributions. In San Francisco, where contributions were first limited to \$1,000 and now to \$500, incumbents gather 86% of all contributions to incumbents and challengers. In Gardena, where contributions to candidates are limited to \$500 per election, incumbents still receive 63% of all contributions given to incumbents and challengers. In the City of Sacramento, where contributions to city councilmembers are limited to \$500 per individual and \$1,500 per political action

committee (PAC), incumbents receive 61% of all contributions to incumbents and challengers.

In larger jurisdictions, incumbents' fundraising superiority generally leads to success at the polls. Because candidates in large jurisdictions must rely more heavily on costly image-based media campaigns, incumbent spending dominance in an image-based media campaign can generally assure victory. Interestingly, large jurisdictions which have divided themselves into smaller electoral districts might be expected to experience campaign costs comparable to those of small or medium-sized cities. But partly because the legislative decisions made by elected officials in those districts affect many contributor concerns, the stakes remain high and campaign costs still far exceed those in small or medium-sized jurisdictions. Such is the case in the City of Los Angeles, Los Angeles County and Orange County.

Campaigns in smaller jurisdictions tend to be more issue-driven, and thus fundraising superiority has less effect on success at the polls. In the 1983 and 1985 Pasadena elections, for example, three candidates for the city council each raised more than \$50,000, yet they were defeated by opponents who spent less than \$25,000. The winning candidates' stands on the issue of redevelopment apparently outweighed the importance of their opponents' spending advantage. In Agoura Hills, an incumbent mayor who spent far more than his challengers in 1985 was defeated for the same reason—the wrong stance on growth and development. In Irvine, business-supported pro-growth challengers have actually raised more contributions than slow-growth incumbents in recent years, due to the intensity of the growth issue; yet races turn more on the candidates' "pro-growth" versus "slow growth" positions than on the campaign moneys spent.

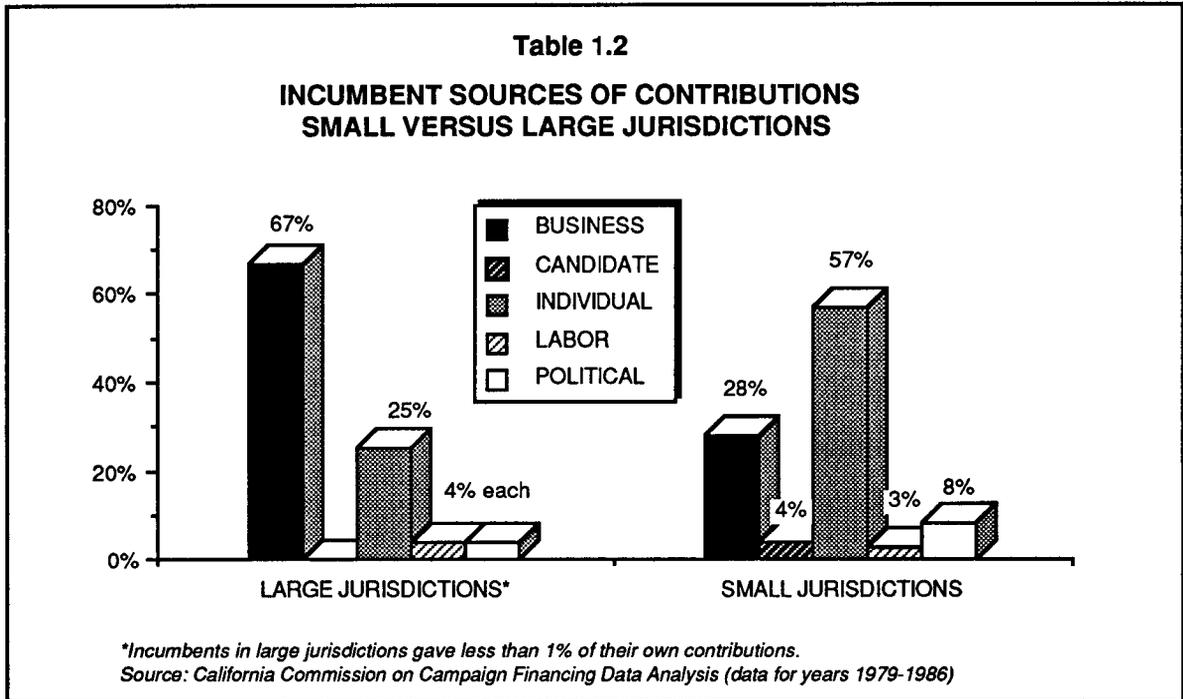
If an issue is powerful enough it can supersede the effects of fundraising superiority in a local jurisdiction of any size—although this is less likely to occur in larger jurisdictions. Santa Monica's battle over rent control, for example, has polarized the city into two political factions or "slates." Campaign contributors give their contributions to a particular slate, which in turn backs a carefully-picked list of candidates.

The growth/no growth issue may turn out to be one of the most significant in the history of local elections in California. In Orange County, for example, increasing residential irritation with rapid growth has led some to believe that "the roof could fall in" on elected officials too actively aligned with local builders.³ In the long run, however, the growth/no growth issue will prove less significant to election outcomes than money—which candidates have it and which candidates can spend it in ways that best enhance their attractiveness to the voters.

A. The Incumbent-Business Connection Predominates in Larger Jurisdictions

In smaller cities and counties (population up to 150,000), individuals give incumbents the largest dollar volume of contributions. In medium jurisdictions (population between 150,000 and 1 million), individuals give slightly more in total amounts than businesses. But in large jurisdictions (over 1 million in population), businesses give incumbents by far the largest amount of contributions. Thus, on average in small jurisdictions, incumbents receive 57% of their contributor dollars from individuals and 28% from businesses. In medium-sized jurisdictions, incumbents receive an average of just under 50% of their contributor dollars from individuals and 43% from businesses. In large jurisdictions, however, candidates receive an average of only 25% of their contributor dollars from individuals and 67% from businesses. (See Table 1.2.)

These patterns suggest that incumbents in small-to-medium-sized jurisdictions tend to rely on the same constituency (individuals) for both their campaign contributions and their votes. In large jurisdictions, however, incumbents receive their money from one constituency (businesses) and their votes from another (individuals). As a result, incumbents in large jurisdictions must divide their legislative loyalties between the people who elect them and the people who pay for their elections. Not surprisingly, this bifurcation of loyalties has frequently produced zoning, land use and other local decisions more applauded by major contributors than community residents.



Challengers primarily rely on contributions from individuals. In small and medium-sized jurisdictions, challengers receive 44% or more of their contributions from individuals; in large jurisdictions, they receive 41%. Business contributions, on the other hand, make up less than one quarter of challengers' total contributions in all jurisdictions—small, medium and large. In fact, candidates in small and medium-sized jurisdictions contribute roughly the same amount to their own campaigns as do businesses. (See Table 1.3.)

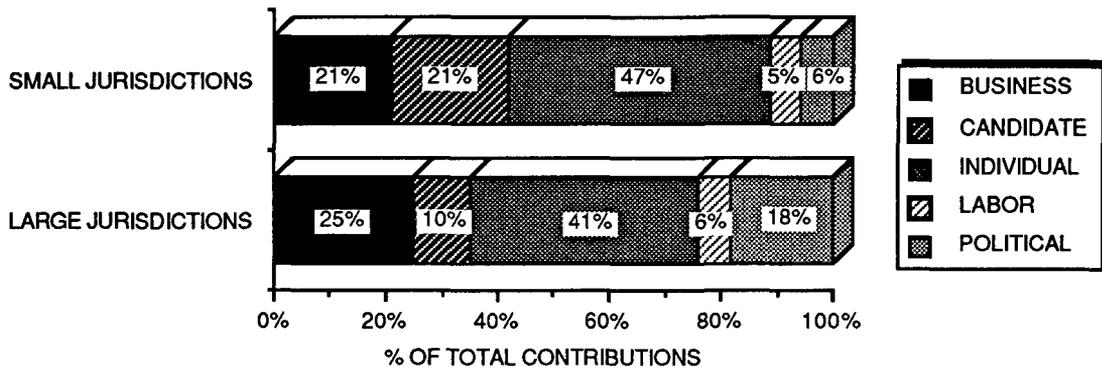
1. The Importance of Business Contributions to Incumbents in Large Jurisdictions

In larger jurisdictions, the incentives for business sources to give to incumbents and for incumbents to seek business contributions is high. Matters affecting business (e.g., development, redevelopment, city contracts) that are decided by a county board of supervisors or a city council can mean millions in profits for many businesses, and the competition for project approvals and contract grants is fierce. In 1985, the *Los Angeles Times* conducted a poll of contributors to Los Angeles city council and mayoral races. The *Times* found 42% of those polled said they either do business with the city or need the city's approval for work they or their clients want to undertake.⁴

For officeholders in larger jurisdictions, the enormous cost of campaigns and the pressure to raise large war chests to discourage challengers fuel the need to

raise funds quickly and in large amounts. Business contributions are the most accessible source. Three jurisdictions provide representative examples.

Table 1.3
CHALLENGER SOURCES OF CONTRIBUTIONS
SMALL VERSUS LARGE JURISDICTIONS



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

a. Los Angeles County

In Los Angeles County, business contributions make up approximately 70% of total contributions received by incumbents. Between 1982 and 1986, the average incumbent received more than \$560,000 per election in business contributions; in the 1984 election alone, the average incumbent received more than \$960,000 in business contributions. When then-Los Angeles County Assessor Alexander Pope waged a serious challenge against Supervisor Deane Dana in 1984, Pope secured over \$20,000 from business contributors. This seemingly sizeable amount, however, was in fact irrelevant. Dana tapped business contributors for more than \$1.2 million. In 1984, incumbents as a group raised \$2.9 million while challengers raised only \$204,951 (\$202,750 by Alex Pope). For his 1986 race, Supervisor Pete Schabarum raised \$1.2 million in business contributions *without facing a single opponent*.

With the exception of the Pope race, Los Angeles County challengers have received virtually nothing in business contributions in recent elections. In 1982 and 1986, for instance, challengers *failed to raise even a single dollar from business sources*—while incumbents raised \$2.4 million (\$713,000 in 1982 and \$1.7 million in 1986). Incumbent domination of business contributions clearly dissuades serious challengers from considering a run for office.

b. Orange County

Orange County incumbents gather 66% of their contributions on average from business sources. For three recent election cycles studied, almost all Orange County incumbents received more than \$100,000 each from business sources in their reelection campaigns. In one open seat race, businesses contributed over \$136,000 to each of two competing candidates. And in his 1984 reelection effort, Supervisor Bruce Nestande obtained more money in business contributions (\$399,000) than he spent in his entire campaign (\$331,000). This high level of business contributions is

surprising, considering the provisions of Orange County's "TinCup" ordinance. (See Chapter 12, "Orange County.") TinCup disqualifies supervisors from voting on or participating in any matter affecting contributors who give over a certain amount to candidates for supervisor (currently \$1,808, an amount adjusted annually by a cost of living factor). In 1986, open supervisorial seat candidate Don Roth publicly encouraged his contributors to exceed this disqualification limit. As a result, Roth's donors made up 72% of all persons on the 1987 county's list of disqualifications.

As in Los Angeles County, challengers in Orange County raise little money from business sources. The average challenger in recent years raised only 3% of all contribution moneys from business sources. While incumbents on average raised \$138,800 from business contributors, challengers in an average race raised less than \$230—a ratio of 603-to-1.

c. City of Los Angeles

In Los Angeles city council elections, incumbents received 64% of their contributions from business sources between 1981 and 1985. Business contributions supplied \$207,000 to the average incumbent. In elections surveyed by the Commission, eight incumbents received over \$150,000 in business contributions and five of them received over \$300,000, with Councilmember Joan Milke Flores receiving the largest amount—approximately \$565,000. Challengers in the City of the Angels, however, raised only 26% of their campaign contributions from business sources as contrasted with 54% from individuals.

2. *The Importance of Individual Contributions in Small and Medium-Sized Jurisdictions*

Individuals contribute the largest proportion of contributions to candidates in small and medium-sized jurisdictions. In recent years, small-city incumbents raised an average 57% and challengers 47% of their contributions from individual contributors. In medium-sized jurisdictions, incumbents received 48% and challengers 44% of their total contributions from individuals.

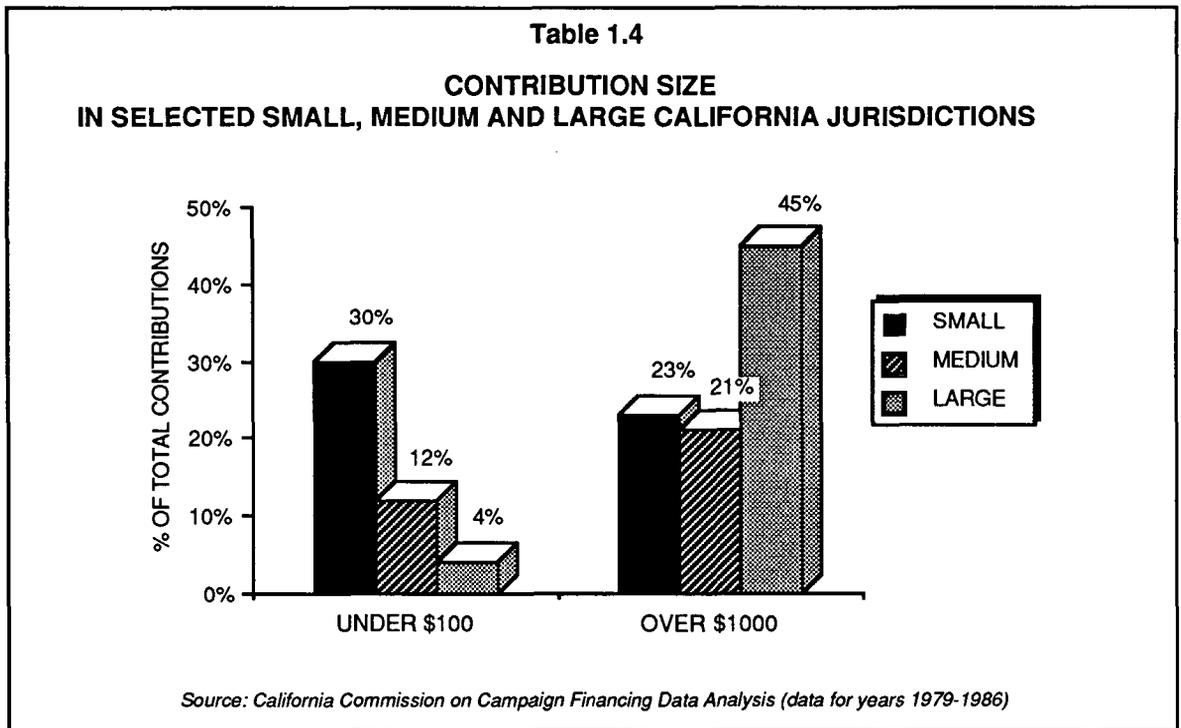
In Irvine, for example, during the 1982, 1984 and 1986 elections, incumbents received 65% of their contributions from individuals, and challengers received 54%. Irvine voters, like those in many small cities, tend to contribute on the basis of the candidates' substantive positions on important local issues, such as pro-growth versus slow growth. Because both pro- and slow growth forces hold seats on the city council, each side works hard to defeat incumbents, win open seats and retain current seats.

This pattern exists in other small and medium-sized jurisdictions although to a lesser degree than in Irvine. In Gardena, candidates received 61% of their contributions from individual sources. San Rafael candidates raised 52% of their contributions from individual sources. And in Long Beach, individuals contributed 50% of all moneys given to candidates.

3. *Small Contributions in Small Jurisdictions, Large Contributions in Large Jurisdictions*

Small contributions—sums of less than \$100—are important to candidates in small and medium-sized jurisdictions. In large jurisdictions, however, the small "mom and pop" contributor plays a purely peripheral role. (See Table 1.4.) In Los Angeles County, for instance, between 1981 and 1986, supervisorial candidates raised only \$161,000 (out of a total of more than \$9.1 million) in contributions of under \$100 (approximately 2% of the total amount). In Orange County, out of the more than \$3 million raised between 1979 and 1986, only \$58,000 was received in amounts under \$100 (also approximately 2%). A large portion of the money raised in

both counties was in amounts over \$1,000. In Los Angeles County, contributors gave almost \$5.4 million in \$1,000-plus amounts (58% of the total received), and in Orange County contributors gave over \$1.4 million (44% of the total).

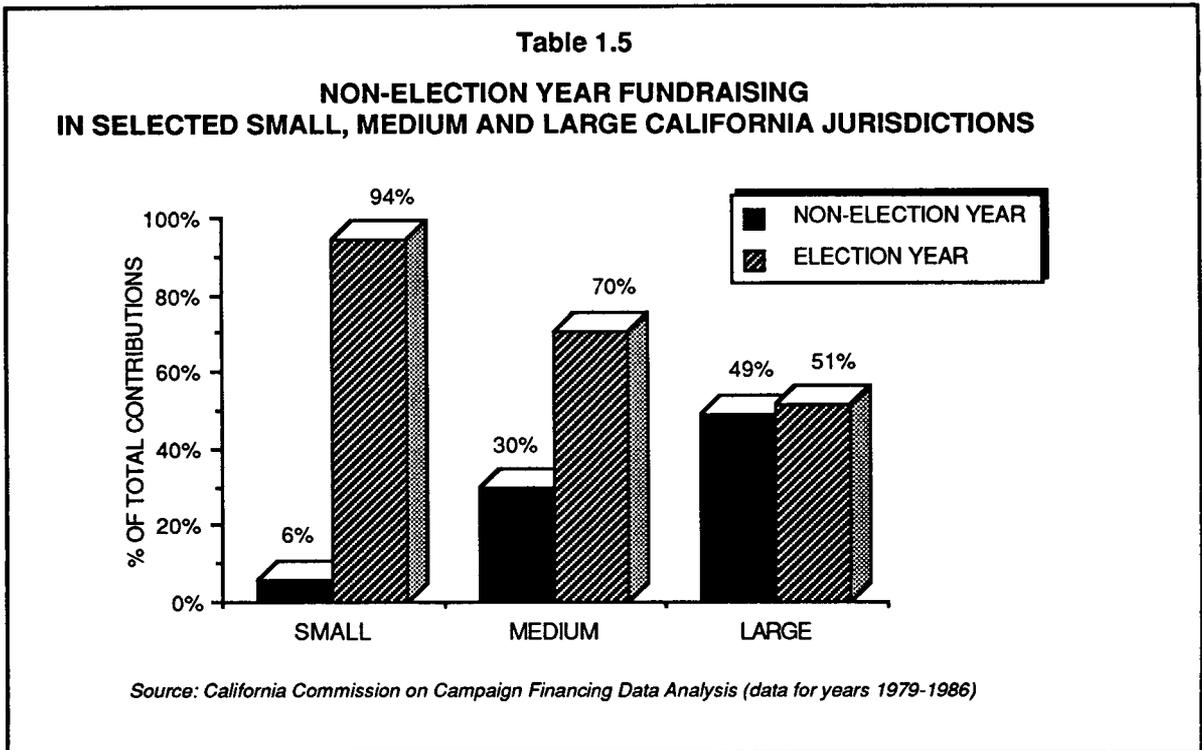


By contrast, small contributors in small to medium-sized cities—such as San Rafael and Long Beach—are of much greater importance. In the 1983 and 1985 election cycles, city council candidates in San Rafael raised more than \$91,000 in under-\$100 contributions, making up 48% of their total contributions. In the medium-sized city of Long Beach, candidates for city council raised more than \$221,000, or 17% of their total contributions, in amounts under \$100—over three times the total given in small contributions in Orange County. The Long Beach experience illustrates the curious fact that candidates in some small and medium-sized jurisdictions raise higher total sums in small contributions than candidates in large jurisdictions where the contributor base is much larger.

There are several explanations for this unusual disparity. Large jurisdiction candidates are less apt to solicit small contributions from “mom and pop” contributors because they feel it is a waste of time—particularly when they can schedule \$500 to \$1,000-a-plate dinners and raise larger amounts more rapidly. Large jurisdiction candidates also have access to large business contributors in ways that small jurisdiction candidates do not. Conversely, businesses in larger jurisdictions have more at stake and thus a greater incentive to make significant contributions that are “appreciated” by recipients. Finally, voters in smaller jurisdictions are likely to follow the activities of their elected representatives more closely and thus be willing to contribute for policy- or issue-related reasons. Voters in large jurisdictions are typically more alienated or removed from their representatives, leaving the field primarily to business contributors. In many smaller jurisdictions, however, voters do not know the identities of under-\$100 contributors since state law only requires the disclosure of names of \$100-plus contributors. Accordingly, in San Rafael many residents believe that businesses give the bulk of these under-\$100 contributions to hide their identities.

B. Incumbents in Large Jurisdictions Concentrate Their Power Through Non-Election Year Fundraising and Accumulation of Large War Chests

Non-election year fundraising plays a central role in the non-competitiveness of elections, particularly in large jurisdictions. Candidates in such jurisdictions raise 49%—almost half—of their funds in non-election years. By contrast, candidates in small jurisdictions barely raise 6% of their contributions in the off year, while candidates in medium-sized jurisdictions raise 30%. (See Table 1.5.)



In Los Angeles and Orange Counties, incumbents who are highly skilled at raising funds in non-election years rarely face serious opposition. In Los Angeles County, where 67% of total contributions are raised in the non-election year, only one challenger seriously contested an incumbent's reelection from 1980 to 1986. In 1988, it took several challengers to force Supervisor Mike Antonovich into a runoff where he easily crushed his challenger with his massive war chest. In Orange County, where a striking 70% of total contributions are raised in the non-election year, three incumbent supervisors in the 1982 and 1984 elections ran without opposition. Without serious challenges, incumbents in these jurisdictions are able to build even larger campaign war chests by carrying them over from election to election, making it increasingly difficult for challengers.

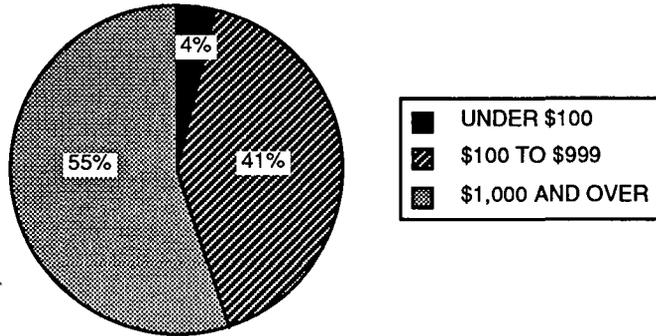
But non-election year fundraising has started to surface in small and medium-sized jurisdictions as well. In Long Beach, between 1980 and 1986, for example, candidates raised 38% of their contributions in non-election years. As Long Beach's recent downtown redevelopment boom has intensified and as competition for development permits and contracts has become fierce, contributors are giving "year-round"—ostensibly for the sake of maintaining favor with influential city officials.

In the Commission's sample of selected California jurisdictions, large and small, business sources contributed 61% of all non-election year funds raised by candidates. Individual off year contributions made up 31%. The largest percentage

of non-election year contributions came in amounts of \$1,000 or more. Small contributions are scarce during non-election years, with under-\$100 contributors giving only 4% of all off year moneys. (See Table 1.6.)

Table 1.6

**CONTRIBUTION SIZES IN THE NON-ELECTION YEAR
IN REPRESENTATIVE CALIFORNIA JURISDICTIONS**



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

1. Incumbent Domination of Non-Election Year Fundraising

Fundraising in non-election years poses two distinct problems, one legislative and one electoral. First, incumbents gather 99.5% of all the non-election year dollars raised by incumbents and challengers. Yet at the time these contributions are made, these incumbents typically have no announced opponents, their next election may be several years distant and it is uncertain whether these particular incumbents will even run for reelection. For this reason, it is apparent that sizeable contributions in non-election years are in large part given to secure or maintain access to incumbents and to influence their decisions.

Second, because incumbents raise most non-election year contributions, they are able to accumulate sizeable campaign war chests which they can then use to deter future competition. Because challengers lack the power of incumbency and cannot raise money in exchange for legislative votes or access, they are unable to raise significant sums until the election year. By then their incumbent opponents have usually far outdistanced them in the fundraising race. Incumbents' large war chests also discourage challengers' potential supporters, causing those supporters to give challengers few contributions, if any, in the belief that their campaigns may be hopeless.

Of all moneys raised by candidates in a sample of selected jurisdictions, challengers raised only \$88,700 (1% of their total contributions) in the off year, while incumbents raised \$17.4 million (60% of their total contributions)—an off year incumbent advantage of 180-to-1. (See Table 1.7.)

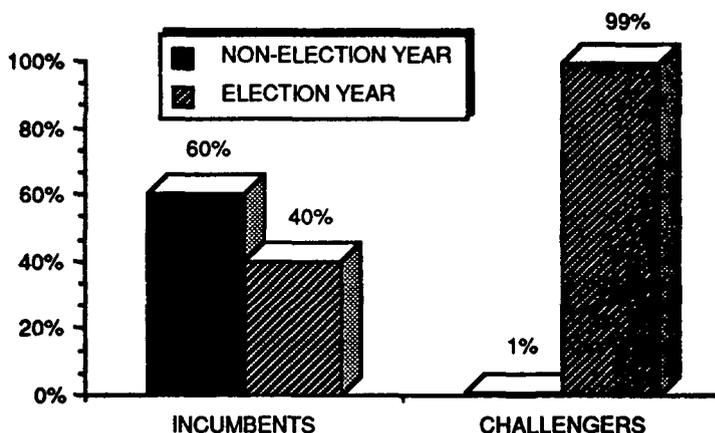
2. Incumbent Acquisition of War Chests

Incumbents acquire large war chests for four reasons: to accumulate money for their next election, to scare off opponents in subsequent elections, to raise money to help other philosophically compatible candidates get elected and to use on "perks" of office (travel, entertainment, office equipment and further fundraising). Los Angeles County Supervisor Ed Edelman's fundraising illustrates the use of war

chests to deter challengers. Prior to his 1982 reelection bid, Edelman proclaimed himself "not worried" about his opponents and hoped that he would not have to use his funds. "We raised that money not knowing who would run, and I think that is one reason, among others, that convinced people not to run against me."⁵ Edelman's actual opponents spent little and were not taken seriously. (According to the *Los Angeles Times*, one of his 1982 opponents had regularly "danced in a green bikini for commuters passing by."⁶)

Table 1.7

**INCUMBENTS VERSUS CHALLENGERS:
NON-ELECTION AND ELECTION YEAR CONTRIBUTIONS
IN SELECTED CALIFORNIA JURISDICTIONS**



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

In his 1984 defense against challenger Alexander Pope, Supervisor Deane Dana reported that he had more than \$700,000 in cash on hand while Pope had nothing as the election year began. Supervisor Mike Antonovich, in his 1984 reelection bid, boasted a \$1 million campaign reserve. By the week preceding the election, his opponent had spent almost all of her \$36,000 campaign fund, while Antonovich still had more than \$750,000 in the bank.⁷

Los Angeles County Supervisor Pete Schabarum raised close to \$400,000 in the non-election years preceding his 1982 reelection. During the election year, he continued to stockpile funds while his only two opponents ended up raising a combined total of \$5,000 between them. Commented Schabarum, "I've always been a sore loser, so I always do what is necessary to win."⁸ In 1986, Schabarum's war chest was so large that *no* opponents challenged him.

Orange County incumbents' extremely high rate of non-election year contributions has often discouraged newcomers from even considering a challenge. In the 1984 election, Supervisor Roger Stanton's accumulated \$200,000 war chest discouraged *any* opponents from attempting a challenge. In the 1986 campaign, Supervisor Harriett Wieder, after having accumulated more than \$400,000, entered into a unique agreement with political consultant Harvey Englander—she would pay him a bonus of \$25,000 if no serious opponent ran against her. Englander undertook an expensive campaign mail strategy before the race began, and in the face of this media blitz only one candidate (who spent \$710) entered the race. Englander won his bonus.

Prior to the enactment of the City of Los Angeles' contribution limit ordinance in 1985, incumbent war chests in council elections were a substantial deterrent to competition. (The law now prohibits candidates from carrying over more than \$5,000 between elections.⁹) Before the law passed, five councilmembers had war chests ranging in size from \$271,000 (Gilbert Lindsay) to \$924,000 (Zev Yaroslavsky). A transitional provision in the newly enacted law allowed city council candidates to use their accumulated war chests in the 1987 election only. The use of these war chests was instrumental in all but one incumbent's win. Councilmember Pat Russell's \$800,000 was not enough to turn away Ruth Galanter's successful slow-growth candidacy.

Since 1987, the carry-over limitation has been largely ineffective in suppressing incumbent war chest building. Since candidates can start their fundraising afresh each election cycle and can raise almost unlimited amounts in non-election years, their war chests have continued. For his 1989 reelection, for example, Mayor Tom Bradley easily amassed \$1.8 million.

C. The Transfer of Campaign Money Between Candidates Is a Los Angeles County Phenomenon

Transfers of funds from one candidate to another were prohibited for the first time by Proposition 73 in 1988.¹⁰ But before then, transfers occurred to the greatest extent in Los Angeles County. The accumulation of large campaign war chests facilitated these transfers, allowing incumbents to distribute funds to candidates with whom they philosophically agree.

In Los Angeles County, both conservative and liberal coalitions distributed funds to incumbents, supervisorial challengers and candidates in other jurisdictions. In 1984, Supervisor Kenneth Hahn contributed \$50,000 to then-County Assessor Alexander Pope's campaign to oust incumbent supervisor Deane Dana.¹¹ In 1980, Supervisor Pete Schabarum transferred \$100,000 to then-challenger Deane Dana in his campaign against appointed incumbent Supervisor Yvonne Burke. In 1984, Schabarum transferred \$213,000 to Dana to help Dana's reelection campaign.¹²

Supervisor Schabarum expanded his political influence by distributing huge sums through his political action committee to candidates in statewide and other local races. His transfers made Schabarum the Willie Brown of local politics. Between 1981 and 1987, Schabarum transferred \$850,000 to statewide candidates and causes. The largest of his contributions in that period (\$100,000) went to a PAC created to defeat incumbent state Supreme Court justices Rose Bird, Joseph Grodin and Cruz Reynoso. Schabarum made other transfers to Los Angeles area school and community college boards, city council and supervisorial races throughout the state, as well as to nearly 50 state assembly and senate campaigns and judicial candidates.

Orange County incumbents have not transferred funds to the same degree as their counterparts in Los Angeles. Perhaps the lack of a partisan, ideological split on the board of supervisors has rendered transfers between candidates less useful or unnecessary. In San Diego, transfers have been flatly prohibited.

In small and medium-sized jurisdictions, candidate transfers have been almost non-existent—making up only 2% of total candidate expenditures. In Irvine, for instance, candidates transferred less than \$1,300 (less than 1% of the total expenditures) to each other over three recent election cycles. In Pasadena, candidates transferred under 1% of total candidate expenditures. In Sacramento, candidates transferred just 1% of their expenditures. Because candidates in small and medium-sized jurisdictions have not compiled sophisticated war chests, they

have had little money to transfer. Most of their campaign money has gone to finance their own elections. Rarely have they tried to influence other races monetarily.

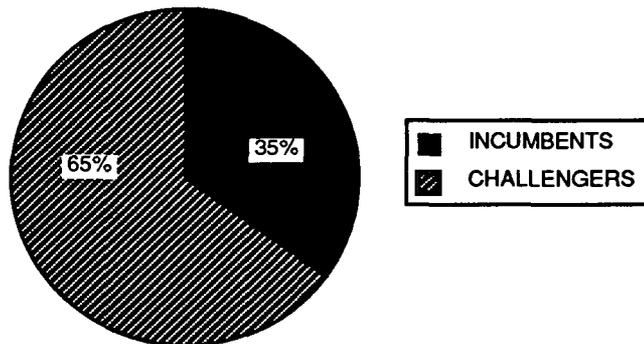
In small jurisdictions, when candidates have wanted to aid other candidates, they have done so by providing non-monetary support. In Pasadena, for instance, incumbent Rick Cole assisted a fellow incumbent, Jess Hughston, in his reelection bid by organizing and running his campaign. In Irvine, Larry Agran and Ed Dornan helped other like-minded candidates by offering free campaign consulting advice. In such smaller jurisdictions, organizational support may have had as great an impact as monetary transfers.

D. Candidates Primarily Give Themselves Money When They Are Challengers or Seek Open Seats

Candidate's own money has been an important factor for challengers and for candidates running for open seats. It is insignificant for most incumbents. Challengers on average raise 15% of their money from their own bank accounts. In contrast, incumbents' clear dominance over all fundraising categories and their ability to build and maintain war chests eliminates their need to finance campaigns out of their own pocketbooks. In the Commission's overall sample of jurisdictions, incumbents gave themselves but 1% of their total received contributions. In larger jurisdictions, incumbents contributed less than 1% of their total funds, and in small and medium-sized jurisdictions incumbents gave their own campaigns 3%. When comparing personal funds given by incumbents to personal funds given by challengers, challengers contributed an average of 65% of candidate donations. (See Table 1.8.)

Table 1.8

**INCUMBENTS VERSUS CHALLENGERS:
AVERAGE PERCENTAGE OF TOTAL CANDIDATE CONTRIBUTIONS
GIVEN IN SELECTED CALIFORNIA JURISDICTIONS**



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

In Sacramento County, challengers provided 38% of their total campaign contributions funds. In San Rafael, city council challengers gave themselves 37% of their total campaign funds. In Long Beach city council elections, candidate money made up 23% of challengers' total funding.

Candidate contributions are also significant in open seat races. Small jurisdiction candidates running for open seats personally contributed more than 25% of their total campaign funds, while in medium and large jurisdictions candidates contributed more than 18%. In Sacramento County, successful open seat supervisorial candidate Jim Streng was able to win a highly competitive race largely due to his \$44,000 contribution to his own campaign. Supervisor Streng recalls that he "was initially willing to spend \$100,000" of his own money.¹³ In Gardena, 41% of open seat mayoral contributions came from the candidates' own pockets. In Los Angeles city council elections, open seat candidates contributed 41% of their total campaign funds. Running for an open seat on the council as a non-established candidate seems to necessitate the use of personal contributions. Regular contributors are perhaps not as ready to give, as Councilmember Yaroslavsky puts it, to a "speculative" candidate.¹⁴

1. San Diego's Wealthy Candidates

In 1973, the City of San Diego passed the most stringent contribution limit ordinance in the country. The ordinance completely banned contributions from all organizations (corporate, PAC, labor) and limited the only remaining source of outside money—individual contributions—to \$250 per candidate. To raise money, San Diego candidates could only draw upon individual contributors or their own money.

Consequently, San Diego city elections have frequently become battles between personally wealthy candidates. Approximately 25% of San Diego candidates' contributions now come from their own pockets. In 1983, one mayoral candidate contributed \$560,000 of her own funds to her campaign, and a city council candidate donated more than \$230,000 to his campaign. In 1985, Abbe Wolfsheimer spent \$240,000 in her successful challenge of incumbent Bill Mitchell. "I had planned to spend \$250,000," Wolfsheimer commented.¹⁵

Some wealthy San Diego candidates defend giving to their own campaigns as an assertion of their independence from contributors. Unsuccessful mayoral candidate Dick Carlson, for example, contributed large sums of his own money to his campaign. One of his aides commented, "By using his own money to provide more than half of his campaign budget, Carlson has been able to be more independent of special interests [in his campaign]."¹⁶ Wolfsheimer sees her personal donations as "an investment in good government."¹⁷

In San Diego elections studied by the Commission, eight candidates each donated more than \$35,000 of their own personal funds to their own campaigns and, of those eight, four spent more than \$100,000. Half of the 1986-87 city councilmembers, including the mayor, were millionaires. (See Chapter 16, "San Diego.")

2. Other Jurisdictions

San Francisco has experienced extreme cases of candidate self-funding. In 1980, two candidates each gave more than \$50,000 to their own campaigns. In 1986, challenger Angela Alioto contributed over \$170,000 to her campaign. And in 1987, unsuccessful mayoral candidate Roger Boas gave the highest candidate contribution ever given in a San Francisco election—a striking \$557,000. None of these San Francisco candidates won.

Candidates in very small cities, where amounts spent in campaigns are minimal, typically rely almost solely on their own personal contributions. In the City of Alturas and Modoc County, for example, candidates rarely take political contributions from others and fund their entire campaigns themselves. (To be sure, campaigns in Alturas often cost less than \$500.) Some candidates in Alturas and

Modoc County view contributions from any source as tantamount to bribery and reject them altogether. (See Chapter 6, "The City of Alturas and Modoc County.")

In West Covina, where small amounts are also spent, former Councilmember Forest Tennant says he believes a candidate should not be considered "serious" unless he is able to finance at least one-third of his or her campaign expenses.¹⁸ (See Chapter 21, "West Covina.")

E. Contribution Limits Often Encourage "Bundling" or Organized Giving

Organized giving or "bundling" of campaign contributions occurs when an individual or organizational fundraiser solicits many small contributions and then transmits them to a candidate in a single package. The individual contributions may all comply with an existing contribution limit, but the total transmitted far exceeds it—thereby giving the organized giver or bundler who is responsible for the aggregated amount considerable influence with the candidate.¹⁹

Organized giving is frequently used to circumvent existing contribution limitations or to hide a particular contributor's involvement. To achieve either of these two ends, the contributor—usually a large company or corporation—organizes an effort to have its employees and associates contribute to favored candidates. The actual organizing and collecting of these campaign contributions is legal, provided the contributors give their own money and are not reimbursed in any way. "Typically, we bundle the contributions [from employees] up in an envelope and send them off. It seems like a logical procedure to us," says an executive vice president of a major building contracting firm in San Diego about his company's bundling practices.²⁰

Bundling becomes illegal when the company reimburses employees and associates for their campaign contributions. Suspected reimbursements can be hidden in employee raises, Christmas bonuses or any other employer/employee salary arrangement. Evidence of company reimbursement of employees for campaign contributions has not been found in the Commission's sample of California jurisdictions. Many political observers suspect, however, that organized giving may mask possible reimbursement improprieties.

1. San Diego

San Diego prohibits any non-individual contributions—no business, labor or PAC moneys are permitted. But in one race, the *San Diego Union* found that more than 50% of the contributions to one mayoral candidate came from "individuals employed in real estate and land development-related industries and their family members."²¹ Many of these contributions were given on the same day, suggesting an organized effort by employers to support a particular candidate. The *San Diego Union* nonetheless found no evidence of employee reimbursement.

Although reimbursement for contributions has never been conclusively detected, some San Diego political observers believe that it exists. "We have statements from employees who describe how reimbursement for contributions is buried in expense accounts," says San Diego political consultant Bobby Glaser.²²

A major study undertaken by Mark Zerbe, formerly with California Common Cause and now with Citizens for Responsible Government, revealed several examples of multiple employee giving. In one instance, 112 employees of a development company contributed a total of \$23,755 to city council candidates. In another, 106 employees of a company gave more than \$12,000 to council candidates. No reimbursements, however, were found.

Bundling contributions from family members has also occurred. In one case, every member of a developers' family was found to have given to the 1983 mayoral campaign of Roger Hedgecock—including a seven-year-old child. One observer concluded that this child had to have been the "most sophisticated seven-year-old in the country."²³

2. Other Jurisdictions

In the City of Sacramento, the bundling of contributions by major givers is suspected but not well documented. Some Sacramento political observers believe that developers began to organize contributions from their own corporations and subcontractors as soon as the city adopted its contribution limits. Sacramento City Councilmember David Shore comments, "[M]any of the contributions are related, but it is difficult to tell by disclosure reports."²⁴

One year after a strict \$500 contribution limit was imposed in San Francisco campaigns, the organized giving issue surfaced in the multimillion dollar 1987 open seat race for mayor. A study by the *San Francisco Chronicle* showed that the two top mayoral candidates had accepted contributions from many employees of certain large companies. According to the report, successful mayoral candidate Art Agnos, for example, accepted \$2,000 in contributions "from employees and relatives of a firm owned by . . . developer Angelo Tsakopoulos." Agnos' opponent, John Molinari, accepted \$10,900 from "officers, employees, stockholders and subsidiaries" of Envirocal, a San Francisco garbage firm. In the *Chronicle's* view, the ordinance's "loopholes" allowed corporations "to skirt the law."²⁵

Commenting on his 1979 challenge to Mayor Dianne Feinstein, now-State Senator Quentin Kopp says, "Feinstein spent over \$950,000 and I raised over \$850,000. There was a certain amount of doubling up—like husbands, wives, kids and corporations. I remember I had one contributor who had eight corporations and each gave \$500 to my race. With [contribution] limits, we just found more ways to contribute."²⁶ Ironically, Kopp subsequently helped sponsor Proposition 73 which in 1988 imposed such evadable contribution limits on the entire state.

In Irvine, illegal bundling of campaign funds has also been suspected but never substantiated. In one instance, the Irvine Company—the area's major corporate landholder—was suspected of "laundering" political campaign contributions through consultants. Evidence appeared to suggest that some consultants had submitted "invoices for services rendered, which may in fact have been for reimbursement of political contributions in the recent Irvine City Council Elections."²⁷ The Irvine Company itself requested the investigation because its announced policy was not to endorse candidates or contribute to political campaigns. None of the allegations was substantiated.

Bundling occurs in Los Angeles city council elections with some frequency. In the wake of the city's 1985 contribution limits ordinance, Los Angeles councilmembers "go to the same contributors as usual" but ask supporters to become fundraisers, according to Councilmember Zev Yaroslavsky.²⁸ The *Los Angeles Weekly* investigated bundling in Los Angeles and found that "developers often 'bundle' money from their spouses, from fellow executives and from subcontractors such as architects and electricians, who are not required to list the connection on their campaign reports."²⁹ The *Weekly* reported that Councilmember Yaroslavsky accepted \$12,000 in contributions from individuals connected with a development company applying to build the Westwood Entertainment Center and \$15,000 from individuals connected with two other Westside developers with project applications under council consideration.

F. The Appearance If Not the Reality of Excessive Contributor Influence Is Strong in Some Jurisdictions

Absent a “sting operation” or an insider’s confession, direct evidence of campaign contributions given to purchase votes is difficult to find. But most large contributors and many officials agree that contributions by those who have a financial interest in a council or board decision at least gives the contributor access to decisionmakers and may achieve substantial influence as well. An attorney involved with fundraising in San Francisco supervisorial elections explains:

*“If you don’t play the [fundraising] game, and everybody else does, you lose, not because you’re dumb, but because you were back-doored. [Your opponent] has access. You don’t. He made his argument in your absence”*³⁰

A Los Angeles-based lobbyist comments, “If we did in the smaller cities what we do in the larger jurisdictions, the officials in the small cities would call it bribery.”³¹

1. The Appearance of Influence

Although establishing a direct relationship between contributions and an elected official’s decisions is difficult, the *appearance* of this relationship can be equally damaging to public confidence in local government. “If you could find smoking guns, people would be in jail,” comments California Common Cause Executive Director Walter Zelman, “but . . . the room is so full of smoke you can’t see [them] sometimes.”³²

In small cities, potential improprieties concerning campaign contributions from those benefitting financially from a council decision can receive intense scrutiny. An elected official suspected of a possible conflict, however slight, runs a good risk of political condemnation. Candidates in Alturas, for example, do not take significant campaign contributions at all, for fear they may appear obligated to the contributor. In Agoura Hills, an incumbent mayor accepted a \$1,000 contribution from a developer whose project was before the council; the voters suspected an impropriety and soundly defeated the mayor’s reelection bid. In West Covina, two \$1,500 contributions to two city council candidates spurred the charge from Councilmember Kenneth Chappell, “You don’t take \$1,500 from any organization without having some conflict of interest.”³³

In larger cities, where land development decisions can mean multimillion dollar contracts, the *appearance* of possible impropriety from large campaign contributions tends to engender constituent distrust toward government in general. Although implicated in the appearance of such improprieties, elected officials are rarely condemned. Commenting on the appearance of contributor influence, Los Angeles City Councilmember Ernani Bernardi has said, “[The public perceives] that big money not only buys access [to councilmembers] but influences votes as well.” Bernardi explained, “[T]he prevailing attitude of many people today is, ‘Oh what’s the use.’”³⁴

One of the few clear exceptions to this large jurisdiction apathy involved Los Angeles City Councilmember Pat Russell. Her surprising loss to challenger Ruth Galanter in the 1987 elections was attributed to Russell’s perceived pro-development stance and receipt of developer contributions. Russell had accepted numerous contributions from companies backing substantial developments in Russell’s district. The perception that Russell favored and was funded by pro-growth proponents greatly contributed to her defeat.

2. *Perceptions of Influence in Specific Jurisdictions*

"People are buying my philosophy . . . I'm not buying theirs . . ."

— *Mike Antonovich,*
Los Angeles County Supervisor ³⁵

With the extremely high percentage of business contributions in Los Angeles County, the question of contributor influence has frequently arisen. One developer said in the *Los Angeles Times*, "We certainly are not going to support candidates where we have no business."³⁶ Shortly after purchasing redevelopment property in Los Angeles County Supervisor Mike Antonovich's district, this developer began to contribute to Antonovich's campaigns. In another case, a developer interested in approval for a controversial development project north of Malibu contributed \$63,500 to four out of five supervisors over a five-year period. When the project was approved by a four-to-one vote, the developer stopped his contributions. The *Los Angeles Times* quoted another anonymous developer who admitted that contributions to political campaigns were a cost of doing business in Los Angeles County.³⁷

The *Los Angeles Herald Examiner* has examined contributions from "developers who have received major Community Redevelopment Agency [CRA] contracts."³⁸ Between 1975 and 1985, the *Herald* found that 11 major developers receiving CRA contracts had contributed a combined total of over \$600,000 to Mayor Tom Bradley and other city council members. In another instance, the *Herald* found that councilmember Gilbert Lindsay had accepted—from 1975 to 1985—\$27,400 from one major downtown developer, the California Plaza Consortium. "Lindsay, the [unidentified] sources said, lobbied on behalf of the . . . consortium, which was not the first choice of [CRA's] professional staff, for [a major downtown development project]."³⁹ The consortium eventually won approval for the project.

The Fair Political Practices Commission has also investigated and fined Los Angeles City Councilmember Richard Alatorre for a conflict of interest. Alatorre had accepted a \$1,000 honorarium and then lobbied his fellow city councilmembers for a \$722,750 city contract on behalf of the same organization that had given him the honorarium.

In San Francisco, press reports have linked developer contributions to San Francisco's downtown development. The *San Francisco Examiner*, for example, devoted an entire series of articles to the subject, quoting one San Francisco supervisor who described developer contributions as "legalized corruption."⁴⁰ The *Examiner* series also tracked city approval of development projects over a three-year period, noting that the proponents and financial backers of these projects had contributed "\$360,000 to 11 supervisors, [then] Mayor Dianne Feinstein and [then] City Attorney George Agnost."⁴¹

In the City of Sacramento and Sacramento County, studies by the *Sacramento Bee*, California Common Cause and the Fair Political Practices Commission also highlight high developer contributions. The FPPC found that "development interests" contributed a large share of the contributions over \$1,000 to Sacramento supervisorial and city council candidates. The *Bee* found that developers and other land use interests contributed more than a third of the total contributions received by supervisorial candidates.⁴² California Common Cause found that developers had given almost 49% of the supervisors' total contributions.⁴³ The appearance of excessive developer influence over local land use decisions directly led to the passage of campaign finance reforms in both the City of Sacramento and Sacramento County.

In Long Beach, an actual *quid pro quo* of money for votes was established between now-convicted fireworks czar Patrick Moriarty and a Long Beach city councilmember. Moriarty gave the councilmember gifts and cash for favorable votes on the use of fireworks in Long Beach. The councilmember was convicted of fraud and bribery.

In Irvine, many residents have viewed the Irvine Company as exercising undue influence over city council elections since the city's incorporation. Although the Irvine Company's policy prohibits it from making campaign contributions, many still believe the company exercises unseen influence. "The Irvine Company is active in local elections, despite its policy not to make endorsements or contributions," says Irvine City Manager Bill Woollett, "but there is no way to find that out."⁴⁴

In West Covina, waste disposal company BKK attempted to conceal its involvement in several councilmembers' campaigns by contributing to them through various political action committees. In a 1982 recall election of the entire city council, BKK contributed \$45,000 in this fashion to council incumbents. In the 1984 election, BKK again used this contribution technique to give \$75,000. "We are appalled," editorialized the *San Gabriel Valley Tribune*, "when one corporate entity doing business in a community pours more than \$75,000 into [West Covina's] election in an effort to determine the results."⁴⁵

In Orange County, indictments and convictions have resulted from improper campaign contributions. In 1976, local architect Leon Hyzen was convicted on charges of attempting to bribe a member of the Orange County Board of Supervisors. In 1977, Supervisors Ralph Diedrich and Philip Anthony and four other men were indicated on charges of perjury and conspiring to launder campaign funds, primarily to Anthony's 1976 campaign. Diedrich was convicted of bribery; both Diedrich and Anthony pleaded no contest to state campaign finance reporting violations.⁴⁶

3. The "Friends" Committee Loophole and the Appearance of Influence

Though Los Angeles and San Francisco have enacted contribution limits, loopholes in their laws amplify the appearance of improper contributor influence.⁴⁷ Incumbents in both cities have established separate committees to raise funds for so-called "non-campaign purposes," such as travel and other work related personal expenses. Because candidates describe these committees as "non campaign related," they have concluded that the local contribution limits do not apply.⁴⁸ As a result, they solicit contributions for these committees in amounts that exceed the contribution limits.

Newly-elected San Francisco Mayor Art Agnos pushed the "Friends" committee concept to new heights following his 1987 mayoral campaign. His supporters raised nearly \$500,000 to support campaign volunteers who then worked to back several local ballot initiatives endorsed by Agnos on the June ballot. Instead of campaigning for Agnos, the workers supported projects to help disadvantaged residents, including AIDS patients and the homeless. Because these expenditures were not directly made to further Agnos' candidacy, they were viewed as exempt from the San Francisco contribution limit—even though they helped build support for Agnos at election time.

In San Francisco, these non-campaign committees are known as "Friends" committees (because many of the committees are named "Friends of Supervisor . . ."). Incumbents use these campaign funds for office expenses, entertainment, travel, special projects and self-promotion. Supervisor Nancy Walker, for example, views her "Friends" committee funds as a supplement to her supervisorial income. "We

[the supervisors] need 'Friends' committees because we are paid only \$24,000 a year," Walker asserts. "There are events that come up that are not appropriate taxpayer expenses, but I don't have the personal money to pay for them . . . I believe that it is appropriate to spend 'Friends' committee moneys to furnish offices, pay staff, and buy clothes necessary for the office."⁴⁹

Los Angeles City Councilmember Gilbert Lindsay says he uses his committee for "supplemental staff," "building my power base,"⁵⁰ and to "have money to play with."⁵¹ Councilmember Hal Bernson used \$13,000 of his committee money to take his family to London and Japan, while Councilmember Joan Milke Flores used \$15,000 of her committee money to take two staff members to Paris for 21 days to visit a trash-to-energy facility.⁵²

"Non-campaign" committees, while legal, contribute strongly to the appearance of influence. Such committees allow candidates to solicit and receive money in amounts that exceed local contribution limits, thus giving their donors potentially greater influence. Because the money is clearly useful, incumbents have an incentive to ask for it—and hence to become obligated in return. If large contributions of money are prohibited because they have the potential to corrupt local decisionmaking, then it should make little difference whether the money is called a "contribution to a candidate" or a "donation to a Friends committee." "If you're interested in the influence of contributors, don't overlook [San Francisco] 'Friends' committees," says former San Francisco Supervisor Lee Dolson. "That's where the real influence lies."⁵³

Local enforcement authorities have been slow to develop guidelines for "Friends" committees and PACs under local campaign laws. They have ignored a 1982 state Attorney General's opinion concluding that 'Friends' committees should be subject to the city's contribution limits.⁵⁴

4. *Effects on Political Process and Change*

Excessive contributor influence over local political decisionmaking, or the appearance of that influence, has caused a number of local jurisdictions to adopt specific campaign finance reforms. In some instances, cities and counties have developed highly innovative solutions to the perceived problems of money and politics. (For further discussion, see Chapter 3, "Ordinances.") For example:

- In Orange County, supervisors drafted the local "TinCup" ordinance in reaction to public outrage over excessive developer contributions, court convictions for bribery and laundering of campaign contributions, and growing suspicion of favorable voting toward major contributors.
- In Irvine, suspicion of Irvine Company influence in local politics prompted city officials to enact very restrictive contribution limitations. Former Irvine City Councilmember Bill Vardoulis states, "We wanted to limit the influence of any one contributor . . . , mostly because everyone worried about the influence of the Irvine Company."⁵⁵
- In Gardena, charges of "cronyism" relating to a city contractor prompted the city to ban all contributions from city contractors.
- In San Diego, city officials adopted a strict ordinance banning all contributions from business sources in response to suspected contributor influence.
- In San Francisco, the voters lowered the city's contribution limit from \$1,000 to \$500 to counter the growing appearance of contributor influence. According to reporters for the *San Francisco Examiner*, the disclosure of large developer contributions linked to favorable votes

on specific projects also prompted voters to adopt a massive slow growth initiative.

- In West Covina, the city enacted a \$500 contribution limit in response to a local waste disposal company's massive contributions to local officials in the 1982 and 1984 elections. The contribution limit restricted contributions from individuals, political action committees and organizations.
- In Los Angeles, voters endorsed a low contribution limit (\$500) in response to the growing perception of contributor influence over city council decisions.

G. Summary and Conclusions: Comprehensive Campaign Finance Reforms Would Alter Contribution Patterns

Comprehensive campaign finance reforms—which include voluntary expenditure ceilings linked to limited public matching funds (in jurisdictions where legally permissible) or other incentives, total and aggregate contribution limits, bans on transfers, restrictions on contributions from city contractors or franchisees and limits on off year fundraising—would significantly affect fundraising patterns in the Commission's sample jurisdictions. These reforms would redirect candidates' primary fundraising motivation—spending superiority—into alternative means of competition for voter attention.

Contribution limits, standing alone, have not solved major campaign financing problems in most jurisdictions—particularly in larger ones. In many cases, contribution limits have led candidates to spend more time raising money, raise substantial moneys in non-election years, contribute personal funds to their own campaigns and seek out bundlers and other organized contributors. In San Diego, wealthy candidate contributions and organized giving play an integral part in campaigns. In Los Angeles, off year fundraising is a major factor in incumbent domination. In Irvine, organized giving is a prevalent fundraising method.

Comprehensive reforms in California's local jurisdictions can have positive effects on fundraising patterns, particularly in larger jurisdictions where the link between fundraising and electoral superiority is strongest. Expenditure ceilings combined with other reforms hold the greatest promise for truly reforming California's local elections. Less comprehensive reforms would be of primary use in medium-sized and smaller jurisdictions. (See Chapter 23, "The Commission's Model Ordinance.")

NOTES

1. The cities and counties studied by the Commission include Agoura Hills, Alturas, Culver City, Cypress, Gardena, Irvine, Long Beach, Los Angeles, Los Angeles County, Modoc County, Orange County, Pasadena, City of Sacramento, Sacramento County, San Diego, San Francisco City and County, San Rafael, Santa Monica, Signal Hill and West Covina. The cities and counties were selected on the basis of several factors: whether the local jurisdiction had adopted or repealed a campaign finance law; its location (Northern or Southern California); whether it was rural, suburban or metropolitan; its size: small (under 150,000), medium (150,000 to 1 million) or large (over 1 million); whether it was a city or county and whether its elections were unique or typical of other local jurisdictions. The Commission also used campaign finance data from two cities, Cypress and Culver City, in order to enhance the statistical accuracy of the small jurisdiction averages.

2. Interview with Zev Yaroslavsky, Councilmember, City of Los Angeles, Jan. 16, 1987.
3. Ron Campbell and Larry Peterson, *Roof Could Fall In on Officials Tied to Builders*, Orange County Register, Dec. 15, 1987.
4. Frank Clifford, *Contributions to Mayoral Race Seek a Friendly Ear*, Los Angeles Times, Mar. 11, 1985.
5. Leo Wolinsky, *Edelman Planning No Active Campaign for Reelection*, Los Angeles Times, May 28, 1982.
6. *Id.*
7. Richard Simon, *It's 3 Against 1 for Antonovich's Job, But He's Not Worried*, Los Angeles Times, May 31, 1984.
8. Victor Merina, *Schabarum: Favored to Retain Seat, He Ignores Challengers*, Los Angeles Times, May 31, 1982.
9. Proposition 73 prohibits the carryover of any funds from one election to another. Its provisions apply to all candidates. Cal. Gov't Code §85202(6).
10. Cal. Gov't Code §85304 (West Supp. 1989).
11. Richard Simon, *Hahn Working to Topple Colleagues*, Los Angeles Times, May 18, 1984.
12. Daryl Kelley, *Developer Donations Put Antonovich, Dana in Driver's Seat*, Los Angeles Times, Apr. 27, 1987.
13. Interview with Jim Streng, Supervisor, Sacramento County, May 7, 1987.
14. Interview with Yaroslavsky, *supra* note 2.
15. Interview with Abbe Wolfsheimer, Councilmember, City of San Diego, Nov. 13, 1986.
16. Jeff Ristine, *Study Blasts Campaign Giving*, San Diego Tribune, Nov. 1, 1984.
17. Interview with Wolfsheimer, *supra* note 15.
18. Interview with Forest Tennant, then-Councilmember, City of West Covina, June 6, 1986.
19. Under a provision in Proposition 68, adopted by the voters in 1988 along with Proposition 73, bundling will have to be disclosed. (See Cal. Gov't Code §84302.5.) The Fair Political Practices Commission has ruled that this provision was not superseded by Proposition 73 (which received a larger vote) and thus is in effect.
20. Ralph Frammolino, *City's Political Races Thrive on Builder Gifts*, San Diego Union, Nov. 9, 1985.
21. Gerry Braun, *Cleator Campaign Donors Detailed*, San Diego Union, May 24, 1986.
22. Interview with Bobby Glaser, political consultant with the La Jolla Group, Sept. 11, 1986.
23. Dan Stanford, former Chairman, Fair Political Practices Commission, *quoted in* Ralph Frammolino, *Campaign Donation Limit Questioned as Mayor's Case Probed*, Los Angeles Times, Oct. 19, 1984.
24. Interview with David Shore, Councilmember, City of Sacramento, May 7, 1987.
25. Bill Wallace, *Mayoral Donors Skirt the Law*, San Francisco Chronicle, Nov. 25, 1987.
26. Interview with Quentin Kopp, Senator, State of California, Dec. 29, 1986.
27. George Frank and Heidi Evans, *Irvine Co. Contributions Target of Inquiry by D.A.*, Los Angeles Times, Oct. 3, 1986.
28. Interview with Yaroslavsky, *supra* note 2.
29. Russell Baker, *Zev Yaroslavsky*, Los Angeles Weekly, Oct. 9-15, 1987.
30. John Jacobs and Gerald Adams, *Jumbo Prawns and Steak Tartare—and Access*, San Francisco Examiner, June 16, 1986.
31. Interview with a Los Angeles-based lobbyist who wished to remain anonymous.
32. *Quoted in* James Sweeney, *Homeowners Begin File on Council Funds*, Los Angeles Daily News, Jan. 11, 1987.

33. Quoted in Mike Ward, *Campaign Funds to Landfill: There's a Candidate for Every Issue in West Covina*, Los Angeles Times, Apr. 6, 1980.
34. Text of a speech by Councilmember Ernani Bernardi before the Beverly Wilshire Homeowners Association, Dec. 5, 1983.
35. Quoted in Kelley, *supra* note 12.
36. *Id.*
37. *Id.*
38. Tony Castro, *Exercising Political Clout Atop Bunker Hill*, Los Angeles Herald Examiner, Mar. 11, 1985.
39. *Id.*
40. Gerald Adams and John Jacobs, *S.F.'s Highrise Insiders: How They Work*, San Francisco Examiner, June 16, 1986.
41. *Id.*
42. Ricardo Pimentel and Jim Lewis, *Money, Growth and Politics: Planners, Residents Said No, But Developer Won—Twice*, Sacramento Bee, Oct. 14, 1985.
43. California Common Cause, *A Study of Sacramento County Supervisors' Campaign Contributions, A Developing Problem* (Oct. 29, 1986).
44. Interview with Bill Woollett, City Manager, City of Irvine, Mar. 16, 1987.
45. Editorial, *Big Bucks From BKK*, San Gabriel Valley Tribune, Apr. 6, 1984.
46. Larry Peterson, *Scandals: 10 Years Ago, OC Was State's Corruption Capital*, Orange County Register, Sept. 28, 1986.
47. The limitations in Proposition 73, although higher than those of Los Angeles and San Francisco, will place an upper limit on the amount of "Friends" committee contributions accepted by local officials. Proposition 73 will not, however, prohibit the practice.
48. In 1982, then-state Attorney General George Deukmejian issued an opinion stating that contributions to San Francisco candidate committees (or "Friends" committees) should be categorized as either "political contributions" or "gifts" under the state Political Reform Act. If the "Friends" committee contributions are classified as "political contributions," they are subject to San Francisco's contribution limit; if they are classified as "gifts," then any contribution exceeding \$250 per year would require the recipient incumbent to disqualify himself or herself from votes or actions that affect the contributor. Deukmejian's opinion ultimately concluded that contributions to "Friends" committees in San Francisco should be considered "political contributions" and thus subject to the city's contribution limit. San Francisco candidates and local law enforcement officials, however, have ignored this opinion.
49. Interview with Nancy Walker, Supervisor, San Francisco Board of Supervisors, Jan. 22, 1987.
50. Janet Clayton, *Three Councilmen Broke Fund Law*, Los Angeles Times, Mar. 6, 1986.
51. Victor Merina and Richard Simon, *PACs Let Officials Exceed City's Law Donation Ceilings*, Los Angeles Times, Mar. 6, 1986.
52. Joyce Peterson, *Campaign Funds Pay Odd Expenses*, Daily News, Feb. 23, 1986.
53. Interview with Lee Dolson, former San Francisco Supervisor, now Executive Director of the Downtown Association, Jan. 23, 1987.
54. 65 Op. Att'y Gen. 494 (1982).
55. Interview with Bill Vardoulis, former Councilmember, City of Irvine, March 17, 1987.

CHAPTER 2

Campaign Spending: Rising Expenditures and Diminishing Voter Communication

Campaign spending is rising substantially in many local jurisdictions. Individuals who aspire to elective office in city and county government, once the most accessible entry level political position in California, must often step forward with hefty campaign budgets to meet escalating campaign costs. Yet candidates today spend their growing campaign budgets in quite different ways than in the past. Candidates spend less money actually communicating with the voters and more on administrative and fundraising expenses. One Los Angeles County incumbent supervisor spent only 3% of his total campaign funds on direct voter contacts while spending over 35% of his total campaign budget on fundraising. While these changes in spending patterns are most evident in the largest California jurisdictions, they are repeated to various degrees in cities and counties of all sizes across the state.

In Alturas (population 3,000), a small northeastern California city in Modoc County, candidates spend so little for elective office that until recently the city clerk was unaware that state law even required candidates to file disclosure statements. A former mayor of Alturas reported spending no more than \$100 in his two campaigns for city council, and between 1976 and 1988 no Modoc County supervisorial candidate spent more than \$500.

In Pasadena (population 132,000), victorious challengers for city council in 1979 spent about \$8,000 in their bids for office. By 1985, after a change to district-by-district

elections and increasing battles over development, candidates averaged about \$40,000 per race—even though their districts were only one-seventh the size of the 1979 citywide electoral area.

In Long Beach (population 420,000) city council candidates in the 1970s rarely spent \$10,000 on their district campaigns. By 1987, the average successful in-district campaign cost nearly \$50,000, and several candidates spent \$100,000. In 1988, a successful candidate for mayor spent \$646,000.

In San Francisco (population 732,000), the top spenders running for county supervisor in 1971 budgeted about \$100,000 per race. In 1973 and 1975, with expenditure ceilings in place, candidates spent about \$50,000. After the expenditure ceilings were removed, campaign spending climbed steadily. Recent successful candidates spent an average of \$380,000 each from their campaign funds and thousands more via separate, non-campaign “Friends” committees.¹ Individual candidates vying to become top vote-getters and win the presidency of the board of supervisors have neared \$500,000 in their campaigns. Candidates for mayor now spend over \$1 million each.

In Los Angeles County (population 8,650,000), the sheer size of each supervisorial district—1.7 million constituents per seat—mandates a large campaign budget. Some estimate that a serious candidate for supervisor must spend close to a million dollars to be competitive. Supervisor Mike Antonovich’s 1988 successful reelection campaign set the current county campaign spending record at over \$2.8 million.

These examples illustrate the enormous range and diversity of local campaign spending in California. In Alturas, for example, candidates campaign door-to-door and appear at a town hall meeting from which the local newspaper reports their comments in detail. Besides occasional newspaper advertisements, no other media are used. One successful Modoc County supervisorial candidate spent six weeks knocking on every door in her district. The few hundred dollars she raised for her campaign were spent mostly on candidate filing fees.

By contrast, in Los Angeles County, supervisorial candidates raised collectively over \$8 million during a recent four-year period. Some have received \$75,000 in contributions from one source. Candidates spend small fortunes on campaign consultants, direct mail and other media, and incumbents stockpile enormous war chests to deter or anticipate competition. Traditional campaign methods are impractical. A candidate, walking door-to-door seven days per week year-round, would require over 50 years to reach each household in the district.

Despite this enormous diversity among California’s local jurisdictions, some generalizations are nonetheless valid. Campaign spending is rising dramatically in many jurisdictions. Surprisingly little of this money is used to communicate with the voters. Substantial sums are spent on campaign overhead. Incumbents vastly outspend their challengers, thereby diminishing competition in many elections. Independent expenditures are beginning to appear in some jurisdictions. And candidates’ use of personal wealth is becoming increasingly important.

A. Campaign Spending Is Excessive in Many Local Races

During the 1981-1985 election cycles, candidates in the 17 California cities and counties studied for this report,² representing two-thirds of California’s population, spent approximately \$40 million on their campaigns for city council, mayoral and county supervisorial seats. (See Table 2.1.) Individual candidates’ campaign expenditures ranged from a few hundred dollars in small rural jurisdictions to over \$1 million in major metropolitan areas. The million dollar spending levels that have

occurred in California's larger jurisdictions are most frequently targeted for criticism. Yet far less expensive campaigns in smaller jurisdictions may also qualify as "excessive"—because spending per vote figures in those races may substantially exceed that larger cities and counties.

Table 2.1
AVERAGE AND TOTAL CANDIDATE EXPENDITURES
BY CALIFORNIA JURISDICTION

<i>Jurisdiction</i>	<i>Average Expenditures per Candidate</i>	<i>Total Expenditures per Jurisdiction</i>
Alturas and Modoc County	Under \$500 contributions are not recorded.	
Signal Hill	•	
Cypress	\$2,791	\$36,285
Agoura Hills	\$5,299	\$52,989
Gardena	\$12,886	\$167,527
San Rafael	\$15,720	\$172,929
Culver City	\$12,303	\$209,162
Pasadena	\$21,745	\$282,688
West Covina**	\$14,180	\$340,309
Irvine	\$21,939	\$460,710
Santa Monica**	\$40,204	\$1,005,105
Long Beach	\$19,283	\$1,177,260
City of Sacramento	\$42,590	\$1,490,640
Sacramento County	\$55,822	\$1,897,949
Orange County	\$141,676	\$2,975,211
San Francisco	\$142,342	\$5,693,700
San Diego	\$127,591	\$5,996,754
Los Angeles County	\$427,523	\$7,695,433
City of Los Angeles	\$108,387	\$10,405,109
TOTAL	\$80,603	\$40,059,760

*Signal Hill's clerk could not find the candidates' contribution and expenditure reporting forms—which state law requires to be on file—and figures are thus unavailable.

**Figures for West Covina and Santa Monica include expenditures by independent committees and slates.

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

1. Differing Spending Patterns in Small and Large Jurisdictions

A jurisdiction's size significantly impacts the level of spending required for a competitive candidacy. In the smallest jurisdictions (Alturas and Signal Hill profiled in Chapters 6 and 20, respectively), it is possible for candidates to run successful campaigns without making substantial campaign expenditures beyond those necessary to pay for filing fees. Yet in most local jurisdictions where the population exceeds 10,000, candidates must raise campaign funds to run for office. The larger the constituency, the more resources are required.

In "small" communities (for purposes of this study, less than 150,000 residents), the range of candidate spending is wide. Successful candidates spend as little as \$10,000 in cities like Gardena to over \$100,000 in cities like Beverly Hills, depending on the level of competition and the sophistication of the campaign methods. Candidates in "medium-sized" jurisdictions (those with over 150,000 but less than one million residents) also spend widely varying amounts. In Long Beach's city council elections of 1986, for example, one successful candidate spent \$25,000 on his campaign, another spent \$40,000 and yet another spent \$100,000. A successful Long Beach 1988 mayoral candidate spent \$646,000. In San Francisco,

another medium-sized jurisdiction, mayoral candidates now spend over a million dollars each.

In "large" cities and counties (those with populations in excess of one million residents), candidates spend more to run for city or county office than they do for the state legislature. Competitive campaign budgets begin at \$150,000 per candidate, climb to nearly a half-million dollars in Orange County and rocket beyond \$1 million per candidate in Los Angeles County. Nearly 70% of all the campaign expenditures studied in the Commission's sample of 17 jurisdictions came from four large communities (the City of Los Angeles, the City of San Diego, Los Angeles County and Orange County). In fact, candidates for the Los Angeles City Council and the Los Angeles County Board of Supervisors alone spent 45% of all expenditures recorded in the Commission's study.

2. More Costly Methods Replacing Grassroots Campaigns

Grassroots campaigns emphasizing volunteers and local organizing have become impractical in many large jurisdictions. While low-cost grassroots campaigns still flourish in smaller communities, most notably Irvine, Agoura Hills and San Rafael, they are used less frequently as cities grow in population. The rarity of grassroots efforts in many cities is also due to a general lack of competition. The overwhelming fundraising advantage of most incumbents—in large jurisdictions especially—discourages even well-organized challengers from attempting an upset.

Competitive campaigns in larger jurisdictions have in rare instances spurred grassroots activity. During one 1986 battle over a newly-created Los Angeles city Council seat, for example, candidates Gloria Molina and Larry Gonzales both emphasized volunteer phone banks and daily precinct walks in an effort to reach residents who had not voted in the last election. Their strategies were unusual for notoriously high-tech Los Angeles campaigns, yet their emphasis on grassroots efforts did not signal a return to low-cost elections. On the contrary, Gonzales and Molina each spent more than \$300,000—creating the unique combination of grassroots volunteers and high spending media in one campaign.

In many local campaigns, such sophisticated campaign techniques as computer-targeted mailings and radio and television commercials have slowly replaced traditional campaign methods, pushing up campaign costs. To support more sophisticated campaigns, local candidates abandon their volunteer staffs and hire professional consultants, fundraisers and campaign workers. Even candidates in the very small town of Agoura Hills (population 20,200) have used professional consultants. In Modoc County and Alturas, low expenditures depend on the regularity of simple campaigns and a strong sense of community that emphasizes longtime residence in the area as a qualification for public office. A candidate in Alturas or Modoc County attempting to hire a consultant to gain an edge in an election would most likely be rejected for running a "slick" campaign. As one Alturan observed, "Spending your money on glossy advertising won't do a thing for you. You can't put up an image. Everyone knows you."³

3. District Elections and Accelerated Costs

Some growing jurisdictions, in an effort to make elected officials more responsive to voters' needs and to permit minorities to cast more meaningful votes for minority candidates, have abandoned traditional at-large elections in which all candidates are elected by all the voters. Instead, they have adopted a district-by-district system in which each candidate is elected only by voters from a specific geographical area.

Proponents argue that district elections decrease the scale of local elections and allow for simpler and less expensive campaigns. Yet instead of reducing overall

campaign costs by lowering the number of voters each candidate must reach, district elections can trigger intense competition, and this in turn may send local campaign spending skyrocketing. This increased intensity and resulting high costs are demonstrated in spending per vote figures. While the at-large jurisdictions surveyed spent an average of about \$5 per vote, the districted cities sampled averaged more than \$15 per vote. (See Table 2.2.)

Table 2.2

**SPENDING PER VOTE:
COMPARISON BETWEEN AT-LARGE CITIES AND DISTRICTED CITIES**

<u>At-Large Cities</u>		<u>Districted Cities</u>	
Agoura Hills	\$6.04	Long Beach	\$10.93
Gardena	\$5.97	Los Angeles	\$15.09
Irvine	\$3.96	Pasadena	\$21.55
San Rafael	\$4.25	Sacramento	\$12.76
Average Spending per Vote	\$5.06	Average Spending per Vote	\$15.08

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

Pasadena, for example, is one of several California cities which has adopted district elections. In 1979, under a citywide election format, ten Pasadena candidates together spent a total of \$62,000 to reach all the city's voters. In 1983, under the city's new district format, ten candidates together spent almost \$197,000—a threefold increase in only four years—even though the candidates campaigned in districts one-seventh the size of the entire city. One successful challenger spent almost \$22 per vote against an unsuccessful incumbent who spent \$70 per vote. (See Chapter 13, "Pasadena.")

The increased competition brought on by district elections occurs for various reasons. Particularly for neighborhood candidates, public office appears more accessible to potential candidates than under the citywide system. In addition, candidates are more familiar with voters when they have smaller constituencies and may increase their use of expensive targeted mailers to address more identifiable concerns. As one former Pasadena newspaper reporter commented, "Campaign costs went up, in part due to a much clearer definition of campaign strategies" resulting from the shift to district elections.⁴

District elections have several advantages. Competition may increase; elected officials may be more responsive to constituents' interests; and the resulting higher campaign spending may increase public awareness of candidates, positions and personalities. On the other hand, the increase in competition may force candidates to spend more time fundraising, encourage candidates to adopt a more parochial view on issues affecting the city, and deter potential candidates who are qualified but less adept at raising substantial amounts of money. In sum, district elections appear to intensify the need for local campaign finance reforms.

B. Competition Has the Most Significant Effect on Spending

The degree of competition between candidates in each election is generally the most significant factor stimulating higher spending. Outside Los Angeles County, if a local election is largely uncontested, with few challengers and no local

controversies, campaign spending will usually be low. Particularly in smaller cities and counties, most incumbents in non-competitive elections will not raise and spend large amounts of funds because they perceive no threat to their campaigns. Only in larger jurisdictions will incumbents often raise (and frequently spend) large sums of money—particularly in non-election years—to discourage candidates from considering a challenge. In smaller jurisdictions incumbents usually raise funds to meet serious competition.

Particularly in smaller jurisdictions and most counties, uncontested elections are common. When an election becomes competitive, either by virtue of many strong candidates competing for one office (particularly if a challenger threatens to launch a high-spending campaign) or a controversial issue that catches the community's attention, the complexion of local politics can suddenly change and campaign spending across the board can escalate rapidly. Thus, it is competition in these jurisdictions that spurs higher election spending.

In some large jurisdictions, spending has risen dramatically despite the non-existence of competition. Spending patterns in Los Angeles County serve as the best illustration of this phenomenon. A few races in 1980 and 1984 were highly competitive and generated record campaign spending levels. Yet although competition against incumbent supervisors since 1984 has dropped dramatically, campaign spending has remained high. In 1986, Supervisor Pete Schabarum spent close to \$1.4 million on his reelection, even though he faced no significant opposition. In 1988, two incumbent supervisors each spent over \$500,000, even though their opponents had minimal campaign budgets and spent less than \$80,000.

Expensive campaigns in the absence of significant competition are a new phenomenon on the local level. They appear to be used by incumbent officeholders to scare off future challengers. In Los Angeles County, in particular, supervisors have become so adept at fundraising that the moneys spent during elections—whether competitive or not—are easily replenished by the next mid-term. (See Chapter 11, "Los Angeles County.")

In most localities, large and small, a pattern of increasing expenditures may become self-perpetuating as communities become used to higher and higher local campaign costs. As the level of sophistication in campaigning escalates, so do election costs. Thus, a very competitive campaign using sophisticated and costly techniques may set a new standard for a given city or county. In many cases, when candidates project costs for upcoming campaigns, they take the top spending levels in the last election as the starting point for their new budgets. The previous election's "ceiling" becomes the next election's "floor." A Long Beach councilmember predicted that as spending escalates "what would have been an expensive ticket in 1986 will look like a bargain [in 1988]."⁵ Santa Monica, Agoura Hills and Sacramento County are excellent examples of competition's tendency to increase campaign spending norms.

1. Santa Monica (Population 96,000)

Through the 1960s and 1970s, Santa Monica's local elections were low-key and inexpensive; successful campaigns cost less than \$10,000. The city council was controlled by well-known candidates recruited largely from the local business community. Incumbents faced little competition. In 1979, a new political coalition was formed to support a local rent control ordinance and to back a slate of like-minded candidates for city council. Because Santa Monica's beach location had long been a desirable and profitable area of income for property owners, and because 80% of the city's residents were renters, the community quickly polarized around the rent control debate. Organizations which supported or opposed rent control spent large sums of money to win the election. The influx of campaign dollars supported

modern political organizations, political consultants, computers and paid campaign workers—generating seemingly limitless amounts of campaign literature.

When the votes were counted in the 1979 election, rent control became law and the slate's supporters won several seats on the city council. Even today, nearly a decade after its passage, rent control continues as a central issue in local elections. Accelerating competition between candidates over rent control has kicked Santa Monica's campaigns into continually higher levels of sophistication and expense. The cost of a successful run for the Santa Monica City Council has risen 1,300% since 1975. In 1988, Councilmember Herb Katz, running a campaign independent of the slates, spent more than \$200,000 to retain his seat. (See Chapter 19, "Santa Monica.")

2. Agoura Hills (Population 19,000)

The newly incorporated city of Agoura Hills has experienced a similar explosion in campaign spending. A rapidly growing affluent bedroom community, it was incorporated in 1982 as part of an effort to override local land use decisions by the Los Angeles County Board of Supervisors. The first city council, however, authorized a series of real estate developments that were viewed as too aggressive by local residents. When large political contributions began to flow to pro-growth councilmembers from real estate developers interested in Agoura Hills property, local residents began a move to oust council incumbents.

In the 1984 election, the highest spending Agoura Hills candidate had spent only \$2,400. But the controversy surrounding the city council and its land use decisions divided Agoura Hills voters and dramatically increased 1985 local campaign spending. With the support of developer contributions, the highest spending 1985 candidate spent over \$18,000. Two pro-development candidates, who were defeated, together raised 87% more than their successful anti-development coalition opponents and 50% more than all of their competitors combined. The nearly 900% jump in campaign spending in just one year was directly caused by new competition, triggered by a volatile community issue and funded by interested parties.

3. Sacramento County (Population 988,000)

Campaigns for Sacramento County supervisor have traditionally been non-competitive. Incumbents wishing to continue in office have been able to do so without much opposition or high spending campaigns usually winning their reelections outright in the primary. But supervisorial campaign spending experienced a sharp jump in 1986 when one incumbent resigned and another declined to run for reelection, thus allowing several candidates to run for the two open seats.

The 1986 election became an intense and expensive battle. As one Sacramento political observer noted, "In an open seat race, you have to get the money fast"—to develop name identification and get the jump on one's competition.⁶ Candidates for the open seats were so committed to spending everything necessary for victory that they pledged significant amounts of their own funds to their campaigns. Successful candidate Jim Streng contributed \$40,000 of his own money and said he was prepared to donate \$100,000 if needed.

While average supervisorial campaign expenditures in the 1980, 1982 and 1984 elections ranged between \$30,000 and \$60,000, average expenditures in 1986 nearly reached \$90,000. The cost of the campaigns for the two open seats, however, was substantially more—topping \$250,000 per candidate, or almost five times the average campaign expenditures for the previous three county elections. Candidates who had been waiting for an opportunity to run but were reluctant to challenge a strong, well-

funded incumbent eagerly jumped into the open seat race and spent as much as they could raise, determined not to lose the race as the result of budgetary constraints.

C. Candidates Spend Relatively Small Amounts Communicating With the Voters

Over 60% of all local campaign expenditures surveyed are used by candidates for purposes that have little to do with directly communicating with voters. Instead, the bulk of campaign expenditures on the local level are used to cover general overhead expenses, fundraising and the maintenance of campaign organizations. *Only 38% of all local campaign budgets surveyed in the Commission's sample of California jurisdictions are spent on "voter contacts" or direct communications with constituents—including campaign literature, radio, television and newspaper ads, outdoor signs and billboards.* During non-election years, spending priorities become even less voter oriented, with 87% of total expenditures devoted to overhead and a bare 13% to voter contacts.

In larger jurisdictions, candidates might be expected to spend higher percentages of funds on voter contacts to reach substantially larger numbers of voters. The reverse, however, is true. Large jurisdiction candidates spend a far lower percentage (33%) of their funds on voter contacts. (See Table 2.3.) In medium-sized jurisdictions, candidates spend 49% of their funds on voter contacts. Candidates in small jurisdictions spend a higher percentage of their funds on direct voter communications, over half (57%) of their total campaign budgets.

Table 2.3

EXPENDITURES BY TYPE IN SELECTED SMALL, MEDIUM AND LARGE CALIFORNIA JURISDICTIONS

	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>All</i>
VOTER CONTACTS	57%	49%	33%	38%
Broadcast	0%	8%	7%	7%
Literature	48%	30%	23%	26%
Newspaper	6%	3%	2%	2%
Outdoor	3%	8%	1%	3%
OVERHEAD	43%	51%	67%	62%
General	17%	16%	25%	22%
Personnel	5%	10%	4%	6%
Fundraising	6%	11%	15%	13%
Surveys	5%	3%	3%	4%
Consulting	8%	8%	11%	10%
Travel	0%	1%	1%	1%
Candidate Transfer	2%	2%	8%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

Of the overall average of 38% spent on voter contacts in all jurisdictions studied, the largest component is campaign literature (26%), by far the most popular voter communication method among local candidates and the largest expense in most campaigns. Yet even though literature is the most significant communications expense, it barely outranks "general" expenditures, which constitute 22% of local

campaign budgets. "General" expenditures include office space, equipment and supplies, telephones and other miscellaneous office expenses. Fundraising expenses amount to another 13% of the campaign moneys spent in all jurisdictions. Consulting expenses (10%) and broadcast advertising (7%) round out the top five local campaign expenditures in California.

1. High Voter Contact Spending in Some Small and Medium-Sized Jurisdictions

Candidates facing competitive elections in some small and medium-sized jurisdictions routinely spend significant percentages of their campaign funds on voter communication. In San Rafael, for example, voter contact expenditures are consistently high—71% of all expenditures. Yet oddly, San Rafael candidates allocate a whopping 32% of their total spending to one of the least efficient forms of political advertising—newspaper ads in a countywide paper. (See Chapter 18, "San Rafael.")

West Covina candidates and independent committees spent 67% of their campaign funds on voter contacts during the election cycles studied. (See Chapter 21, "West Covina.") In Sacramento city races, candidates spent 58% of their funds on voter contact expenses, with 19% designated for expensive broadcast advertising. However, high voter contact and broadcast expenditures were stimulated by campaign techniques used in citywide races for mayor. (See Chapter 14, "Sacramento.")

Long Beach also records high levels of voter contact spending—55% of all campaign expenses. The great bulk of this voter contact spending (83%) goes to pay for campaign literature, by far the most popular campaign technique in a metropolitan city like Long Beach where broadcasting is too expensive and inefficient for candidates in the huge Los Angeles media market. (See Chapter 9, "Long Beach.")

Conditions in recent Santa Monica elections provide an exception to the rule that competition boosts voter contact expenditures. Despite vigorous competition in each Santa Monica election since 1979, average spending on voter contacts stands at 41% of total expenditures, 16% lower than in cities of comparable size. This distinctive pattern is caused by the higher overhead and personnel costs of slate organizations in Santa Monica. Organizational costs divert funds away from communications components. Because of the slates' greater organizational sophistication, Santa Monica's expenditure patterns resemble those usually present in much larger jurisdictions.

2. Low Voter Contact Spending in Large Jurisdictions

The general lack of competition in larger jurisdictions leads candidates routinely to forgo significant spending on voter communications, though overall election costs have continued to rise. Candidates in all large jurisdictions studied spent only 33% for voter contacts. Highest among the large jurisdictions was the City of San Diego, whose candidates spent 53% on voter contacts during very competitive local elections in which, until November 1988, candidates for city council were forced to run in a citywide general election runoff. For this reason, large amounts of funds were devoted to electronic media.⁷ (See Chapter 16, "San Diego.") In Los Angeles city elections, candidates spent barely 24% on voter contacts—indicative of the low level of competition in Los Angeles city council elections. Candidates in the state's largest city spend more on "general" office expenses (36% of the total) than they do on communicating with voters. (See Chapter 10, "City of Los Angeles.")

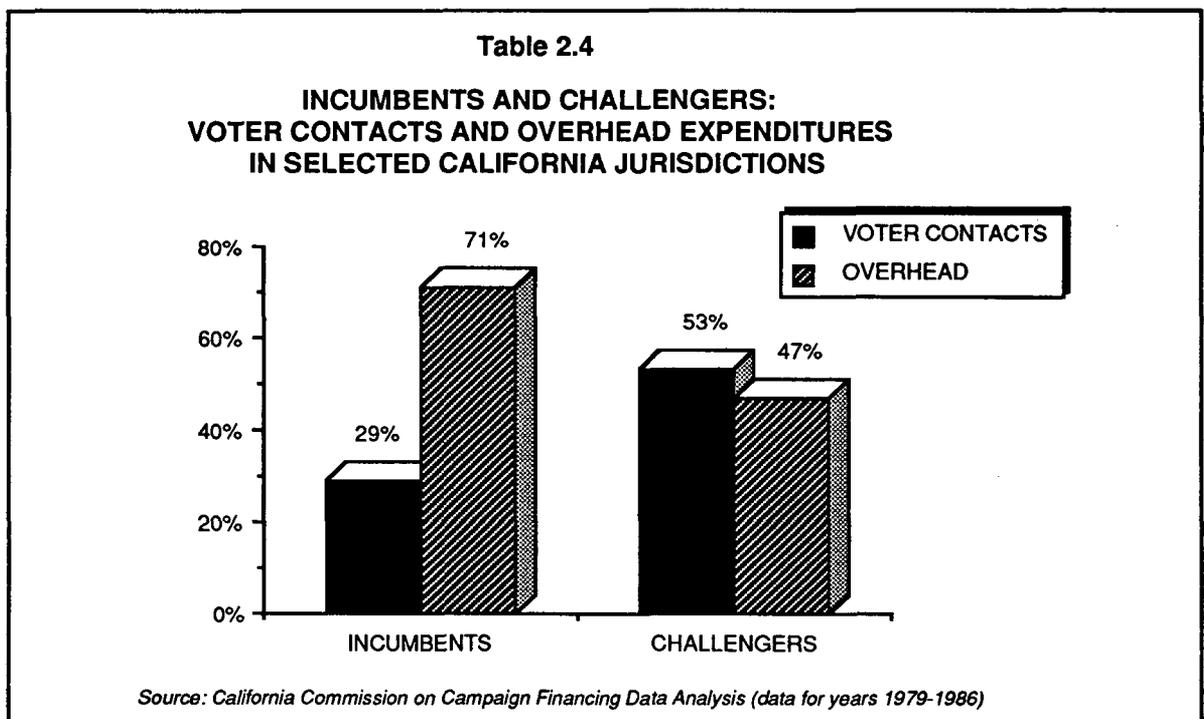
Los Angeles County and Orange County provide the most extreme examples of competition's effect on voter communications. In 1986, while running for reelection,

two incumbent supervisors, Ed Edelman and Pete Schabarum, spent *less than 5%* of their total expenditures on communicating with their constituents. While both incumbents virtually ignored their campaigns, each spent large sums on fundraising and overhead. Supervisor Schabarum, for example, spent only \$35,503 (approximately 2% of his total expenditures) on communicating his views to the voters in the 1986 election, yet he spent over \$400,000 on fundraising and more than \$500,000 on "general" expenses. His total spending for the entire election was \$1.4 million.

Electoral competition between incumbents and challengers has been rare in Orange County. Voter contact expenditures have therefore been extremely low. Supervisor Bruce Nestande spent \$300,000 in his 1984 campaign for reelection, less than \$2,700 of which was spent on voter contacts.

3. Incumbent Dominance and Competition's Effect on Voter Contact Expenditures

Low spending on voter contacts is closely linked to the widespread dominance of incumbents. Challengers routinely spend large portions of their funds on voter contacts to establish name and issue identification. For incumbents, spending on voter contacts depends upon the degree of competition they face. In most cases, incumbent candidates raise and stockpile as much money as they can before the election season; then if no competition surfaces, they are free to spend their funds in other areas. (See Table 2.4.)



Some incumbents use surplus funds to enhance their image and status as officeholders with charitable contributions, additional travel and extra staff. Others transfer a portion of their funds to like-minded candidates or favored causes. Although many contributors may expect that candidates will spend most of their funds on direct campaigning through voter contacts, candidates are not required to do so. In the absence of competition, some candidates—typically incumbents—have indicated that they view substantial voter contact expenditures as a waste of campaign funds.

As with overall spending, the level of competition in a given election drastically affects the levels of spending on voter contacts and overhead. In tight races, candidates streamline their campaigns to spend as much of their funds as possible getting their messages out to voters. In Agoura Hills, for example, during a moderately competitive 1984 election, candidates spent 34% of their total funds on voter contact. In 1985, with significantly heightened competition, candidates spent 77% of their available funds on voter contacts, including a doubled percentage of funds on campaign literature. (See Table 2.5.)

Table 2.5
COMPETITION AND VOTER CONTACTS EXPENDITURES
AGOURA HILLS

	1984 (Moderate Competition)	1985 (Strong Competition)
Broadcast	0%	0%
Literature	19%	50%
Newspaper	10%	19%
Outdoor	5%	8%
TOTAL	34%	77%

Source: California Commission on Campaign Financing Data Analysis (data for years 1984-1985)

Other jurisdictions show similar trends. In Irvine, a city which has experienced consistently competitive elections over the past decade, candidates spent an average of 72% of their campaign budgets on voter contacts compared to an average of 57% in cities of similar size. Volatile competition in open seat elections for the Sacramento County Board of Supervisors boosted voter contact spending as well. While candidates in the incumbent-dominated 1984 supervisorial election spent a bare 23% of their campaign budgets on voter contacts, candidates for the two open seats in 1986 spent 46%—a jump of 100%.

4. Voter Ignorance: The Result of Low Voter Communication

The minimal spending on voter contacts in some jurisdictions has engendered widespread voter ignorance about and lack of interest in elected officials and the local governmental processes. In Sacramento County—where in the elections from 1982 to 1986 just 42% of all candidate expenditures have on average been devoted to voter communication—Supervisor Jim Streng says he was “quite surprised” at the lack of voter knowledge about county government when he first ran for supervisor in 1986. Streng said he often had to take time to educate voters about the processes of local government before trying to win their vote.⁸

In the City of Los Angeles—where candidates spend an average only 24% of their budgets on voter contacts—lack of voter interest and knowledge results in extremely low voter turnouts. During the April 1987 city council election, for example, less than 13% of the city’s registered voters cast their ballots. In 1983, voter turnout was a miserable 10%.

In Los Angeles County, just 28% of total campaign expenditures are devoted on average to voter communications. The *Los Angeles Times* conducted a poll in which county residents were asked, “Generally speaking, do you approve or disapprove of the way Los Angeles County Supervisors are handling their jobs, or haven’t you

heard enough to respond?" Of those polled, 36% answered that they were "not aware" of the supervisors and 8% said that they didn't know, a total of 44% of the Los Angeles populace who were uninformed about their county government.⁹

D. Incumbents Vastly Outspend Challengers, Diminishing Competition in Local Elections

Incumbents are responsible for 63% of local campaign expenditures in the jurisdictions surveyed, while challengers account for only 15%. (The rest is spent by open seat candidates and non-candidate committees.) According to calculations made from the Commission's data analysis, the "average" incumbent spent about \$133,500 on a campaign, while the "average" challenger spent only \$30,000. While these "averages" are derived from a broad spectrum of incumbent and challenger spending data in a wide variety of jurisdictions and do not represent a "typical" California local campaign, they illustrate an important point in most local jurisdictions: *incumbents vastly outspend challengers.*

In the City of Los Angeles, incumbents account for 76% of all campaign expenditures, while challengers spend only 18%. In San Francisco, incumbents spend 85% of all campaign expenditures. In Los Angeles County, incumbents overwhelm challengers with 90% of all expenditures. Out of \$7.6 million spent in the Los Angeles County election cycles studied, challengers spent only \$750,000—and almost all of this was spent by one candidate, Alexander Pope, in his 1984 race against incumbent Deane Dana. Incumbents are able to maintain their spending advantage because of their overwhelming fundraising superiority; whatever a challenger can raise, an incumbent can collect far more.

For potential new candidates considering a challenge to an incumbent in a large jurisdiction, the political and fundraising outlook is bleak. Many potential candidates will simply not throw their hats into the ring. For those who undertake the role of challenger, the financial obstacles presented by a well-financed incumbent are almost insurmountable. In Los Angeles County, challenger Pope raised and spent over \$650,000 and was still outspent nearly 3-to-1 by incumbent Dana. In Pope's view, if incumbent Dana had needed more than the \$1.85 million he actually spent, Dana could have easily raised it.¹⁰

In 1982, Sacramento County incumbent supervisor Ted Sheedy responded to three challengers by outspending his nearest opponent 6-to-1 and winning 62% of the vote. In 1986, Orange County incumbent supervisor Harriett Wieder spent \$442,000 against an opponent who spent \$710. Both Sheedy and Wieder could probably have won reelection with smaller campaign budgets, yet they and other incumbents in local jurisdictions use high spending campaigns to flex their political muscle and discourage future challengers. Wieder even provided her campaign consultant with a \$25,000 bonus because his fundraising and campaign preparations successfully discouraged any serious opposition.

High-spending incumbent campaigns in larger jurisdictions generally guarantee success. There have been, however, striking exceptions to this rule. One of the clearest examples occurred in Los Angeles when 1987 challenger Ruth Galanter defeated incumbent city council president Pat Russell (one of the city's most powerful political figures and perceived to be pro-growth). Russell spent nearly \$900,000 on her reelection campaign; but Galanter, appealing to "anti-growth" sentiment in her district, defeated Russell with only \$195,000. Similarly, Long Beach challenger Ray Grabinski defeated longtime council incumbent Eunice Sato, even though Sato outspent Grabinski by 25%. Low-budget upsets against high spending incumbents like those of Galanter and Grabinski remain highly unusual in medium and large-sized California cities and counties. Such upsets usually turn on

the presence of a significant issue (such as “no-growth”) that grabs the attention of local voters and the media.

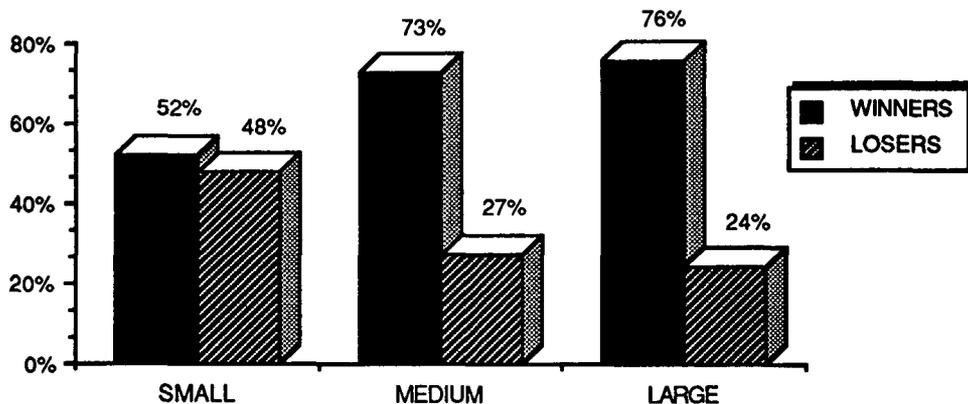
Inexpensive upsets occur more frequently in smaller jurisdictions. In a 1988 San Rafael (population 45,000) election, challenger Joan Thayer appealed to growing constituent anger over local land use decisions and upset an incumbent councilmember who outspent her 3-to-1. In Pasadena, challenger Rick Cole spent less than \$25,000 in 1983 to defeat an incumbent who spent more than \$50,000. In Agoura Hills, incumbent Mayor John Hood spent more than \$10,000 in 1985, only to be defeated by several challengers who spent less than \$4,000 each.

The frequency of low spending upsets in smaller jurisdictions indicates that big spending campaigns are less potent in such jurisdictions than they are in larger communities. Because campaigns in smaller cities and counties are more community oriented, voters respond more to a candidate’s positions on issues than to a media image a campaign might generate. A candidate with a small budget can seize a local issue with significant community interest and use free local media to compensate for a lack of funds. Volunteer campaign workers who play a larger role in smaller communities than larger cities and counties can also improve the effectiveness of a low-budget campaign.

By contrast, name identification is very important and extremely expensive to obtain in the larger jurisdictions. In some smaller communities, a disproportionately large campaign budget can even work against a candidate by generating a public perception that the candidate is trying to “buy” the election. This perception became a handicap to high spending candidates in Pasadena and Agoura Hills.

The relative insignificance of a spending advantage in smaller jurisdictions versus the importance of large campaign war chests in medium and large jurisdictions is reflected in winner-loser spending percentages. (See Table 2.6.) In small jurisdictions, winners and losers spend almost the same amounts; in medium-sized and large jurisdictions, winners far outspend losers.

Table 2.6
SPENDING BY WINNERS AND LOSERS
IN SELECTED SMALL, MEDIUM AND LARGE CALIFORNIA JURISDICTIONS



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

The rising cost of campaigns has caused some candidates later to regret their decision to run for office, regardless of the election's outcome. Long Beach councilmember Evan Anderson Braude concluded, "If I had known how expensive it would be before the campaign. I probably wouldn't have run."¹¹ Other potential candidates, discouraged by the economic realities of running, may decide not to try at all or may choose to wait and bide their time until an open seat becomes available.

Open seats present the best—and in large jurisdictions almost the only—chance for a political newcomer to gain public office. They offer those interested in public office a "level playing field" and the ability to compete without having to fight the significant advantages held by incumbents. Fundraising for an open seat race is also less difficult because open seat races present better odds. Some potential contributors even hedge their political bets by contributing to *all* candidates in open races.

Candidates for open seats typically realize that high spending is an important criteria if they hope to win. An open seat race will not, however, necessarily provide an opportunity for a low-cost campaign. In fact, open seat races in California local jurisdictions are among the most expensive in the state and account for a significant percentage of total local campaign spending. Open seat candidates spent 20% of all campaign expenditures in all jurisdictions surveyed. These trends are even more apparent in individual jurisdictions. In Orange County, for example, open seat candidates in the period studied were responsible for 48% of all campaign expenditures, while challengers represented only 2%. In Sacramento County, open seat races prompted the most expensive campaigns in county history. Successful Sacramento County open seat candidate Jim Streng spent a record \$300,000 on his 1986 campaign. During the same election, another open seat candidate spent over \$280,000, while three others spent in excess of \$100,000.

E. Independent Expenditures Are Significant in a Few Campaigns

Independent expenditures have not played a role in most campaigns. They are, however, becoming increasingly common in local races of all sizes where issues of significant financial impact are at stake. Of all the jurisdictions studied, West Covina has had the most dramatic experience with independent expenditures.

Through the 1960s and 1970s, West Covina campaign spending remained uncommonly low. While cities of equivalent size, such as Santa Monica and Irvine, experienced individual campaigns costing as much as \$50,000, average West Covina spending never reached over \$5,000 per candidate. Between 1980 and 1984, however, local controversy over a toxic waste site erupted between residents and the dump's owner, BKK Corporation. As a result, BKK made independent expenditures exceeding \$250,000 in West Covina elections to prevent its waste site from being closed. Interestingly, while average *candidate* spending continued at its low levels, overall campaign spending jumped dramatically, due to BKK's independent expenditure efforts.

In 1981, an initiative appeared on the West Covina ballot which would have closed the BKK dump and rezoned the surrounding property to ensure that housing would never be built upon the land. BKK immediately jumped into the election along with Ponderosa Homes, a construction company interested in developing the land in question. The two companies spent more than \$160,000 in independent expenditures on a successful effort to defeat the initiative. A citizens' group supporting the measure spent less than \$1,500.

BKK's 1981 involvement in West Covina government quickly became an explosive campaign issue. Four of five incumbent councilmembers were served with recall petitions for "failure to preserve and protect the health, safety and welfare of

the citizens of West Covina”—allegations regarding BKK and the toxic dump. Committees opposing the councilmembers' recall were also funded largely by BKK, which contributed \$45,000 and spent \$73,000 in a fight to keep the incumbents in office. In all, BKK spent over \$100,000 in independent expenditures during the 1981 election and successfully defeated the initiative and the recall of city councilmembers.

In 1984, independent contributions by BKK again became prevalent as the company poured \$75,000 into the campaign using several separate committees. BKK's independent expenditures supported several candidates, all of whom won handily, even though community sentiment against BKK was building. By 1986, the dump was closed, and BKK's involvement in West Covina elections ended. (See Chapter 21, "West Covina.")

Some local jurisdictions have found that restrictive contribution limits may actually encourage the use of independent expenditures. As contribution limits drop, major contributors seek alternative ways to maintain their influence. In San Diego, for example, stringent contribution limits have been blamed for the increase in independent expenditures in local campaigns. Initially confined to initiative campaigns, independent expenditures for San Diego candidates started in 1984 and continued in elections held in 1985 and 1986.

In San Diego's 1984 election, the Sierra Club and the local firefighters' union spent a total of \$24,000 in independent expenditures on behalf of Mayor Roger Hedgecock's reelection bid. In 1985, an incumbent councilmember spent \$100,000 on radio commercials to support two other council candidates. In 1986, a local hotel owner spent \$25,000 in independent expenditures to back a city council candidate. Independent expenditures in San Diego have been used to circumvent the city's rigid contribution limits.

F. Summary and Conclusions: Spiraling Costs in Many Jurisdictions Demonstrate the Need for Broad Reforms

The heavy campaign costs once associated only with state and federal elections are now apparent in many California cities and counties. As a direct result, local jurisdictions have witnessed diminished competition, increased incumbent dominance and an accompanying decline in campaign expenditures applied to voter communication methods. In the Commission's opinion, comprehensive campaign reforms, beginning with expenditure ceilings, could reverse these trends. (See Chapter 22, "The Commission's Model Ordinance.")

California's largest local jurisdictions have the most acute campaign finance problems. In Los Angeles County—perhaps the jurisdiction in most need of reform—costs continue to escalate even though incumbents face little or no serious competition. When challenges do occur, incumbents easily outspend their opponents by massive margins, as happened in 1984 with Supervisor Deane Dana's \$1.8 million winning campaign, and in 1988 with Supervisor Mike Antonovich's \$2.8 million successful reelection effort. At the same time, other Los Angeles County incumbents who face no competition have spent record lows on voter communication. As a result, Los Angeles County continues to be the least known branch of government in the Los Angeles area. The escalation of spending in many California local jurisdictions not only has the effect of stifling competition but of making candidates more reliant on large contributors to meet their fundraising goals. Comprehensive campaign finance reforms, including expenditure limits, would help to break this dependence and to secure more competitive elections in California's cities and counties.

NOTES

1. "Friends" committees in San Francisco are additional, non-campaign committees set up by supervisorial candidates and incumbents. Contributions to these committees are often made in amounts that exceed the jurisdiction's contribution limits, despite a 1982 state Attorney General's opinion stating that such contributions were limited by the local campaign finance ordinance. "Friends" committee expenditures are made in a variety of areas, from travel expenses to supplemental office staff to charitable contributions. Although these expenditures are considered "non-campaign" expenditures, they benefit a candidate through increased visibility, promotion and goodwill. Proposition 73 places a cap on how much "Friends" committees can collect from any one donor, but the new law's contribution ceilings in many cases are far higher than those set in specific local jurisdictions, such as San Francisco.
2. Agoura Hills, Alturas, Gardena, Irvine, Long Beach, the City of Los Angeles, Los Angeles County, Modoc County, Orange County, Pasadena, the City of Sacramento, Sacramento County, the City of San Diego, San Francisco, San Rafael, Santa Monica and West Covina. The Commission also used campaign finance data from two cities, Cypress and Culver City, in order to enhance the statistical accuracy of the small jurisdiction averages.
3. Telephone interview with Lesley Chace, then-Supervisor, Modoc County, Oct. 1988.
4. Telephone interview with Jim Tranquada, former reporter for the Pasadena Star-News, Mar. 7, 1987.
5. Interview with Ray Grabinski, Councilmember, City of Long Beach, June 10, 1987.
6. Telephone interview with Dave Schmitz, consultant, June 10, 1987.
7. In the November 1988 elections, San Diego voters approved Proposition E which discontinued the system of citywide runoffs. Starting in the 1990 elections, city council candidates will be elected entirely by district. Costly expenditures on electronic media will no doubt decline, as targeted mail will be the most cost-effective campaign method. As witnessed by the City of Pasadena, which enacted a similar change, total election costs will not necessarily diminish. (See Chapter 13, "Pasadena.")
8. Interview with Jim Streng, Supervisor, Sacramento County Board of Supervisors, May 7, 1987.
9. *Public Interest Poll*, Los Angeles Times, Mar. 1985.
10. Interview with Alexander Pope, former Los Angeles County Tax Assessor, July 23, 1986.
11. Interview with Evan Anderson Braude, Councilmember, City of Long Beach, June 11, 1987.

CHAPTER 3

California's Local Campaign Financing Ordinances: A Spectrum of Creative Ideas

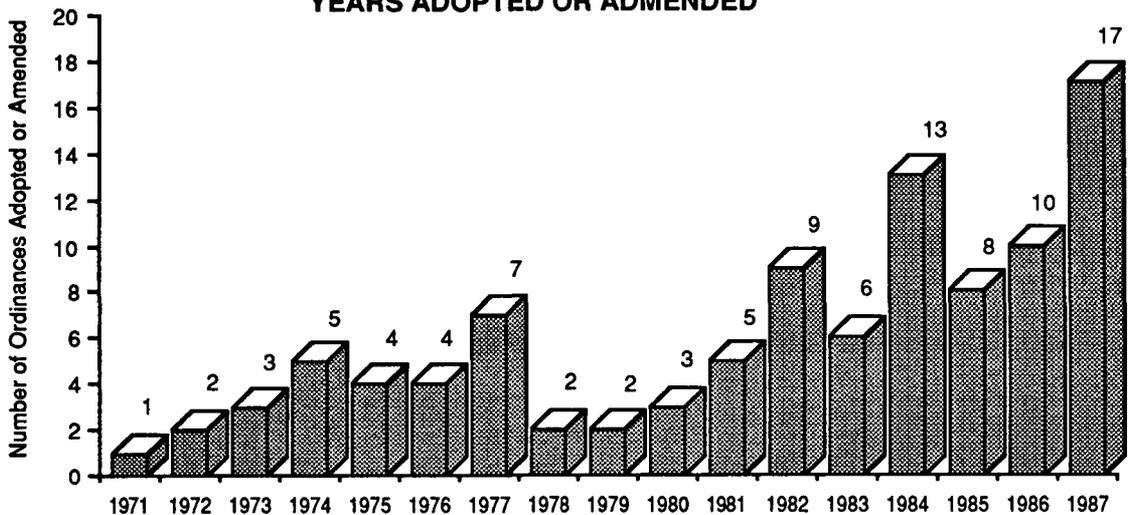
More cities and counties in California have enacted campaign finance reform laws than all other cities, counties and states in the rest of the United States combined. At least 63 local California jurisdictions have adopted their own campaign finance laws, and only four—Cypress, San Rafael, Santa Cruz and Westminster—have repealed them. California ordinances include provisions which limit contributions, limit expenditures, require disclosure of contributions and expenditures under \$100 and prohibit contributions from certain donor groups. In contrast, less than 10 local jurisdictions in the rest of the nation have enacted their own campaign finance ordinances. California thus provides an innovative experimental laboratory in which to study local campaign finance reform options.

Nearly all of the largest local jurisdictions in California—the City of Los Angeles, the City of San Diego, the City and County of San Francisco, Orange County, San Diego County, the City of Sacramento and Sacramento County—have adopted their own campaign finance laws. Notable exceptions include Los Angeles County, Long Beach and Oakland, although the city councils of Long Beach and Oakland have debated adoption of local ordinances.

Campaign finance laws at the local level are constantly changing. In 1987, 17 California cities and counties enacted or amended their campaign finance ordinances—more than in any other year. (See Table 3.1.) A number of other local jurisdictions considered new laws but either rejected them or deferred

consideration. Both large and small jurisdictions are attempting to control rising campaign expenditures and the growing impact of large contributors on governmental decisionmaking.

Table 3.1
LOCAL CAMPAIGN FINANCE ORDINANCES:
YEARS ADOPTED OR ADMENDED



Source: California Commission on Campaign Financing Data Analysis

California's Political Reform Act, enacted by the voters in 1974,¹ requires stringent public disclosure of contributions and expenditures; and as amended by Proposition 73, imposes contribution limits on all candidates. It does not prevent local jurisdictions from adopting stricter disclosures or limitations. (For a summary of local campaign finance ordinance provisions in California, see Appendix E.) By contrast, most other states which have adopted campaign finance reform laws apply them to local as well as to state officers.

A. California's Local Ordinances Cover a Wide Range of Reforms

The variety of ordinances adopted by California's cities and counties is impressive. Contribution limits, adopted by 42 local jurisdictions, vary from \$50 per contributor per candidate in Del Mar and Davis to \$1,491 in Santa Monica. Orange County disqualifies any official who has received more than \$1,808 in campaign contributions from a contributor who has business pending before the board of supervisors. San Diego and San Diego County prohibit contributions from all non-individuals—corporations, unions and PACs. Los Angeles prohibits officeholders from carrying over more than \$5,000 in surplus funds from one election to another. Sacramento County restricts spending by supervisorial candidates who elect to receive public funds matching small contributions.

California's local ordinances date back to 1970 when Del Mar adopted the state's first local law limiting expenditures by and contributions to city council candidates. Since then, nearly all of California's cities and counties have adopted their ordinances through legislative action by the city council or board of supervisors. A few campaign finance laws, however, have been passed by the voters, either through the initiative process or through charter amendments placed on the ballot by the local governing board.

Most ordinances have not been amended substantially since their passage. When they have been changed, amendments primarily adjust the amounts of contribution limits or add minor provisions.

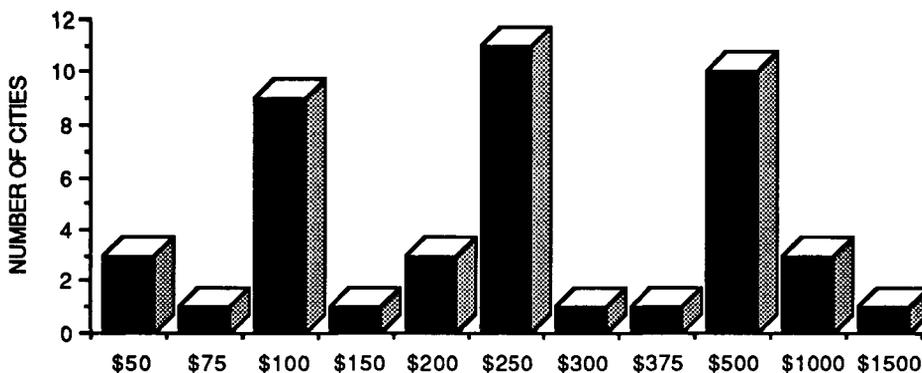
Ordinances adopted by California cities and counties fall into four broad categories: limits on the size of contributions, prohibitions on contributions from certain contributor groups, additional disclosure requirements beyond those contained in the Political Reform Act and miscellaneous provisions.

1. Limits on the Size of Contributions

Most of the cities and counties which have passed campaign finance ordinances limit contributions to city council, mayoral or supervisorial candidates. As noted above, the contribution amounts allowed vary widely between jurisdictions. The population of the jurisdiction appears not to be a critical factor in determining the amount. However, of the 48 cities and counties which have adopted contribution limits, all but four have placed the limit for individual contributors giving to city council candidates at \$500 or less. (See Table 3.2.) The exceptions are Chico, Santa Monica, Sonoma County and Tracy. Santa Monica, with a population of about 90,000, has fixed its contribution limit at 2¢ times the voting age population of the city—or \$1,491 per candidate. Three Northern California communities—Chico, population 33,000; Sonoma County, population 315,000; and Tracy, a small city of 22,000—limit contributions to \$1,000 per candidate. In addition, although San Jose, the City of Los Angeles and the City of Sacramento limit individual contributions to city council campaigns to \$500, donors to citywide candidates such as mayor can give \$1,000. San Francisco, which began with a \$500 contribution limit, raised it to \$750, and then to \$1,000, but has recently dropped it backed to \$500.

Table 3.2

LOCAL CAMPAIGN FINANCE ORDINANCES: RANGES OF CONTRIBUTIONS LIMITATIONS TO CITY COUNCIL CANDIDATES FROM INDIVIDUALS



Source: California Commission on Campaign Financing Data Analysis

Because most Santa Monica candidates run on citywide slates, local law actually allows contributions many times higher than \$1,491. The city attorney has interpreted the law to allow slates which support more than one candidate to receive \$1,491 times the number of slate candidates. In some instances, contributors have given more than \$10,000 to slate campaign committees supporting seven or more city council and school board candidates.

At the other end of the scale, three local jurisdictions limit contributions to less than \$100. Del Mar—population 5,000—restricts contributions to no more than \$50 per candidate. In 1970, Del Mar limited contributions to \$25; in 1977, it lowered the amount to \$20; recently, it increased the amount to \$50. Davis, a Northern California city located near Sacramento, also imposes a \$50 limit on contributions. This city of 40,000 originally limited contributions to \$25. Walnut Creek, a city of 56,000 located in Northern California, also restricts donations to \$50 or less. Although the city council originally adopted a \$500 limit, a voter-sponsored initiative lowered it to \$50.

The contribution limits most often adopted by California cities and counties are \$250 and \$500. Twelve cities and counties restrict contributions to \$250. They range from the small cities of Grand Terrace (population 9,700) and Signal Hill (population 7,400) to San Diego County (population 2 million). Twelve cities and counties limit contributions for city council races to \$500, ranging from Commerce (population 11,000) to the City of Los Angeles (population 3 million). A few—such as San Rafael, Santa Cruz, Westminster and Cypress—have repealed their contribution limits altogether.

No city or county could advise the Commission why it chose its particular contribution limit. Many local officials merely said, “The limits just feel right for our city.” None had extensively studied contribution sizes from pre-ordinance elections; most simply referred to past campaign disclosure statements for guidance.

A few cities, particularly the bigger ones, permit larger contributions to citywide candidates. Sacramento and San Jose, for example, double their limits for mayoral candidates. Los Angeles doubles its limits for all officials running citywide—the mayor, city attorney and city controller. Some cities impose the same limits on all candidates—mayoral, city attorney and city council candidates. In these cities, however, the candidates all run in citywide races.²

Two jurisdictions—Concord and Contra Costa County—allow contributors to make in-kind (non-monetary) contributions in larger amounts than cash contributions. Concord limits monetary contributions to \$500 but permits candidates to receive up to a total of \$1,500 in non-monetary contributions—which could all come from one person or organization. Contra Costa County also limits monetary contributions to \$500 but allows candidates to receive up to \$10,000 in non-monetary donations from all contributors combined.

a. Distinctions Between Contributions From PACs and Individuals

Most cities and counties impose uniform limits on all contributors. Seven jurisdictions, however, allow PACs and other organizations to give higher amounts. Contra Costa County has the most unusual PAC provisions. Individual contributors can give candidates no more than \$500 per election but a PAC can give a candidate up to \$15,000. PACs are defined as any committee which receives contributions. Thus, two people can form a PAC in Contra Costa County and give a supervisory candidate \$15,000 per election. On the other hand, the aggregate total a candidate may receive from all PACs is also \$15,000.

Most other jurisdictions which limit both individual and organizational contributions have enacted provisions similar to federal law, which limits contributions per candidate by individuals to \$1,000 per election and contributions per candidate by PACs to \$5,000 per election. Huntington Beach, for example, permits individual contributions up to \$300 but allows organizations to give up to \$1,500. Santa Cruz County and the City of Sacramento have similar provisions.

West Covina and Belmont distinguish between types of organizations. Belmont allows organizations to give up to \$200, but PACs can contribute up to \$600. West

Covina reverses Belmont's distinctions. PACs can give only \$500, but other organizations are permitted to contribute up to \$1,000.

Three jurisdictions—San Diego, San Diego County and Santee—allow individual contributions but prohibit any organizational contributions. (These prohibitions are discussed in Section A.2 below.)

Federal law requires PACs to have at least 50 members, be in existence six months and contribute to at least five candidates.³ Only the City of Sacramento and Sacramento County define organizations or PACs by the number of their members. Sacramento County, which based its provisions on the Model Law proposed by the California Commission on Campaign Financing in *The New Gold Rush*,⁴ requires organizations to have 25 or more members before they are eligible for higher contribution thresholds. The City of Sacramento requires PACs to have at least 10 members.

b. Exemptions From Limitations

Two cities have unique provisions which permit candidates to receive contributions above their contribution limits.⁵ The City of Sacramento allows candidates to collect contributions above the limits in the early part of the campaign. This "seed money" provision allows all candidates to gather their first \$10,000 in money raised in amounts exceeding the various limits imposed. In 1987 a mayoral candidate, Patrick Melarkey, received several "seed money" loans from friends exceeding the contribution limits.

In 1985, the City of Los Angeles adopted a charter amendment which attempts to assist opponents of wealthy candidates. (Under the U.S. Supreme Court's *Buckley v. Valeo* decision, wealthy candidates cannot be limited in spending their own money.⁶) If a Los Angeles candidate spends more than \$50,000 of his or her own money on a campaign, the wealthy person's opponents are freed from the contribution limits up to the amount spent by the wealthy candidate in excess of \$50,000. If a wealthy candidate therefore spends \$75,000 in his or her own behalf, his or her opponents can raise up to \$25,000 in any amounts. In the few elections since adoption of the charter amendment, no wealthy candidate has triggered this waiver of the contribution limitations.

2. Prohibited Contributions From Certain Groups

Some California cities and counties are not content merely to limit contributions to local candidates. A few local jurisdictions prohibit contributions from certain donors altogether.

a. Non-Individual Contributions Prohibited

The City of San Diego, San Diego County and Santee (located in San Diego County) prohibit contributions from any non-individual. Corporations, labor unions, partnerships, political action committees and other groups or organizations may not give money to candidates running for city council, mayor, city attorney, district attorney or supervisor.

These may be the toughest contribution restrictions in the country. The Commission is unaware of any other jurisdiction—federal, state or local—that prohibits contributions from all non-individuals other than in the presidential general election, where no one may make contributions to those candidates who agree to finance their campaigns completely with federal money. San Diego's unique restrictions have not been challenged in court; moreover, the citizens of the San Diego area seem to like their tough laws. Attempts to change the prohibition in San Diego have been strongly opposed by several political leaders, such as District Attorney Ed Miller, and have been unsuccessful.

b. Corporate and Labor Union Contributions Prohibited

Other cities and counties have less restrictive prohibitions which forbid contributions from specified donors. One city (Berkeley) and one county (Santa Cruz) have passed ordinances similar to federal law which prohibits candidates from receiving corporate and labor union contributions. Berkeley also forbids donations from business trusts; and Santa Cruz prohibits contributions from partnerships, business or labor organizations.

c. Contributions From Entities Doing Business With the City Prohibited

Five cities restrict contributions from entities doing business with the city. Belmont, Gardena, Poway and Rancho Mirage forbid city contractors from making any contributions to city candidates. South San Francisco forbids donations from city licensees. Palo Alto, during the time it was awarding cable contracts, prohibited contributions from cable television companies and their employees.

The Commission has closely studied Gardena's law, which prohibits contributions from anyone doing business with the city. At one time, the city attorney interpreted this provision to mean that even a local hardware store which sharpens the blades of lawnmowers used to cut the grass in city parks is prohibited from making any contributions. Upon further review of the consequences of such an interpretation, the city attorney changed his interpretation so that a city contract must involve \$5,000 or more before the ordinance applies to the city contractor involved.

Despite the stringency of Gardena's ordinance, the city attorney and city council report that they feel this provision is the most important part of their local law.⁷ They believe it reduces any possible appearance of bias on the part of the council when making contractual decisions. In a sense, the ordinance serves as a political protection mechanism for councilmembers.

d. Anonymous Contributions Restricted

State law prohibits anonymous contributions of \$100 or more in all elections—the same threshold used to require the disclosure of contributions.⁸ An anonymous contribution of \$100 or more must be forwarded to the Secretary of State's office for deposit in the General Fund of the state. In the 14-year history of the Political Reform Act, only a few contributions per year have been sent to the Secretary of State's office. A recent anonymous contribution sent to the state, for example, was forwarded by a candidate running for the Rim of the World School District located in the San Bernardino Mountains. The candidate sent the Secretary of State \$500 in October 1987 because he could not identify the source of the contribution. Without a ban on anonymous contributions, candidates could claim, as they did in the early 1970s, that they did not know the source of their funds. The ban has encouraged candidates to track down the names of their donors.

Anonymous contributions are apparently viewed with some apprehension at the local level. Half the cities and counties which limit contributions also restrict anonymous contributions in ways that go beyond state law. Three local entities—San Jose, Newport Beach and Sonoma County—prohibit *all* anonymous contributions. In these jurisdictions, candidates must obtain the name and address of any contributor, even if the contributor only purchases a campaign button.

Cities and counties limit anonymous contributions in two ways. Eight cities and counties lower the amount of any single anonymous contribution which a candidate may receive. Instead of the \$100 state threshold, three jurisdictions—Davis, Poway, and Rancho Mirage—prohibit anonymous contributions over \$10. Two prohibit such contributions of \$25 or more—the City of San Luis Obispo and

Walnut Creek. Three disallow anonymous contributions of \$50 or more—Berkeley, Gardena and Palo Alto.

Nine cities and counties use a different approach by restricting total anonymous donations. Four local entities—Escondido, San Diego, San Diego County and San Juan Capistrano—prohibit candidates from receiving more than \$200 in aggregate anonymous contributions from all sources combined. Other jurisdictions prohibit the receipt of aggregate anonymous contributions in amounts ranging from \$50 to \$500.

3. More Stringent Disclosure Requirements

The Political Reform Act requires all candidates running in any California election to disclose each contribution and expenditure of \$100 or more including the name, address, occupation and employer of the contributor.⁹ The disclosure threshold was originally set at \$50 but in 1979, at the request of the Fair Political Practices Commission, the Legislature raised it to \$100. At the time, some legislators expressed concern that the threshold would be too high for smaller jurisdictions where few if any contributions of \$100 or more were made. However, the Political Reform Act expressly allows local governments to adopt more stringent disclosure requirements and this concern was thus allayed.¹⁰

Nineteen cities and counties have passed local laws adopting disclosure thresholds below that of the state law.¹¹ Of these, 15 also impose limitations on contributions.¹²

Population size does not appear to be a factor in whether local jurisdictions enact such lower disclosure thresholds. Cities and counties which have adopted stricter disclosure requirements range in population size from Rancho Mirage—population 7,200—to Contra Costa County—population 645,000.

a. Disclosure of Contributions and Expenditures Under \$100

Local disclosure thresholds vary from a requirement that all contributors be disclosed (Newport Beach) to ordinances mandating disclosure of contributors giving \$75 or more. Newport Beach justifies its extremely tough disclosure requirements by arguing that without complete itemization it would be impossible to determine if a particular contributor had exceeded the contribution limits. A close look at the ordinance, however, reveals an interesting fact. Newport Beach does not require the *amount* of the contribution to be listed if under \$50, only the name and address of the contributor. Newport Beach's city attorney, when asked about the law's wording, conceded it should be amended to require listing the amount of all contributions.¹³

Berkeley has adopted an offshoot of the Newport Beach approach. Berkeley requires candidates to itemize contributions of \$50 or more up to the first \$1,500, but after candidates raise \$1,500 they must list the names of all contributors, no matter what the amount. According to Berkeley City Clerk Edith Campbell, this severe disclosure requirement can act as a spending cap. Several candidates collected \$1,500 and then stopped raising money, letting non-candidate controlled committees raise and spend the rest.

Gardena's ordinance does not expressly mandate disclosure of under \$100 contributions. The city attorney and city clerk, however, have notified candidates that they must disclose contributions of \$50 or more. They justify their requests by reference to another section of Gardena's ordinance which states that no candidate may receive an anonymous contribution of \$50 or more. The city attorney reasons that if a candidate receives a contribution of \$50 or more and does not disclose its source, the contribution is anonymous. No other city interprets its anonymous contribution section in this manner. Other cities assume that a contribution is not

anonymous if the recipient knows the contributor's identity, even though the name of the contributor is not publicly disclosed.

Another city which has gone beyond the literal reading of its ordinance is Signal Hill. While its ordinance does not include specific disclosure requirements, it states that candidates must file periodic reports "on a form prescribed by the city clerk." The Signal Hill City Clerk has issued a form which asks candidates to provide detailed disclosures of all contributions, even those under \$100. In addition, candidates must file alphabetical and chronological lists of all contributions received over the past 48 months. Since campaigns are not very expensive in Signal Hill (less than \$3,000), this potentially onerous burden does not create huge problems for the candidates.

Of the 19 local jurisdictions which require itemization of contributions under \$100, 13 mandate disclosure in amounts under \$50.¹⁴ The most common disclosure threshold is \$25, required by nine jurisdictions, while an additional two place the amount at over \$25. Other local entities mandate disclosure for all contributions or for contributions of \$5 or more.

One reason for the popularity of the \$25 amount may be a Fair Political Practices Commission regulation which requires all state and local candidates to keep records of all contributors who give \$25 or more. Since candidates must keep records of such contributions, some local jurisdictions may view it as not burdensome to require them to list \$25 contributions on campaign statements.

Eight of the 19 jurisdictions which impose lower *contribution* disclosure thresholds also require *expenditures* of under \$100 to be reported.¹⁵ Newport Beach mandates disclosure of all vendor payments of any amount. Four of the eight cities set the expenditure threshold at \$25 or more. Most of the jurisdictions logically place the expenditure thresholds at the same level as their contribution thresholds.

b. Filing of Additional Disclosure Statements

The Political Reform Act requires candidates to file two campaign disclosure statements before, and one following, each election. The dates for filing these statements vary, depending on whether the election is held in June, November or at some other time. If the election is held on the June primary date, the statements are filed on March 22nd and 12 days before the election. If the election falls on the November general election date, the statements are filed on October 5th and 12 days before the election. For elections held on other dates, the pre-election reports are due 45 days and 12 days before the election. For runoff elections, statements are due 12 days before the runoff.¹⁶

Some cities and counties have adopted ordinances which impose an additional filing requirement just before the election. Since the state's requirement only discloses contributions received and expenditures made through the 17th day before the election, contributions received during the last two-and-a-half weeks before the election are not revealed until after the election. Some local governments believe that the public should know what contributions and expenditures are made immediately before the election. Of the 14 jurisdictions which require such an additional campaign statement, six of them set the Friday before the election as the due date. The other eight local entities set either the Wednesday or Thursday before the election as the filing deadline.¹⁷

c. Late Contributions

State law compels candidates to file late contribution reports for any contribution of \$1,000 or more received in the last two-and-a-half weeks before the election (after the last required pre-election statement is filed). These late contribution statements must be filed within 24 hours after the contribution is

received, either by overnight mail, telegram or personal delivery.¹⁸ Six cities tell candidates to file late contribution reports which differ from the state reports.¹⁹ The six cities lower the \$1,000 threshold to as little as \$10 in San Luis Obispo and to as much as \$500 in Concord.

d. Publication of Campaign Statement Information

Six cities publish a list of contributors to their candidates in a local newspaper. Roseville publishes these names weekly, but most of the six cities print the information on the Friday or Saturday before the election.²⁰

e. Mass Mailings Filed With Local Officials

Berkeley and Orange County are the only jurisdictions in California to require candidates to file with local filing officials copies of any literature mailed to voters. In Berkeley, only literature that is mailed to 200 or more voters must be filed with the local clerk, while in Orange County mailings of 500 or more pieces must be provided to the county clerk. At one time, the state Political Reform Act compelled state candidates to send any literature to the Fair Political Practices Commission, but this section was repealed in 1978 after little use was made of the boxes of literature stockpiled by the FPCC.

Proponents of this provision believe it has a beneficial impact on the content of campaign literature. While negative ads cannot be prevented, candidates may be less likely to print untruths if they know their materials must be filed with local election officials.

f. Mandatory Disclosure of Contributor Information

Two cities—San Diego and Carlsbad—require candidates to obtain all the necessary disclosure information (name, street address, occupation and employer or principal place of business if self-employed) on any contributor of \$100 or more before depositing the contribution's check in the committee's bank account. San Diego recently added this provision because local candidates had submitted campaign reports which failed to list occupations and employers for up to 50% of their listed contributors. The amendment has successfully compelled candidates to obtain all the necessary information by the time they file their campaign statements. An examination of San Diego campaign statements filed in 1986 indicates 100% compliance with the new disclosure provisions. In the most recent 1987 city council election, three candidates failed to comply with this section, but each candidate only failed to list one contributor properly. The city attorney's office received satisfactory explanations from each of the candidates and did not initiate enforcement actions.

4. Miscellaneous Provisions

With over 60 cities and counties in California adopting local ordinances, one would anticipate many provisions unique to a particular city or county. Most local jurisdictions, however, have adopted laws similar to those in one or more other jurisdictions. A few, on the other hand, have enacted unusual provisions which are worthy of mention.

a. Surplus Funds

Eight local jurisdictions require candidates to dispose of excess funds left over after the campaign has ended.²¹ The purpose of this provision is to prevent candidates from accumulating large unspent war chests during an election or carrying them over to the next election. The provision is designed to give challengers a better chance to compete against an incumbent, allowing both to start from comparable fundraising positions for upcoming elections.

Two cities—Los Angeles and Commerce—permit candidates to retain no more than \$5,000 in surplus funds from one election to another. But five cities and

Sacramento County require that *all* surplus funds be given to a charity or turned over to the city's coffers.

Restrictions on carryovers of surplus funds encourage candidates to spend everything in their treasury during the election. They also encourage candidates to begin fundraising immediately after the election to build up funds for the next election four years away.

b. Timing of Contributions

A few local jurisdictions restrict the times when contributions can be received by candidates. Two cities—Livermore and Walnut Creek—completely prohibit candidates from receiving contributions in the final five days before the election. The purpose of this provision is to discourage last-minute money from being pumped into a campaign.

Two other cities lower their contribution limits for last-minute money. Modesto limits contributions received in the last week before the election to no more than \$99, but it places no limits on contributions given at other times. The City of San Luis Obispo prevents contributors from giving more than \$10 to a candidate in the last seven days before the election, yet allows contributions of \$100 if given before the seven-day period. Modesto Mayor Carol Whiteside questions the effectiveness of this restriction. In her view, contributors can easily evade the Modesto law by waiting until the election is over to give contributions promised immediately before the election.²² On the other hand, contributors may be reluctant to give to losers after the election.

Some local entities limit the timing of contributions early in the campaign. Sacramento County severely restricts off year fundraising. In a year when a supervisorial candidate is not up for election, that person's campaign cannot receive more than \$250 per contributor and no more than a total of \$10,000 in all non-election year contributions. In contrast, candidates in an election year can receive contributions of \$500 per individual and \$1,000 per organization.

c. Enforcement of Local Laws

Most cities and counties impose criminal misdemeanor penalties on candidates and committees violating local campaign finance laws. In about two-thirds of the jurisdictions which impose criminal penalties, candidates violating the law are automatically stripped of office. In eight cities, infractions—similar to parking tickets—are substituted for misdemeanor penalties.²³

Eight local jurisdictions allow citizens to file civil actions for injunctive or monetary relief against candidates suspected of violating the law—Berkeley, Del Mar, Fremont, the City of Los Angeles, Poway, Rancho Mirage, Sacramento County and the City of San Luis Obispo. Three other local entities—San Francisco, San Jose and Santa Cruz County—allow only the local prosecutor to file civil actions. Most jurisdictions permit only criminal proceeding in cases of violation.

The City of Los Angeles recently amended its charter to permit citizen-filed civil actions. As originally enacted in 1985, the charter allowed citizens to seek only injunctive relief. But after Councilmember Richard Alatorre was penalized over \$150,000 in a civil action brought by the city attorney under provisions of the state Political Reform Act, the law was changed to allow citizen suits for civil monetary damages.

Two cities, Gardena and Carlsbad, provide that all the enforcement provisions of the Political Reform Act should apply. The Political Reform Act contains an extensive range of penalties: misdemeanors for certain violations, fines for failure to

file on time and civil actions brought by prosecuting authorities and by private citizens.²⁴

Thirteen cities and counties do not mention enforcement in their ordinances.²⁵ Most local jurisdictions, however, have a general provision which states that any violation of a local ordinance is a misdemeanor.

d. Extensions of Credit

Unpaid bills, if not regulated closely, can be a disguised campaign loan by a vendor. Many presidential candidates end their campaigns with huge vendor debts, some of them legitimate and some of them owed to friends who would not be adverse to forgiving the debt. A few local jurisdictions regulate credit given by vendors. In the City of San Diego, for example, vendors are prohibited from extending credit beyond 30 days. An accrued expense—a cost which is not paid immediately but which is billed, such as telephone service—must be paid within 30 days of receipt. According to Ted Bromfield of the San Diego City Attorney's office, this provision has been the most difficult one in the San Diego ordinance to administer and enforce. He reports that candidates have been able to evade its prohibitions as to some types of expenditures. Many candidates arrange to have their campaign consultants pay for television time and then owe their consultants who do not bill them until after the campaign is over. In a few instances, consultants are never paid. Even when the consultants are reimbursed, their candidates have received a tremendous benefit since they have not had to pay large sums of money until after the election.²⁶

e. Publication of Candidate Statements in Ballot Pamphlets

State law requires cities and counties to send voter information pamphlets along with a sample ballot to all registered voters. Candidates for nonpartisan offices are permitted to insert statements of qualifications in these voter pamphlets, provided they pay for the costs of printing and mailing the information. A few cities, however, print and mail the candidate statements free of charge to the candidates. Santa Monica and Berkeley, for example, print and mail free candidate statements of qualifications to registered voters prior to the election. Roseville not only mails a statement of qualifications to voters but also allows the candidates to include a photograph in the voter pamphlet.

f. Efforts to Deter Unfair Campaign Practices

Orange County has established a local commission charged with the responsibility of reviewing misleading literature. If a campaign piece is found to be misleading, the commission will publish a finding to that effect—its only remedy. Because this body has apparently become politicized, however, its findings are somewhat ineffective.

Four jurisdictions—Contra Costa County, Pasadena, the City of Sacramento and San Ramon—ask candidates to sign a Fair Campaign Practices Pledge. But these pledge provisions are weak and practically meaningless. The only provision in these codes with any teeth requires candidates to agree not to compile mailing lists from the names of contributors disclosed by other campaign statements filed with the city. Federal law prohibits federal candidates from soliciting contributors listed on other federal campaign statements,²⁷ but state law is silent on such practice. Contra Costa County and San Ramon have adopted the language of the federal law.

B. Contribution Limitation Ordinances Have Failed to Achieve Their Objectives in Many Jurisdictions

Campaign finance laws are enacted to achieve many differing goals: to reduce the costs of campaigning, to ameliorate the influence of large contributors on local

decisionmaking and to diminish the fundraising advantage of incumbents. But contribution limitation ordinances have failed to achieve these objectives in many jurisdictions.

1. Impact on Spending

Seventeen cities and counties state that their local ordinances are designed to reduce campaign spending, even though their ordinances merely limit the amounts of contributions. Contra Costa County states, for example, "The intent and purpose of this chapter is . . . to decrease the cost of campaigns."

But cities and counties which have adopted contribution limitations have not seen a dramatic drop in campaign expenditures. In fact, several local jurisdictions have experienced huge increases in local campaign spending. The most recent example occurred in late 1987 when San Francisco concluded a highly competitive race for mayor. San Francisco's charter limits the office of mayor to no more than two terms. Because Mayor Dianne Feinstein had served two terms and could not succeed herself, the race was wide open. Several serious candidates competed for the office.

Anticipating a highly competitive mayor's race, then-Supervisor Quentin Kopp placed a measure on the 1986 ballot which cut in half (from \$1,000 to \$500) the contribution limit for all San Francisco candidates. Kopp's rationale for lowering the limit was to prevent the mayor's race from being as expensive as past contests. Despite passage of the amendment, the contest for mayor cost far more than any other race in San Francisco's history. Three of the candidates spent more than \$1 million each while no candidate had ever spent a million dollars in a previous campaign.

The City of Sacramento also experienced huge increases in campaign spending immediately following passage of its 1983 contribution limits ordinance. Between 1983 and 1985, city council campaign spending doubled. According to Lance Olsen, whose Sacramento law firm advises clients on compliance with the local law, "Contribution limits have not held down spending." He noted that the first effect of the new limits was to establish a *minimum* threshold for giving, so that fundraising *actually increased*. "The maximum amount became the minimum contribution. The contribution limit established what people would give or were expected to give. People who before might have given \$100 were now expected to give to the limit."²⁸

Sacramento has been polarized by a controversy over "controlled" growth versus "slow" or "no" growth. The mayor's races in 1983 and 1987 dramatized the fight between these two forces. Mayor Anne Rudin twice has run against controlled growth candidates. She has won narrowly each time, but campaign costs for the contests have increased dramatically, despite the restrictions of a contribution limitations ordinance.

In the City of Los Angeles, a special election was held a few months after the 1985 adoption of a contribution limits ordinance designed to reduce campaign spending. Then-Assemblymember Richard Alatorre blitzed his seven opponents with massive spending. His opponents were quoted as saying that Alatorre could have raised as much as he wanted, despite the new \$500 contribution limit in effect. Some of his opponents concluded that the only effective way to control spending in a Los Angeles City Council race was to impose spending caps on all candidates.

2. Impact on Governmental Decisionmaking

Twenty-eight local jurisdictions state that their laws are designed to reduce the appearance of influence buying by large contributors. Belmont announces in its Purposes and Intent section, "It is the intent of the City Council . . . to place realistic

and enforceable [contribution] limits . . . for the purpose of preventing potential improper or undue influence over elected officials by campaign contributions” Many local ordinances typically begin their law with language taken from San Diego’s Purpose and Intent Section in its 1973 ordinance: “Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributions over elected officials.”

Determining whether this goal has been achieved in any city or county is difficult. Without outright bribery convictions or confessions by insiders that contributions have influenced votes, any conclusion linking contributions to “influence” is inevitably subjective. Nonetheless, direct reports to the Commission from persons in many California jurisdictions strongly suggest that contributions are frequently intended to influence votes, and that a massing of even smaller contributions often has this effect.

The City of San Diego, for example, has the strictest contribution limit in the nation—allowing only \$250 from individuals, and banning corporate, union and PAC contributions altogether. San Diegans nevertheless complain that their law has failed to improve the governmental process. In her successful 1986 mayoral campaign, Maureen O’Connor attacked the city council for being dominated by developers who contributed massive amounts to council incumbents. She pledged to support significant changes in the city’s law and asked the council to consider a disqualification ordinance, similar to Orange County’s. (See Chapter 12, “Orange County”.) No action has yet been taken.

In many cities which have adopted contribution limits, the appearance of special interest influence—particularly by developers—continues to persist. In San Francisco, the City of Los Angeles and the City of Sacramento, candidates have repeatedly charged their opponents with undue deference to special interest contributors. San Francisco Supervisor Richard Hongisto told one local newspaper that the degree of developer influence amounted to “legalized corruption.”²⁹ Quentin Kopp, a former San Francisco supervisor who has sponsored several successful contribution limitation ordinances and amendments, stated that the system suffers from “undue influence peddling.”³⁰ In the City of Sacramento, which adopted its campaign ordinance in 1983 in an attempt to reduce special interest influence, the verdict is the same. Reflecting experience with that ordinance, Councilmember Lynn Robie told the Commission, “Developer influence is still a major problem here.”³¹ *Suttertown News* publisher Tim Holt stated, “The number one problem is too much developer money in local elections.”³²

Despite these heated charges, no city or county has significantly amended its local ordinance to address the influence problem. The most positive comments on laws designed to insulate governmental decisionmaking from undue influence come from Orange County, which does not limit contributions at all. Instead, Orange County disqualifies supervisors from voting if they receive contributions over a specified amount. (See discussion in Section C, below.)

3. Impact on Incumbent Reelection Rates

Many political experts believe that contribution limitations *by themselves* benefit incumbents and harm challengers. They believe that incumbents, with better name recognition and the political leverage of office, can attract a larger number of contributions under a fixed limit than can challengers who may only be able to raise essential funds by soliciting fewer but larger contributions. Zev Yaroslavsky, veteran Los Angeles city councilmember, told the Commission shortly after Los Angeles adopted its \$500 contribution limit that the low limit would prevent any Los Angeles city council incumbent from ever being defeated.³³ Because there are so few elections where incumbents face serious opponents, it is impossible to determine whether

Yaroslavsky's views are correct. Nevertheless, it seems highly likely that contribution limits *by themselves* in most instances tend to benefit incumbents. An overriding local issue can occasionally overcome this built-in advantage.

Interestingly, supervisorial incumbents in county elections are reelected at a higher rate than incumbents in city elections, whether or not contribution limits are in place. This would suggest that the level of competition between candidates—which is far more intense in cities because voters seem more interested in city council than county elections—is clearly influenced by factors in addition to campaign financing. Jim Streng, running for supervisor in Sacramento County, told the Commission that he had to educate the voters about activities of the board of supervisors as he walked door to door seeking their votes.³⁴ Many citizens are familiar with their city councils but do not know what their boards of supervisors do. In addition, although city residents vote for members of the board, they feel less affected by the actions of the supervisors since much of the governing role of the supervisors is superseded inside city limits by city council.

4. Loopholes in Local Laws

Loopholes exist in any area of jurisprudence and the field of campaign finance reform is no exception. Indeed, the Supreme Court decision in *Buckley v. Valeo*³⁵ helped generate many of these problems.

a. Personal Wealth

Under *Buckley v. Valeo*, candidates may not be restricted in how much they can contribute to their own campaigns unless they voluntarily agree to do so—typically in exchange for public matching funds.³⁶ In most local jurisdictions studied, however, wealthy candidates were not a major factor. To date, candidate money has accounted for only about 5% of all funds given to campaigns. But in a few locales, the money of wealthy candidates has played a significant role. The City of San Diego offers the best example.

Because the City of San Diego has extremely low contribution limits, its mayoral and city council candidates have lent their campaigns hundreds of thousands of dollars of their own money to fund their campaigns' expenses. Maureen O'Connor, running against incumbent Roger Hedgecock, contributed \$565,000 of family money to her election. In response, Hedgecock raised large sums in illegal contributions and was found guilty of violating the ordinance in 1986. In the most recent city council election, Bob Filner and Mike Aguirre, running for an open seat, each spent over \$200,000 of his own money. (The winner, Filner, spent \$224,000, while loser Aguirre put up \$212,000). In 1985, city council challenger Abbe Wolfsheimer spent \$240,000 of her own money to oust incumbent Bill Mitchell. She defends the practice of wealthy candidates spending their own money on their campaigns, saying that such candidates are beholden to no one.³⁷

Only the City of Los Angeles ordinance addresses the problem of wealthy candidates running for local office. Los Angeles has designed a creative but not constitutionally tested system which requires wealthy candidates to notify their opponents once the wealthy candidate contributes more than \$50,000 of his or her own money. When the candidate puts more than \$50,000 into a race, all the wealthy candidate's opponents are free to accept contributions without limits—up to the amount given by the wealthy candidate in excess of \$50,000.

b. Independent Expenditures

The *Buckley* decision also allows independent committees to spend as much money as they like either for or against candidates. It theorizes that such expenditures cannot "corrupt" candidates in the same way as contributions.³⁸ But

such expenditures cannot be made, or controlled in any way, by candidates; otherwise, the expenditures would no longer be deemed "independent."

To date, in most local jurisdictions, independent expenditures have not been significant. However, in the 1987 City of Los Angeles race between challenger Ruth Galanter and longtime incumbent Pat Russell, Campaign California and the League of Conservation Voters teamed up to spend thousands of dollars to support Galanter. Campaign California repeated its success in a Sacramento City Council race, supporting challenger Kim Mueller who defeated incumbent Bill Smallman.

In San Francisco, candidates have received thousands of dollars in assistance from independent slate mailers which endorse several candidates on cards sent to all voters. In 1986, Supervisor Nancy Walker paid for 500,000 pieces of mail, but she appeared on at least two million mailers sent citywide. Various neighborhood and union organizations distributed the additional slate cards to their members and other voters. Slate mailers are frequently funded by, and in no sense independent of, local candidates.

In West Covina, BKK Corporation spent hundreds of thousands of dollars to influence voters in 1982 and 1984 city council races. Ironically, these independent expenditures led to passage of a contribution limitations ordinance which went into effect immediately after BKK closed its toxic waste dump.

c. "Friends" Committees

"If you're interested in the influence of contributors, don't overlook 'Friends' committees. That is where the real influence lies. Businessmen give generously," says former San Francisco Supervisor Lee Dolson.³⁹

In San Francisco and the City of Los Angeles, incumbent officeholders have established separate committees which solicit and receive contributions in amounts over the local limitations. In San Francisco, these committees are called "Friends" committees. The asserted justification for this clear circumvention of local law is that the moneys received are not used to further the recipients' candidacies. These "Friends" committees are most active in non-election years when they hold fundraising events. Although expenditures are ostensibly non-campaign related, in reality they are used for expenses which indirectly benefit the campaigns of the officeholder and enhance the officeholder's image with voters. For example, one incumbent, Supervisor Quentin Kopp, now a state Senator, used the funds from his "Friends" committee to conduct public opinion polls of voters.

The Attorney General has ruled that funds collected by "Friends" committees in San Francisco are campaign contributions and thus subject to the local ordinance. Incumbents *and enforcement authorities* have to date ignored his ruling. Dan Kalb of Common Cause says, "'Friends Committees' provide a blatant loophole to the local ordinance. The intent of the law was that no one entity should have more than a certain amount of influence through contributions."⁴⁰

In the City of Los Angeles, incumbent city councilmembers have established PACs which raise funds from contributors in amounts above the local \$500 limit. Thus far, the city attorney's office has advised councilmembers that these PACs are legal. City Attorney James Hahn has even formed his own PAC to repay past debts. City councilmembers have spent their PAC money on many of the same expenditures that their campaign committees had made before the new limitations law. Expenditures include payments to council staff members and contributions to charitable organizations in their districts.

No other cities or counties with contribution limits report the formation of officeholder committees which are allowed to receive funds in amounts over the local contribution limits.

C. Orange County's "TinCup" Disqualification Ordinance Appears to Have Achieved Its Goal

In 1978, the Orange County Board of Supervisors approved an ordinance that restricted county supervisors from voting on matters affecting major contributors. This ordinance, known as TinCup (Time Is Now, Clean Up Politics), the name given it by the citizens groups which pressed for its passage, has been copied by at least two other local jurisdictions—Santa Barbara County and Modesto. Most Orange County supervisors, contributors and reformers feel that their law has met its objectives, particularly in improving the public's perception of Orange County government. County government appears "cleaner" because excessive contributions by persons appearing before the board of supervisors disqualify the supervisor on any issue affecting the contributor. Nonetheless, pro-development decisions by the board have continued with roughly the same effect as before.

Many credit the success of Orange County's law to a single person—Shirley Grindle—who acting as a volunteer closely monitors the contributions of each supervisory candidate and reports apparent violations to the district attorney's office. Orange County District Attorney Cecil Hicks has also been the most conscientious prosecutor in the state, bringing enforcement actions against a number of persons violating election laws.

Orange County is the scene of intense competition between two newspapers, the *Orange County Register* and the *Los Angeles Times*, both vying to establish themselves as the local newspaper of choice. Even a hint of a TinCup violation merits front-page attention in at least one of the two papers. A major contributor has observed, "There is a smell test in effect for most campaign-related actions. A questionable campaign tactic or practice must undergo and pass the smell test of public opinion."⁴¹ Deputy County Counsel Terry Andrus remarks, "The fact that a supervisor can't vote takes peoples' breath away. The main reason that people give contributions is because they have an economic interest before the board of supervisors."⁴²

Although TinCup has had a major impact on the public perception that governmental decisions are not affected by substantial campaign money, the ordinance has not increased competition in supervisory races. Grindle argues that the TinCup ordinance was not designed to increase competition. It is possible, however, that TinCup has actually *hurt competition*. Since its passage, only two supervisors have been defeated. In one case, the supervisor was a very unpopular appointee of Governor Jerry Brown. The other defeated supervisor was under investigation by the Orange County District Attorney's office.

Orange County supervisors raise a larger percentage of their money in non-election years—70%—than any other jurisdiction studied. The huge war chests accumulated by the incumbent supervisors clearly discourage serious challengers from attempting to oppose incumbents.

Although Modesto and Santa Barbara County have adopted laws similar to Orange County's, immediately following adoption of Santa Barbara's disqualification ordinance, a local developer filed a lawsuit in federal court challenging the constitutionality of the ordinance. He claimed that it violated the First Amendment and the equal protection clause of the Fourteenth Amendment. The U.S. District ruled in his favor and declared the law unconstitutional.⁴³ Another court considering the constitutionality of a disqualification ordinance, however, upheld its validity.⁴⁴ Shirley Grindle cautions that other jurisdictions might not always duplicate Orange County's experience. She believes volunteer citizen watchdogs independent of the governmental process are necessary to catch

violators, and that a serious and able local prosecution authority is required to keep candidates on notice that the ordinance will be vigorously enforced.

D. Lack of Enforcement Has Plagued Many Jurisdictions

Enforcing campaign laws has not been a priority at any level of government, except when there is an independent agency created to monitor compliance. Criminal prosecutors are usually more interested in the prosecution of violent criminals than so-called “white collar” offenders. City attorneys and county counsels authorized to file civil actions often fail to carry out their enforcement responsibilities for a variety of reasons.

Many local officials and others familiar with city and county politics stress that city and district attorneys feel themselves in an extremely awkward position when considering enforcement actions against city councilmembers or county supervisors for violating local campaign finance ordinances. Even elected city attorneys are reluctant to file such actions. City councils and boards of supervisors have ultimate authority over the budgets of city and district attorneys’ offices, and they have other ways to make local prosecutors pause before investigating potential violations by their members. In the early 1980s, the Orange County Board of Supervisors threatened to slash the budget of District Attorney Cecil Hicks because of his aggressive enforcement efforts involving local politicians. Elected city attorneys and all district attorneys are also politicians subject to many of the same restrictions as councilmembers or supervisors. They all belong to the same elected fraternity, and whether they be allies or opponents on other issues, they feel a certain sympathy toward potential violators of local ordinances.

The federal government has established the Federal Election Commission which is charged with bringing civil lawsuits against persons who have violated the Federal Election Campaign Act. At the state level, the independent Fair Political Practices Commission (FPPC) is given the power to bring civil or administrative actions against persons violating the disclosure provisions of the Political Reform Act. Until recently, the FPPC has focused on violations involving state affairs. But each year since 1984, the legislature has appropriated about \$1 million for the FPPC to maintain a local enforcement unit. This unit has conducted several investigations of local officials accused of violating the state Political Reform Act provisions, particularly involving conflicts of interest.

The California Commission on Campaign Financing has surveyed all city attorneys and county counsels to determine whether they had brought local enforcement actions against persons violating campaign reform laws. The response was as expected—few cities or counties bring enforcement actions. Only the City of San Diego, the City of Los Angeles and Orange County have prosecuted local officials for violations of campaign finance ordinances. These few actions involved extremely serious violations.

In the City of San Diego, Roger Hedgecock was convicted of perjury in failing accurately to report many thousands of dollars in gifts and campaign contributions from the firm of J. David Dominelli. Hedgecock was also sued civilly by the Fair Political Practices Commission for the same violations. In the City of Los Angeles, the city attorney settled a civil suit against Councilmember Richard Alatorre, who admitted laundering thousands of dollars of contributions from his state campaign committee to his local committee in violation of city contribution limit laws.

It is a rare public official who has the courage to prosecute other public officials. Two such persons are Cecil Hicks, district attorney of Orange County, and Edwin Miller, district attorney of San Diego County. Both have been district attorneys for a long time and both have reputations as tough and able prosecutors of

white collar crimes and other violations of law in their counties. Cecil Hicks' reputation was earned prosecuting criminal violations against public officials at all levels. His office was heavily involved in the investigation of the W. Patrick Moriarty fireworks scandals.

In the 15-year history of San Francisco's ordinance, no serious violation ever has been prosecuted, either civilly or criminally. Only one case has been filed—indicting a candidate, who spent just \$582, for failing to file campaign statements. After the jury acquitted the candidate, the judge warned the district attorney's office not to file any more trivial actions. Jay Patterson, then-San Francisco Registrar of Voters, told the district attorney's office, "You guys never prosecute, so why should I try to enforce the law?"⁴⁵

While a few cities permit citizens to file civil lawsuits against persons who have violated local campaign ordinances, no citizen anywhere in California has successfully done so. Citizens find it difficult to investigate and litigate these cases. The threat of such citizen lawsuits, however, may be (and sometimes have been) enough to encourage a local prosecutor to file the case or settle the matter with the politician who allegedly broke the law. Los Angeles City Attorney James Hahn, for example, filed a civil law suit against Councilmember Richard Alatorre only after Common Cause threatened to sue Alatorre if the city attorney took no action. The civil lawsuit was settled with a \$150,000 payment by Alatorre.

E. A Few Local Jurisdictions—Two With Dramatic Success—Have Adopted Expenditure Ceilings Linked to Limited Public Matching Funds

Four cities and counties in the United States have enacted comprehensive systems of expenditure ceilings, contribution limits and public matching funds. *Buckley v. Valeo*, decided by the U.S. Supreme Court, prohibits the imposition of expenditure ceilings on candidates.⁴⁶ However, the candidate may agree to the cap in exchange for a benefit such as public matching funds. Sacramento County was the first jurisdiction in California and the first county government in the United States to adopt such a comprehensive system. Sacramento County voters approved a charter amendment by a substantial majority in 1986, directing the board of supervisors to enact such an ordinance. Three cities—Seattle, Washington; Tucson, Arizona; and New York City—have also approved comprehensive measures. Seattle has held three elections and Tucson one election under their new systems, with a number of candidates receiving public matching funds. In February 1988, New York City became the largest local jurisdiction to adopt expenditure ceilings with matching funds. Although these three cities lie outside of California, the uniqueness of their approach makes them worthy of study.

1. Seattle

In 1978, Seattle adopted the first comprehensive local campaign finance reform law in the country. Based on the federal presidential system, the law limited expenditures by candidates accepting public matching funds, and imposed contribution limits on all candidates. The ordinance contained the following objectives:

- To encourage the widest participation by the public in the electoral process;
- To encourage small contributions by individuals; and
- To free the electoral process from the undue influence of individuals and groups making large contributions.⁴⁷

Seattle's ordinance governed city elections in 1979 and 1981. The city council then allowed it to lapse (under a "sunset" clause) but reenacted it in 1984. The city conducted a study of the two elections which had been held under the law and the three elections subsequently held without the law. The study concluded that the ordinance successfully increased the number of small contributions and limited overall spending.

In 1979, the first year in which Seattle's law was in effect, all candidates agreed to abide by the expenditure ceilings. Some candidates—including three incumbents up for reelection—declined to accept public matching funds. Some of those who accepted matching funds announced they were opposed to the law. One said he philosophically opposed public funding but took it because his opponents were receiving matching funds.⁴⁸ About \$150,000 in public funds was distributed to all the candidates in the election. One supporter said, "It broadens the pool of people who run for local office. And I think that's worth the expense."⁴⁹

In the subsequent 1981 election, fewer candidates accepted public funds, primarily because a court challenge to the law was pending during the campaign and because a question had arisen whether the city council would in fact supply the funds. Late in the campaign, the city council voted to block distribution of funds to candidates, but the mayor vetoed the action. Finally, the city council freed the money and the court rejected the challenge, holding that public financing was a permissible use of public funds.

The law was allowed to sunset by a vote of the city council in 1982, despite strong support from some of the candidates who had accepted public funds. In 1984 the council voted to reinstate the law for the 1987 election. The council acted after the Seattle Office of Election Administration issued an extensive study comparing the 1979 and 1981 elections, held when the law was in effect, with the 1975, 1977 and 1983 elections held when the law did not apply.⁵⁰ For elections held under the comprehensive law in effect in 1979 and 1981, the study found:

- The number of contributions to candidates in closely contested city council campaigns increased;
- The size of the average contribution to these candidates decreased;
- The number of individual campaign contributors increased; and
- The numerical and financial participation of individuals and groups making large contributions decreased.

The study found that candidates were motivated to seek small contributions because public funds were only to available match contributions of \$50 or less. After the law was repealed, a different pattern emerged. Although contribution limits were still in effect during the 1983 election, the number of contributions to candidates decreased, the average size of contributions increased and the number of large contributions rose. The study concluded that the combination of expenditure ceilings and limited public matching funds had significantly improved campaign financing practices.

For the 1979 and 1981 elections, public funds came from the city's general fund. The 1984 ordinance established a check-off system in which residential utility customers could divert \$4 of their bills to the Campaign Finance Reform Fund. For the years this check-off has been in effect, about 19% of utility customers have used the check-off. Although this rate is somewhat lower than federal participation (which averages 22%), the check-offs generated enough money to meet candidates' requests for the 1987 election.

2. Tucson

Tucson has conducted its 1987 election under a comprehensive plan of expenditure ceilings, contribution limits and limited matching funds. According to all persons interviewed, the law was a surprising success. Nearly all candidates abided by the spending limits, and the one who refused was defeated in the primary. Most of the major candidates accepted matching funds, although two winners rejected public money. The biggest impact of the new law centered on the types of expenditures made. Because spending levels were so low, candidates spent less on media and paid more attention to grassroots activities.

Tucson adopted its campaign reform proposal in 1985 by a 53% to 47% vote of the people. The city modeled its law on Seattle's ordinance. Reform advocates focused their arguments on the runaway escalation of campaign costs. They noted that between 1979 and 1983, average expenditures by mayoral candidates had increased over 300%—from \$34,000 to \$113,000. City council candidates had increased their spending over 100%—from \$12,000 to \$25,000.

Common Cause, a prime supporter of the ballot measure, released a 13-page study in 1985 of the cost of running for office in Tucson for the years 1975 to 1983. The study found that the former campaign finance system favored incumbents and concluded that the proposed changes would tend to make races more competitive. The study estimated that the public financing portion of the ordinance would cost taxpayers approximately \$81,000 for all candidates per election. (In fact, in the first election under the new ordinance, the \$77,000 in public expenditures were less than that estimate.) The Tucson Chamber of Commerce opposed the ballot measure, arguing against the public financing provision.

Tucson's expenditure ceilings are based on the number of registered voters: for city council, the expenditure limits are about \$42,000, based on 20¢ for each registered voter; for mayoral candidates, the expenditure limits are set at about \$84,000, or 40¢ per registered voter. A simple total limit applies to both the primary and the general elections which are about seven weeks apart. Candidates can only spend up to three-quarters of the limit in the primary election.

The ordinance also imposes contribution limits, but a statewide measure (Proposition 200) adopted in 1986 by Arizona's voters, superseded them. Proposition 200 limits individual contributions to \$200 per candidate while political committees can give no more than \$1,000 per candidate. Any candidate spending over \$10,000 of personal money has to notify opponents, who are then free to accept additional contributions above the limit.

Limited public matching funds are available to candidates who accept the expenditure ceilings and raise a threshold amount in contributions from Tucson residents. Mayoral candidates must raise contributions of between \$10 and \$200 from 300 residents; city councilmembers must collect funds in similar contributions from 200 Tucson residents. Contributions from individuals are matched on a one to one basis by city funds.

According to several Tucson political observers, the ordinance worked extremely well in 1987, its first election test. Nearly all candidates complied with the expenditure ceilings and several accepted public matching funds. The two major candidates who did not accept public money now say in retrospect that they should have taken the funds. One did not accept public funding because he was worried that there would be a backlash against candidates receiving taxpayers' money. The other declined funds because voluntary contributions to the fund had been less than expected and he did not want to burden the city's general fund. The city mailed

155,000 brochures with its water bill asking for voluntary contributions but received few responses.

A chief benefit of Tucson's experience involved the new ways in which candidates were forced to spend their funds. Because the expenditure ceilings were "unrealistically low" in the words of one major candidate, campaigns concentrated on grassroots activities with volunteers to deliver their messages.⁵¹ Very little money was spent on television advertising. Radio was the favorite form of mass media buying because of its relatively low cost. One campaign manager noted, "The law forced us to do a lot of grassroots activities. We had to be creative and get mileage out of each dollar spent."⁵²

Tucson experienced a high degree of competition in this election, since the incumbent mayor and two of the three council incumbents who would have been up for reelection did not run. The one incumbent who ran for reelection was defeated in the primary election. Thirteen candidates sought election to the city council while five persons ran for the open mayoral seat. Eight candidates signed contracts agreeing to limit expenditures and seven accepted public matching funds totalling nearly \$77,000. Four candidates who wanted to accept matching funds could not raise the threshold amount needed to qualify.

The Tucson deputy city clerk has predicted that in future elections more candidates would participate in the program since this election went so smoothly. The candidates who won but turned down matching funds agreed that the stigma of accepting such funds has been removed. They would freely accept such funds in upcoming elections.

3. Sacramento County

Sacramento County's new law was based significantly on the Commission's Model Law for legislative campaigns published in *The New Gold Rush*.⁵³ Many of its provisions follow the Commission's text exactly. Like Tucson, public vote of the people approved the comprehensive campaign finance proposal. In November 1986, despite opposition from one local newspaper and the local Chamber of Commerce, voters approved a campaign finance charter amendment by a 60% to 40% margin. A month later, Sacramento County Supervisors unanimously approved a comprehensive law to take effect for the first time in the 1988 election.

Campaign finance proposals had been debated in Sacramento County for years. As early as 1975, Supervisor Ted Sheedy advocated a study group to review possible proposals. In 1983, the supervisors established a citizens advisory commission on campaign finance reform, chaired by former state Senator Albert Rodda, a highly regarded member of the legislature for over 20 years. The County Commission met for over a year and held several public hearings. Its final report noted that "contributions from developers and speculators have escalated to the point where many citizens cannot help but question whether supervisors' votes are influenced by such massive amounts of financial aid." The County Commission added, "The Commission feels that the appearance of impropriety is as devastating to the democratic process as is actual wrongdoing."⁵⁴

The County Commission's final report did not, however, endorse a public financing element in local campaigns. Some members opposed the concept while some of those supporting it felt the public would not approve. As an alternative to public financing, the County Commission recommended that the board of supervisors adopt an Orange County-style disqualification ordinance. Such an ordinance would disqualify supervisors from voting on any matter affecting a person or company contributing more than \$1,000 to the supervisor over the past four years. The supervisors debated this proposal in early 1986 but rejected it by a 3-to-2 vote.

Instead of adopting the County Commission's recommendations, the board of supervisors placed an advisory measure on the ballot. If passed, it would authorize the board to adopt a charter amendment containing a comprehensive campaign reform plan, including expenditure ceilings, contribution limits and limited public matching funds. Some questioned the sincerity of the board's plan to place the advisory measure on the November 1986 ballot. A *Sacramento Bee* editorial stated, "It's highly unlikely that the voters will support public funding even for the best of reasons. . . . If the board ends up tying an ill-fated public financing proposal, like a millstone, around the other reforms, it can strengthen suspicion that its real objective is not to achieve campaign reform but to kill it."⁵⁵ Supervisor Sheedy responded by citing a county counsel opinion, indicating that a public financing proposal might be subject to challenge without voter approval.

The campaign for and against "Measure A" was low-key. Common Cause sponsored one forum in October, but no opponents attended. The *Sacramento Bee* endorsed the proposal and ran a story about developer contributions influencing board decisions. The *Sacramento Union*, the conservative voice of the community, ran editorials urging a negative vote. The Sacramento Chamber of Commerce, while voting to oppose the proposal, did not spend any money against it. Common Cause spent less than \$100 to promote the law.

After the voters adopted the advisory measure, the supervisors spent several long sessions debating the specific provisions. Supervisor Sheedy, author of the draft ordinance, tried to obtain a unanimous vote from the board and was thus willing to consider amendments to a draft circulated prior to the vote in November. Some supervisors wanted to continue spending campaign funds on such items as travel, tickets to charitable events and other non-election related expenses. An amendment allowed incumbent board members to raise up to \$10,000 a year in non-election years, although Sheedy's original proposal had prohibited all off year fundraising. Before Sheedy left office, the board approved the far-reaching ordinance without a dissenting vote. In early 1987, the board fine-tuned the ordinance with some minor amendments suggested by Common Cause, the Registrar of Voters and the county Counsel's office.⁵⁶ Although the law was in effect for the 1988 election, no candidates qualified for the matching funds. Only two supervisorial seats were up for election; one supervisor was unopposed and the other had minimal opposition.

4. New York City

New York City recently passed a comprehensive campaign finance ordinance which will go into effect in the 1989 elections. The ordinance was first passed by the city council in 1988 following recommendations by Mayor Ed Koch. Because state law may supersede a campaign finance ordinance passed by a city council, the measure was placed on the 1988 ballot where over 60% of the voters approved it.

New York City's ordinance limits expenditures in election years and non-election years, limits contributions and provides matching funds for candidates who voluntarily agree to limit their expenditures and contributions. It also establishes a Campaign Finance Board with enforcement, administrative and regulatory responsibilities.

5. Voluntary Expenditure Ceilings

A few jurisdictions now encourage candidates to abide by voluntary expenditure ceilings. Nearly all the candidates running for the Beverly Hills School Board in 1987 pledged to limit their campaign expenditures to no more than \$40,000, an amount suggested by the League of Women Voters. Candidates for school board in Palo Alto have also agreed voluntarily to limit their expenditures.

Santa Barbara County has gone a step further. It has incorporated voluntary expenditure ceilings into its new ordinance. Candidates must indicate to the county clerk whether or not they will agree to an expenditure cap of \$50,000 in the primary election and \$100,000 in the primary and general elections combined. Candidates exceeding the spending ceilings must immediately notify their opponents and the county clerk. Receipt of this notification frees other candidates of their agreement to stay within limits. If a candidate fails to file these statements, the candidate is subject to criminal, civil and injunctive penalties.

NOTES

1. Cal. Gov't Code §§81000 *et seq.* (West 1987).
2. In San Diego, city council candidates run by district in the primaries but citywide in runoff elections. In San Francisco, all supervisorial candidates now run at-large rather than by districts. In 1987, San Francisco voters defeated a proposal to return to district elections for supervisors.
3. 2 U.S.C.A. §441a(a)(4) (West 1987).
4. California Commission on Campaign Financing, *The New Gold Rush: Financing California's Legislative Campaigns*, Appendix A: Model Law (1985).
5. These provisions violate the contribution limits in Proposition 73.
6. *Buckley v. Valeo*, 424 U.S. 1, 53 (1976).
7. Interview with Michael Karger, City Attorney, City of Gardena, Feb. 25, 1987.
8. Cal. Gov't Code §84304 (West Supp. 1989).
9. Cal. Gov't Code §84211 (West 1987).
10. Cal. Gov't Code §81013 (West 1987).
11. The local jurisdictions which have passed laws adopting disclosed thresholds below that of the state law are: Adelanto, Belmont, Berkeley, Carlsbad, Concord, Contra Costa County, Coronado, Culver City, Davis, Encinitas, Fresno County, Livermore, Moreno Valley, Newport Beach, Palo Alto, Poway, Rancho Mirage, San Luis Obispo and Walnut Creek.
12. The jurisdictions which do not also have limits on contributions are Carlsbad, Culver City, Fresno County and Palo Alto.
13. Before adoption of the Political Reform Act, state law required candidates to list the names of every contributor but only to list contribution amounts if over \$500. Some candidates listed so many contributors across the page that the campaign statements were practically black.
14. The thirteen local jurisdictions mandating disclosure in amounts under \$50 are: Adelanto, Carlsbad, Contra Costa County, Coronado, Davis, Fresno County, Livermore, Moreno Valley, Newport Beach, Poway, Rancho Mirage, the City of San Luis Obispo and Walnut Creek.
15. Berkeley, Concord, Coronado, Livermore, Newport Beach, Poway, Rancho Mirage and Walnut Creek.
16. Cal. Gov't Code §§84200, 84200.5, 84200.7 & 84200.8 (West 1987).
17. Campaign statements are due the Wednesday before the election in Carlsbad, Roseville, and San Luis Obispo; the Thursday before the election in Livermore, Modesto, Rancho Mirage, San Jose and Walnut Creek; and the Friday before the election in Contra Costa County, Davis, Encinitas, Irvine, Poway and Santa Cruz County.
18. Cal. Gov't Code §§82036 & 84203 (West 1987).
19. Berkeley, Concord, Huntington Beach, Newport Beach, San Jose and the City of San Luis Obispo.
20. Berkeley, Palo Alto, Roseville, San Jose, San Luis Obispo and Sunnyvale.
21. Commerce, the City of Los Angeles, Moreno Valley, Poway, Rancho Mirage, Sacramento County, San Francisco and San Luis Obispo.
22. Interview with Carol Whiteside, Mayor, City of Modesto, Jan. 29, 1988.

23. Adelanto, Concord, El Cerrito, Fresno County, Gilroy, Grand Terrace, Livermore and Rialto.
24. Cal. Gov't Code §§91000 *et seq.* (West 1987).
25. Coronado, Culver City, Fountain Valley, Fremont, Hermosa Beach, Irvine, Palo Alto, Roseville, San Mateo County, Santa Cruz County, Santa Monica, South San Francisco and West Covina.
26. Interview with Ted Bromfield, Deputy City Attorney, San Diego, Oct. 9, 1986.
27. 2 U.S.C.A. §438(a)(4) (West 1987).
28. Interview with Lance Olson, attorney, Sacramento, May 7, 1987.
29. Gerald Adams and John Jacobs, *San Francisco's Highrise Insiders: How They Work*, San Francisco Examiner, June 16, 1986.
30. *Id.*
31. Interview with Lynn Robie, Councilmember, City of Sacramento, May 8, 1987.
32. Interview with Tim Holt, publisher, *Suttertown News*, May 7, 1987.
33. Interview with Zev Yaroslavsky, Councilmember, City of Los Angeles, Jan. 16, 1987. Ironically, in the first regularly scheduled election held after the charter amendment was adopted, challenger Ruth Galanter ousted longtime City Council President Pat Russell.
34. Interview with Jim Streng, Supervisor, Sacramento County, May 7, 1987.
35. *Buckley*, 424 U.S. at 1.
36. *Buckley*, 424 U.S. at 53.
37. Interview with Abbe Wolfsheimer, Councilmember, City of San Diego, Nov. 13, 1986.
38. *Buckley*, 424 U.S. at 46.
39. Interview with Lee Dolson, then-San Francisco Supervisor, now Executive Director of the Downtown Association, Jan. 23, 1987.
40. Interview with Dan Kalb, Field Director, Northern California Common Cause, Dec. 9, 1986.
41. Interview with an Orange County contributor who wished to remain anonymous, May 12, 1986.
42. Interview with Terry Andrus, Deputy County Counsel, Orange County, May 20, 1986.
43. *Beaver v. County of Santa Barbara*, unpublished U.S. District Court decision, Case No. CV88-0038-IH (1988).
44. Maria LaGanga, *Nestande Bound by Local Law, Judge Says*, Los Angeles Times, Sept. 27, 1985.
45. Interview with Jay Patterson, former San Francisco Registrar of Voters, Dec. 10, 1986.
46. *Buckley*, 424 U.S. at 39.
47. Seattle City Ordinances 106653 and 10772, §§1.13-A and 1.13-C.
48. Lee Moriwaki, *Public Money for Campaigns in Question*, Seattle Times, Oct. 13, 1984.
49. Ross Anderson, *City Campaign Fund Program Periled*, Seattle Times, July 3, 1980.
50. Office of Election Administration, City of Seattle, *An Analysis of Campaign Contributions in Closely Contested Seattle City Campaigns (1975-83)* (June 5, 1984).
51. Telephone interview with Tom Volgy, Mayor, Tucson, Arizona, Jan. 22, 1988.
52. Telephone interview with Beverly Stokes, Assistant to Tucson Councilmember Roger Sedlmayr, Jan. 7, 1988.
53. California Commission on Campaign Financing, *The New Gold Rush: Financing California's Legislative Campaigns*, p. 253 (1985).
54. Public Finance Reform Commission, *Recommendations* (June 7, 1985).
55. Editorial, *Do the Supervisors Want Reform?*, Sacramento Bee, Apr. 1, 1986.
56. Some of the amendments included transferring administrative duties from the county treasurer and assigning them to the registrar-recorder and county auditor; applying the contribution limits to a candidate who won the June primary in the six months following his or her election; defining an organization as a group with 25 or more members, shareholders or employees; and requiring an audit of 50% of the candidates who receive matching funds.

PART II

Campaign Financing in Selected California Cities and Counties: Problems and Possible Reforms

CHAPTER 4

City and County Government in California: An Introduction

“California has 58 counties, 445 cities [now 453] and over 5,000 special districts covering every kind of service from fire to parks, to irrigation, to transportation, to libraries . . . We do not have a rational system of local governments in California. What we have is a haphazard, random assortment of governing bodies, all fighting over the same dollars and all contributing to a service delivery system that is more of a crazy quilt than a safety net.”

— Willie Brown,
Assembly Speaker¹

“The first thing I think that is significant to say about serving local government is that it is the level of government that directly impacts the lives of the people in far more important ways, frequently, than does the state or the national government.”

— Henry Cisneros, Mayor
San Antonio, Texas²

Local governments—cities, counties, school districts, special districts and special agencies—affect the lives of California residents in numerous ways. Local governments provide police and fire protection, determine how and when land should be developed or redeveloped and supply services ranging from public library

reading rooms to welfare assistance. Because local officials exert considerable influence over land use planning and community services, they often raise and spend considerable sums of campaign money, particularly in larger communities.

Local campaign contributions and expenditures are affected by many varying factors. These include the structure of local government (city or county), the government's legal status (charter or general law), the nature of local elections (at-large or district-by-district), the timing of elections (separate elections in April or consolidated state elections in June and November) and the office involved (councilmember or mayor versus supervisor). Because the California Constitution prohibits the use of political party labels on local ballots, candidates may need to spend substantial sums to reach the voters in local elections since voters cannot use party labels to identify the political philosophies of the candidates. An understanding of local government in California can thus help to illuminate the diverse patterns of local campaign financing in the state.

A. Cities and Counties Vary Widely in Their Powers and Mandates

California cities and counties operate under very different laws. City governments are more autonomous than counties from state and federal restrictions. Cities have both "regulatory" and "corporate" powers. The first is the "power to regulate the conduct of citizens and the use of property." The second is the "power to perform a particular type of service or activity."³ Elected city officials control land use, police, fire, hospitals, parks and street maintenance. Of all the duties of city governments, regulation of land development generates the most controversy.

County governments have significantly different mandates and responsibilities. Under the California Constitution, counties are considered legal subdivisions of the state.⁴ Counties dispense state and federal welfare assistance funds, operate courts and conduct elections for state government. County officials collect taxes for local agencies and allocate federal funds for housing and highway construction. County governments also fulfill the functions of city government in areas that are unincorporated; thus, for many California residents, county government also regulates land development.⁵

1. City Powers and Authorities

Throughout California's history, cities have struggled to attain control over local affairs and independence from state and federal governments.

"Prior to the 1879 Constitution, when an influential group of city dwellers wished a new city hall . . . or street improvement, . . . or a city bond issue in aid of railroad construction, . . . they would go to the State Capitol and have a special law passed on their behalf. City government was controlled to the smallest detail from the State Capitol."⁶

The state Constitution, enacted in 1879, changed the relationship between California cities and state government. It gave cities specific grants of power,⁷ and it prohibited the legislature from enacting special laws dealing with cities by name.⁸

Today, elected city officials and voters remain firmly committed to local control. But control over "municipal affairs" is hindered by the cities' dependence on state and federal funding—especially since Proposition 13—and by the regional nature of many modern municipal challenges, such as overdevelopment and gridlocked traffic.

The State Constitution directs the legislature to prescribe uniform procedures for formation of new cities,⁹ and the California Government Code specifies a set of

governing rules for these new cities.¹⁰ After a new city has operated as a “general law” city (which requires the city to abide by rules and procedures enacted by the legislature for such cities), its voters may adopt a city (or “home rule”) charter. With home rule charters, cities have the opportunity to design and formulate their own government. The powers of local elected officials are greater under a charter than under general law, and these powers may include the right to raise revenues to finance municipal services and improvements. In 1988, California had 448 cities, of which 366 were “general law” cities and 82 were “charter” cities.

“The first [California] cities were chartered in 1850—among them San Francisco, Los Angeles, San Diego, San Jose, Santa Barbara, Sacramento and Stockton,” explains a 1987 *California Journal* article. “By 1870, California had only 32 cities. But over the next 50 years, ending with World War I, a booming state population brought forth more than half the state’s . . . cities. The pace of formation slowed in the 1920s and almost stopped during the Depression and World War II. But a second population boom toward the end of the second World War brought the incorporation movement to life again.”¹¹

Between 1965 and 1977, city formation in California slowed significantly because new cities often funded themselves by increasing local property taxes. On the other hand, many “contract cities” (cities which contract with the county for police, fire and other services) were formed with the understanding that they would not levy property taxes. But passage of Proposition 13 in 1978 re-inspired cityhood drives because its limitations on property tax increases removed one of the major arguments against incorporation. Proposition 13 placed an overall limit on property taxes collected by all local governments and required counties to share a certain portion of the revenues collected with cities and special districts. Opponents of cityhood could no longer claim that the new city would be forced to increase property taxes to pay for city services. Since 1978, 31 new California cities have been created, and many more have begun the process leading toward cityhood.

Communities today incorporate for four main reasons:

- Dissatisfaction with land use decisions made by the county—residents of unincorporated areas often feel that county boards of supervisors allow too much development or the wrong kind of development in their areas;
- Control over local money—residents of an area feel the services received from a county do not properly reflect the amount of tax money sent to the county seat;
- Prodding by an active local nucleus looking to enhance community identity; and
- Threats of annexation by neighboring cities and counties.¹²

Some counties actively oppose incorporation of new cities. Sacramento County, for example, is worried that the proposed new city of Citrus Heights will cause the county to lose substantial sales tax revenues from the massive Sunrise Shopping Center. Some counties actively support and encourage incorporation so that these new contract cities will pay the counties for services such as police and fire protection.

Although the State Constitution and a century of court decisions guarantee city autonomy, the state still has the power to enact certain laws which all cities, including charter cities, must follow. These include laws governing good faith bargaining with city employees and the conduct of open meetings (with a few exceptions for subjects like litigation and labor negotiations).

2. County Mandates and Responsibilities

Counties in California have a completely different heritage than cities. County government is based on structures developed in the Middle Ages when England was divided into boroughs (like cities) and shires (like counties.) Within shires, earls commanded the king's military forces and local justices of the peace served as administrative arms of the crown.¹³ American colonists perpetuated the basic system through towns and counties. In California, county government serves as the administrative arm of the state government. Writes Cortus Koehler, "Counties, with or without a charter, have a more limited scope of authority than cities, for counties are subdivisions of state government, created to exercise and administer state policy at the local level."¹⁴

As subdivisions of state government, county officials must:

- Provide human services, including social welfare, health, education, libraries, parks and recreation, veteran services and housing;
- Develop a county general plan to govern countywide development;
- Enforce state water, refuse disposal and air quality regulations; and
- Maintain county roads and public works.

California has 58 counties that vary widely in size, population, demographics and geography. The largest in population is Los Angeles County which contains over 8 million people. The populations of both San Diego County and Orange County hover at 2 million. Alpine County has the fewest people (1,200). San Bernardino is the largest county by area at 20,117 square miles, while San Francisco is the smallest at 45 square miles. Los Angeles County contains over 80 cities. Alpine, Mariposa, Mono and Trinity counties have no cities.¹⁵

"California is a state of contrast and diversity, but the differences among the counties are generally not as great as the differences between California counties and those of the nation as a whole."¹⁶ All counties in California have five elected supervisors, except San Francisco which has eleven. In counties around the United States, the size of county governing boards varies from one member (several southern states) to 100 (in Tennessee).

No matter what size or shape, all California counties derive their funding from the same sources: property taxes, user and regulatory fees, debt financing, shared taxes (collected by the state but shared with local government, *e.g.*, sales, gas, cigarette and alcohol taxes) and state and federal grants-in-aid. Counties are not free to spend their budgets entirely as they wish. Up to 60% of a typical county budget represents costs of state or federally mandated programs.

Counties, like cities in California, can choose whether to govern themselves by general laws prescribed by the state legislature or to create their own charters and laws.¹⁷ Voters in twelve California counties have opted to become charter counties.¹⁸

3. City and County Organization

California cities are organized under either a council-manager or a mayor-council model. Most cities use the council-manager form of government, in which the voters elect a city council and the council hires a city manager. The city manager has two primary responsibilities: to manage the day-to-day operations of city government, especially in providing public services; and to provide staff support to the city council in determining public policies. Either the city council or the voters choose the city attorney and the city clerk.

Under a mayor-council government, the mayor is often elected directly by the voters rather than chosen by council peers. The mayor serves as the leader for the city government. This position may be ceremonial (a "weak mayor" system) or

powerful. The mayor may have veto power over council votes and responsibility for day-to-day operations of city government. City managers or city administrators can also manage cities within a mayor-council organization.

Management authority in California's counties is exercised in one of two ways: by a "plural executive" or by an appointed county administrative officer (CAO). Charter counties may also choose to elect county mayors, but so far only San Francisco, which is also a city, has chosen this option. About a dozen of California's smaller counties still operate with "plural executive" organizations, which flourished in the 19th century. Under this alternative, individual elected supervisors actually assume responsibility for managing specific county departments.

The majority of California's county supervisors delegate daily management authority to an appointed county administrative officer.¹⁹ In these counties, the CAO, like the city manager, has the authority to appoint department heads, develop budgets, supervise programs and offer policy advice to the board of supervisors.

In general law counties before 1978, the board of supervisors, the sheriff, district attorney, assessor and 10 other county officials—auditor, controller, treasurer, tax collector, license collector, county clerk, recorder, superintendent of schools, public administrator and coroner—had to be elected. Now, the voters can decide which of the 10 officials are to be appointed or elected, a power which some advocates claim decreases the "governmental fragmentation caused by a long ballot."²⁰

4. City and County Elections

City councilmembers and county supervisors compete in a wide variety of elections. Most general law cities elect councilmembers in winner-take-all elections in April of even-numbered years, although recently the legislature has given these cities the option of consolidating their elections with the statewide primary or general elections. The top vote-getters are the winners even if no candidate receives a majority of the votes cast. Charter cities hold elections in March, April, May, June, September and November in even-numbered and odd-numbered years.

All counties, with the exception of San Francisco, elect supervisors in the June primary. A candidate must receive a majority of the votes. If the candidate receives less than a majority, the top two vote-getters compete in a November runoff. Some charter cities hold primaries in April. Some do not have primaries at all and offer only winner-take-all elections.

Some charter cities conduct at-large elections in which all candidates for city office compete in an open field and the top two to six competitors take office. Others require candidates to compete in district elections for the opportunity to represent voters from one particular area of a city. The City of San Diego used to require candidates to run district-by-district in the primary and then citywide in the general election. In the November 1988 election, however, the voters narrowly approved a proposal to switch entirely to district elections.

Debate over the relative virtues of at-large versus district election rages year after year in many California cities. Advocates of district-by-district elections argue that voters receive better attention if they have one local representative who is attentive to their needs. They contend that at-large elected officials may all come from one area and as a group would be insensitive to the concerns of other areas. District election advocates also argue that at-large elections allow majority or white voters to dominate local elections. They allege that minority candidates are helped by district elections which allow smaller, grassroots campaigns.

Only 20 of California's 444 cities hold district elections, and most of those are the state's largest municipalities. A recent federal court decision may force up to 130

cities to convert their at-large elections to district elections.²¹ The U.S. Court of Appeal found that the City of Watsonville had discriminated against its Latino citizens by conducting at-large elections, and it ordered the city to conduct district-by-district elections.²²

Opponents of district elections argue that representatives elected in individual districts lack sensitivity to issues that affect the city as a whole. These proponents of at-large elections suggest that the quality of elected officials drops when the number of voters drops, as in district elections.

Nowhere has the debate over district and at-large elections been louder and more protracted than in San Francisco. Progressive forces argued for and won district elections in 1977 and successfully defended them in 1979. More conservative interests won a 1980 special election to return to at-large supervisorial elections. Voters in 1987 once again faced a ballot measure to return to district elections, but the "ghost of Dan White," a supervisor elected under district elections who later shot and killed Mayor George Moscone and Supervisor Harvey Milk, clouded the campaign. Votes rejected the concept.

In the early 1980s, Pasadena switched from a modified at-large system (district primaries, at-large runoffs) to all district elections. To everyone's surprise, campaign costs skyrocketed even though the number of eligible voters dropped. The change to district elections caused competition to escalate and campaign costs to rise. (See Chapter 13, "Pasadena.")

B. Although City and County Decisions Impact Citizens Directly, Interest in Local Government Appears Low

Local governments have more influence over residents' quality of life than state or federal government, and residents have more direct access to city and county officials than to state and federal representatives. In all but the largest California cities and counties, citizens can campaign for their neighbors and still influence local elections. Residents who turn out for city or county hearings often affect public policy. As a result, the concerns of local voters are directly reflected in the candidates they elect.

But local policies can also reveal the influence of special interests active in local government. Because land use regulation is a major function of local government, developers and real estate interests are among the most active special interests. Others involved in local government decisions may include investment firms wishing to sell municipal bonds, refuse collection or cable television companies seeking a franchise with the city and other contractors wanting to sell products to the city or county. The comparative influence of these special interests and the voting public varies among local jurisdictions throughout California from year to year.

1. Land Use Regulation

Many local California residents are increasingly concerned over rapid growth in their communities. Although many initially favored suburban development because it brought jobs and boosted local economies, they began to experience doubts when surface streets and commuter freeways became crowded and their quality of life began to deteriorate.

Traffic gridlock in many communities is intensified by the majority of Californians who today commute between suburbs rather than from outlying suburbs to a central city. As a consequence, traffic is congested everywhere, not just on freeways leading to the city. Escalating housing costs in older suburban communities drive new home buyers to remote new suburbs. Since jobs are often

elsewhere, average commute trips grow in miles and in time. Although traffic is one of the most bothersome results of overdevelopment, other irritants include the loss of open green space, increases in crime and decreases in public services when growth causes expenditures to outpace city revenues.

Voters increasingly have blamed local elected officials for “excessive” development and removed them from office or passed ballot measures to tie their hands:

- Between 1971 and 1988, voters in California’s cities and counties have been presented with 336 growth-control ballot initiatives. Over 50% of these 207 measures were introduced in 1986 and 1987. In over 61% of the cases, the slow-growth side won.²³
- Land use planning and growth control via the ballot box (bypassing city councils and boards of supervisors) has grown because “activists are invariably driven by what appears to be a breakdown in the local planning process.”²⁴

The first example occurred in 1972 when the Petaluma City Council passed an ordinance “aimed at breaking what it perceived as unchecked growth.”²⁵ Political consultant Harvey Englander, who advises city councilmembers and county supervisors around the state, is urging his clients to consider refusing campaign contributions from builders to separate themselves from development interests.²⁶

Local elected officials complain that they are being unfairly blamed for the effects of overdevelopment. State legislation and the state Constitution limits local government’s regulation of land use. High court decisions in 1987 suggest that cities and counties may already have gone too far in controlling the use of private property. “For years, the pendulum of real estate law had been swinging in a direction that permitted the government to control the property rights of individuals,” says Phillip R. Nicholson, a Los Angeles lawyer. “But in 1987, the pendulum swung firmly back in the other direction.”²⁷ The most significant case, *Nollan v. California Coastal Commission*, decided by the U.S. Supreme Court, found that the development of one’s own property is a right, not a privilege, and that conditions imposed by the government must bear some relationship to the burden imposed by the development.²⁸

Regardless of fault, voters seem likely to hold elected officials accountable for the negative consequences of rapid growth. In the 1987 Los Angeles city council elections, for example, a very well-financed incumbent and president of the council, Pat Russell, was defeated by an under-financed challenger, Ruth Galanter. Galanter’s platform blamed Russell for overdevelopment and traffic congestion in Westside neighborhoods. Russell lost even though she outspent her challenger by nearly 3-to-1.

2. Local Finances

Local elected officials also complain bitterly about a lack of financial resources to provide public services for new residents. Proposition 13, which California voters passed in 1978, slashed city and county proceeds from property taxes, an essential source of revenue for local government. City and county officials are being asked to do more with far less.

Older communities are affected by Proposition 13 more strongly than newer, booming communities because homeowner turnover is lower in older communities. Property can only be reassessed when it is sold; with lower turnover, less revenue can be raised.

Cities and counties have tried to recover lost revenues by increasing fees, but these revenue sources cannot make up the difference. The state government has had

to help local government fill the gap between city expenditures and revenues, but state funding carries strings and reduces local control. State bailouts are also winding down.

San Francisco, Long Beach, the City of San Diego, San Jose, Oakland, San Mateo County and others need new revenue sources to meet expected costs. In San Francisco, the shortfall in 1988 was \$172 million. Even cities and counties that do not face financial crisis find revenues insufficient to increase public services to meet voter expectations.

The regulatory and financial challenges that local elected officials face may be exacerbated by an increasingly cynical and uninterested public. The Joint Legislative Budget Committee of the California Legislature issued an analysis of the effects of Proposition 13 which concluded that the 1978 measure led to citizen alienation from local government. "The homeowner and the general public have walked away from local government; they have lost interest . . ." ²⁹ Local elected officials are left with the thankless task of trying to furnish public services demanded by voters who do not want to share the fiscal responsibility.

Public opinion polls suggest that interest in local government is low. In Orange County, for example, only 40% of the voting public in 1986 could describe the responsibilities of a county supervisor. Only 7% of the voters in one district could name their supervisor, a man who had held the office for 12 years. ³⁰

C. Increases in Local Campaign Spending Appear Closely Linked to Sizes of Jurisdictions

The Commission's data analysis (see Chapter 2, "Expenditures") suggests that campaign spending and voter alienation *both* increase with the size of the jurisdiction. As a result, California's campaign financing patterns are more exaggerated in counties than in cities. For example:

- County candidates receive greater percentages of total campaign budgets from business interests. City candidates receive proportionately more from individuals.
- County candidates on average receive a majority (51%) of their campaign funding during non-election years. City candidates receive only 36% in the off year.
- County candidates generally devote greater percentages of their total campaign budgets to overhead rather than direct voter outreach. While city candidates (especially those in large cities) may spend more on overhead than outreach, the amounts they spend are proportionately less than county candidates.
- County candidates concentrate more resources on fundraising and personnel than city candidates. City candidates devote greater resources to broadcasting and literature than their county counterparts.

Incumbents in large jurisdictions collect a majority of their campaign funds from businesses, enabling them to raise more money and hire additional personnel to manage their money. They do not spend campaign funds to educate the voters, and the voters often fail to educate themselves. Voters in large jurisdictions often let elections pass without learning about the office, its responsibilities or its candidates' names.

Some recent elections suggest that campaign techniques used to insulate local elected officials in large jurisdictions can be overcome when public dissatisfaction with development or inadequate public services mounts. Until a crisis occurs,

however, current campaign fundraising and spending practices protect incumbents and reduce their accountability to the public.

NOTES

1. *Organizing California's Crazy Quilt*, Los Angeles Times, Apr. 3, 1988.
2. Remarks of Henry Cisneros, 1985 Annual Conference of the League of California Cities, "Political Courage in Local Leaders," San Francisco, May 14, 1986.
3. Betsy Strauss, Napa City Attorney, "New Councils and the Law of Municipal Corporations in California," League of California Cities, New Mayors and Council Members Conference Briefing Book, B-18, May 14-16, 1986.
4. Cal. Const. Art. XI, §1(a) (West 1983).
5. Once cities incorporate land formerly controlled by the county, counties no longer have responsibility for "law enforcement, planning, land use controls, building inspections, public works, animal regulation and, in some counties, libraries, parks and recreation." Robert Feinbaum, *Climate Right for Creating New Cities*, California Journal, pp. 497-498 (October 1987).
6. Strauss, *supra* note 3, at B-11.
7. Cal. Const. Art. XI, §7 states: "A county or city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws." (West 1983.)
8. Former Cal. Const. Art. XI, §6.
9. Cal. Const. Art. XI, §2(a) (West 1983).
10. Cal. Gov't Code §§36501 *et seq.* (West 1988).
11. Feinbaum, *supra* note 5, at 497.
12. *Id.*
13. Cortus Koehler, *Managing California Counties, Serving People, Solving Problems*, County Supervisors Association of California, p. 11 (1983).
14. *Id.*
15. *Id.*
16. *Id.*, at 235.
17. General laws for counties are set forth in Article XI of the California Constitution and in the Government Code.
18. Alameda, Butte, Fresno, Los Angeles, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara and Tehama Counties are chartered. Some of the largest counties by population—Contra Costa, Orange and Riverside—are not chartered.
19. There are at least 10 titles attached to this position in California, including: county administrator, county executive, administrative assistant to the board of supervisors, administrative officer, chief administrative officer, administrative coordinator, county manager, executive secretary to the board of supervisors, and executive officer and purchasing agent. Jane Gladfelder, *California's Emergent Counties*, p. 22 (County Supervisors Association of California, 1968).
20. Koehler, *supra* note 13.
21. Kenneth Reich, *Watsonville Loss on Election Issue Could Be Victory for State Latinos*, Los Angeles Times, May 1, 1989.
22. *Gomez v. City of Watsonville*, 863 F.2d 1407 (1988).
23. Steve Lawrence, *Growth Movement Survives, Senator Claims*, Sacramento Daily Recorder, Dec. 14, 1988.
24. *Quoted in Ron Campbell and Larry Peterson, Roof Could Fall In on Officials Tied to Builders*, Orange County Register, Dec. 15, 1987.

25. Eric Brazil, *No-Growth Fever on the Rise*, San Francisco Examiner, Dec. 6, 1987.
26. Campbell and Peterson, *supra* note 24.
27. David Myers, *High Courts Leave Mark on Industry: 1987 Decisions Bring New Rules for Real Estate Related Matters*, Los Angeles Times, Jan. 10, 1988.
28. 107 S. Ct. 3141 (1987).
29. Bill Billiter, *Study Finds Diminished Interest in Local Government*, Los Angeles Times, Dec. 15, 1987.
30. Ramon McLeod, *What Do OC's Supervisors Do? 40% Aren't Sure*, Orange County Register, June 1, 1986.

CHAPTER 5

Agoura Hills: A Progressive Town Tries to Lasso Campaign Reform

The residents of Agoura Hills have always sought to maintain a small town simplicity in their community's civic life. Yet for a relatively young city, Agoura Hills has already witnessed political shifts and changes that many municipalities fail to experience over much longer periods. Since its incorporation in December 1982, the city's elections have passed through stages of tranquility (1982-1984), intense unrest (1985), temporary quiescence (1987) and renewed turmoil (1989). Now, city leaders are considering whether campaign finance reforms are necessary to head off the excessive campaign spending and undue contributor influence they see looming on the horizon.

The City of Agoura Hills sits nestled in the Santa Monica Mountains, 40 miles west of downtown Los Angeles and 20 miles inland from the ocean. Its rural setting and gentle breezes easily wipe away residual thoughts of the sprawling metropolis just over the hill.

The Agoura area's rolling hills and remote setting boast a rustic past of cattle ranches, cowboys, stage-coach stops and saloons. Without knowing it, many Americans have seen Agoura Hills on the silver screen. In the 1920s, Paramount Studios used an Agoura Hills ranch as background for many movie westerns. For a time, the area was named "Picture City." Throughout the 1960s and much of the 1970s, the Agoura area was known mostly for its hosting of equestrian events and the annual Renaissance Pleasure Faire.

Though some of the rustic surroundings still exist, massive tract home developments and office building complexes have started to smother much of the area's bucolic rolling hills. The City of Agoura Hills is now a rapidly growing, upper-middle class bedroom community. Affluent refugees from the congested San Fernando Valley and other dense metropolitan Los Angeles areas have been drawn to the low-crime, clean-aired and spacious Agoura Hills, almost doubling the city's population from 11,000 in 1980 to more than 19,000 in 1989.¹ (See, generally, Table 5.1, "Agoura Hills Data Profile.")

With growing population has come increasing affluence. Between 1983 and 1986, the assessed value of property in the city climbed from \$620 million to over \$1 billion, average household income rose to \$49,000 in 1986 (almost double that of the county as a whole) and housing prices soared—homes selling for \$100,000 in 1980 now sell for over \$300,000.² "[Agoura Hills] has become a haven for yuppies seeking a new life where cowboys—real and movie versions—once roamed," said the *Los Angeles Herald Examiner* in a 1986 article.³

A. "Quality of Life" Issues Dominate Agoura Hills Politics

Agoura Hills' population explosion in the 1980s owes much to the area's beauty, open spaces and close proximity to the Santa Monica Mountains. Some residents commute several hours to their jobs in Los Angeles just to come back to Agoura Hills' serene and simple atmosphere. Agoura Hills politics seek to maintain both the new and the old components of the city's lifestyle—the *new* higher standard of living and manicured community streets and lawns where the affluent reside, and the *old* rustic and rural charm of the town.

1. City Incorporation

Agoura Hills incorporated in 1982 in response to a perceived threat to the area's "quality of life." According to some Agourans, Los Angeles County's land use decisions had stimulated "sloppy" and "haphazard" development along the area's main artery (the Ventura Freeway corridor). Permits for commercial projects and large billboard advertisements for housing developments "just up the road" or "at the next exit" were freely approved by the county supervisors. Currently 26 billboards line the corridor.

"With the county seat 40 miles away [in downtown Los Angeles]," then-Mayor Fran Pavley recalled, "how could [the county supervisors] be sensitive to the needs of this community?" According to Pavley, Los Angeles County denied residents of the then-unincorporated Agoura territory control over planning decisions and inhibited residents' attempts to influence these decisions. Agoura Hills residents resented the fact that their tax dollars went to a county government that ignored their needs.⁴ Agoura Hills resident and *Los Angeles Times* Television Critic Howard Rosenberg commented, "The county treated us like a toilet."⁵

Agoura Hills residents saw incorporation as the way to control development decisions and preserve their "quality of life." One of Agoura Hills' landmarks is a nine-foot tall statue of an Indian chief facing southwest with his arm outstretched and hand turned upward, seemingly motioning those coming towards him to "Stop." For Agoura Hills, the Indian symbolized residents' efforts to stop the metropolitan sprawl from coming over the hill.

2. The Fracturing of the Incorporation Coalition

The coalition of diverse city interests which cooperated in the drive for incorporation helped to produce an era of stability and calm following incorporation. Residents elected a new city council and control over the city's planning decisions and its "quality of life" seemed finally to reside in their hands.

Table 5.1

AGOURA HILLS DATA PROFILE

Local Government

- STRUCTURE:** General law city incorporated in 1982; five city councilmembers elected at-large; weak mayor system; mayor appointed by the city council.
- CITY BUDGET:** \$7 million (fiscal year 1988-89)
- CITY FACTS:** Population (1989): 19,400; Area: 7 square miles; Registered voters (April 1989): 10,793; Voter turnout (Nov. 1987): 21%.

Contributions

	<u>Agoura Hills</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	52%	40%	52%
Individual	44%	45%	33%
Labor	0%	2%	4%
Political	0%	5%	6%
Candidate	4%	8%	5%
Non-Election Year	8%	6%	42%
Election Year	92%	94%	58%

Expenditures

	74 %	57 %	38 %
VOTER CONTACTS			
Broadcast	0%	0%	7%
Literature	47%	48%	26%
Newspaper	19%	6%	2%
Outdoor	8%	3%	3%
OVERHEAD	26 %	43 %	62 %
General	13%	17%	22%
Personnel	0%	5%	6%
Fundraising	11%	6%	13%
Survey	0%	5%	4%
Consulting	0%	8%	10%
Travel	1%	0%	1%
Candidate Transfer	1%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1984-1985)

During the first three years of the city's existence, however, the incorporation coalition was gradually torn apart by the first elected city council's aggressive growth policies. A majority favoring development emerged on the council, voting approval after approval of many commercial and residential development projects. Four new housing tracts, three shopping centers and a half-million square feet of office space were approved and built by the mid-1980s. Proponents of this aggressive pro-growth course maintained that the city's survival rested on broadening its tax

base. More development meant more tax revenue, and more tax revenue promised better city services. But many Agoura Hills residents, previously annoyed by Los Angeles County's planning policies, felt that the new city council's actions again jeopardized their "quality of life." "[The first city council] gave everything away to the developers," one Agoura Hills resident observed bitterly. "They never said 'no!'"⁶

One development in particular turned the residents' irritation over growth into anger. Katell Properties, a Torrance-based development firm, had obtained approval from the city council to erect a five-building office complex on the west end of town overlooking the Ventura Freeway. When construction workers broke ground on the project in late 1985, several of the city's 300-year-old oak trees were cut down. The workers left only the stumps on the hillside development site. Residents were shocked. Some held "funeral services" for trees that were "older than our country." Agoura Hills resident Eric Haupt later protested, "Don't rape our hills, don't spoil our beauty!"⁷

According to Councilmember Jack Koenig, the revelation of a \$1,000 political contribution from Katell Properties to then-Mayor John Hood made shortly before final council approval of the project further shocked Agoura Hills voters.⁸ Katell had also contributed \$400 to Councilmember Ernest Dynda before the deciding vote. These contributions prompted Katell's opponents to focus on the political process by which their community was being changed.

B. Land Use Battles Impact Candidates' Campaign Finances

Campaign financing in Agoura Hills has followed the pattern typical in other small cities. After incorporation in late 1982, Agoura Hills witnessed a short-lived era of political stability. The 1984 election was relatively calm. High campaign spending was not a factor. The most controversial issue in this campaign involved the "non-residency" of candidates. According to Councilmember Koenig, two candidates had apparently stated falsely on their declaration of candidacy forms that they were Agoura Hills residents. "One address a candidate had listed as his home was in fact a chicken shack [a Pioneer Chicken restaurant]," Koenig said. "I don't know how you can live in a chicken shack."⁹

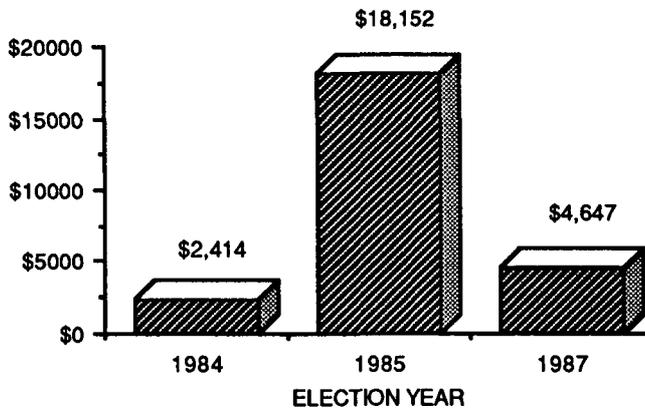
1. Rising Costs and Developer Contributions

Following the 1984 election, a single issue—"land use planning"—exploded into local consciousness. Katell's project and its contributions to then-Mayor John Hood brought the land use issue to a head. As the council made unpopular commercial land development decisions, political serenity quickly collapsed, voters took sides and campaign spending skyrocketed to startling levels. In the 1984 city council election, *all* candidates raised and spent an aggregate of approximately \$15,000. By 1985, however, *one* candidate alone raised and spent over \$18,000.¹⁰ In 1987, with the growth question at rest, no single candidate spent more than \$5,000. Therefore, as the land use issue receded from controversy, election costs diminished. The fluctuations between campaign spending in the 1984, 1985 and 1987 elections illustrate the power of the single issue—land development policy. (See Table 5.2.)

Also affecting campaign costs was a fundamental shift in the city's election structure. The city changed from district-by-district elections to at-large elections. After the 1984 election, city leaders and residents concluded that district elections were not practical. The highest vote-getter in 1984, for instance, received a total of 250 votes, and one councilmember was elected by eight votes. In the 1985 election, all candidates were elected citywide. Within one year, the constituencies of each city council candidate grew from approximately 4,000 residents in individual districts to almost 22,000 residents in the entire city. Land use issues, together with this structural change, stimulated the explosive growth in 1985 campaign financing.

Development and real estate interests, feeling threatened by rapidly growing anti-development feelings sweeping the city, contributed unprecedented amounts to pro-development candidates. Over a five month period preceding the November 1985 election, then-Mayor John Hood's campaign accepted approximately \$5,000 in campaign contributions from developer interests. Of that \$5,000, over \$4,000—including \$1,500 from Katell Properties—came from out-of-town development and real estate interests.

Table 5.2
HIGHEST SPENDING CAMPAIGNS
AGOURA HILLS



Source: California Commission on Campaign Financing Data Analysis (data for years 1984-1987)

Hayden Finley, another pro-development candidate, raised over \$18,000. Since he reported a majority of his contributions as “under-\$100” donations, it was impossible to pinpoint their sources.¹¹ During the course of the election, however, Finley's opponents speculated openly that developers and other outside interests were trying to “hide” their contributions.

2. Substantial Jump in Spending on Voter Contacts

A comparison of Agoura Hills' 1984 and 1985 elections provides a striking comparison of the differences between spending and contribution patterns in an issue-charged at-large election and a districted race without a substantial issue. One of the most startling differences lies in the percentage of expenditures devoted to voter contacts (expenditures for broadcast, outdoor and newspaper advertising and campaign literature).

Districted candidates in the low-spending election of 1984 devoted only 34% of their moneys to voter contact expenditures. In 1985, candidates spent an average of 77% of their money on voter contacts. The substantially larger citywide constituency, coupled with controversial land use issues, caused more than a two-fold jump in the percentage amounts candidates spent on 1985 campaign literature alone. (See Table 5.3.)

The percentage of spending on campaign overhead (largely fundraising and general expenses) significantly dropped between the two elections. The average candidate in the Commission's sample of jurisdictions devoted almost 62% of his or her total expenditures on campaign overhead, while Agoura candidates spent only

26%. (See, generally, Table 5.1, "Agoura Hills Data Profile.") Agoura Hills candidates lack the campaign organizations used in big city campaigns. Political consultants were rarely used in 1985 and candidates spent virtually nothing on personnel.

Table 5.3

**VOTER CONTACTS EXPENDITURES
AGOURA HILLS**

	<u>1984</u>	<u>1985</u>
VOTER CONTACTS	34 %	77%
Broadcast	0%	0%
Literature	19%	50%
Newspaper	10%	19%
Outdoor	5%	8%

Source: California Commission on Campaign Financing Data Analysis (data for years 1984-1985)

3. High Percentage of Business Contributions

During the 1984 and 1985 Agoura Hills elections, city council candidates accepted more than half of their contributions of \$100 or more from business sources. This far out-paces the Commission's average for small jurisdictions and equals the average for the Commission's entire sample. (See Table 5.4 and, generally, Table 5.1.)

However, the Agoura Hills business contribution figures are almost single-handedly skewed by then-Mayor John Hood's totals for 1985. Of almost \$12,000 that Hood received in contributions of \$100 or more, 84% came from business sources. then-Mayor Hood's business contributions alone—totaling more than \$9,000—were more than the *combined total* of contributions raised by candidates Jack Koenig, Darlene McBane, Louise Rishoff and incumbent Fran Pavley.

4. Overall Incumbent/Challenger Patterns

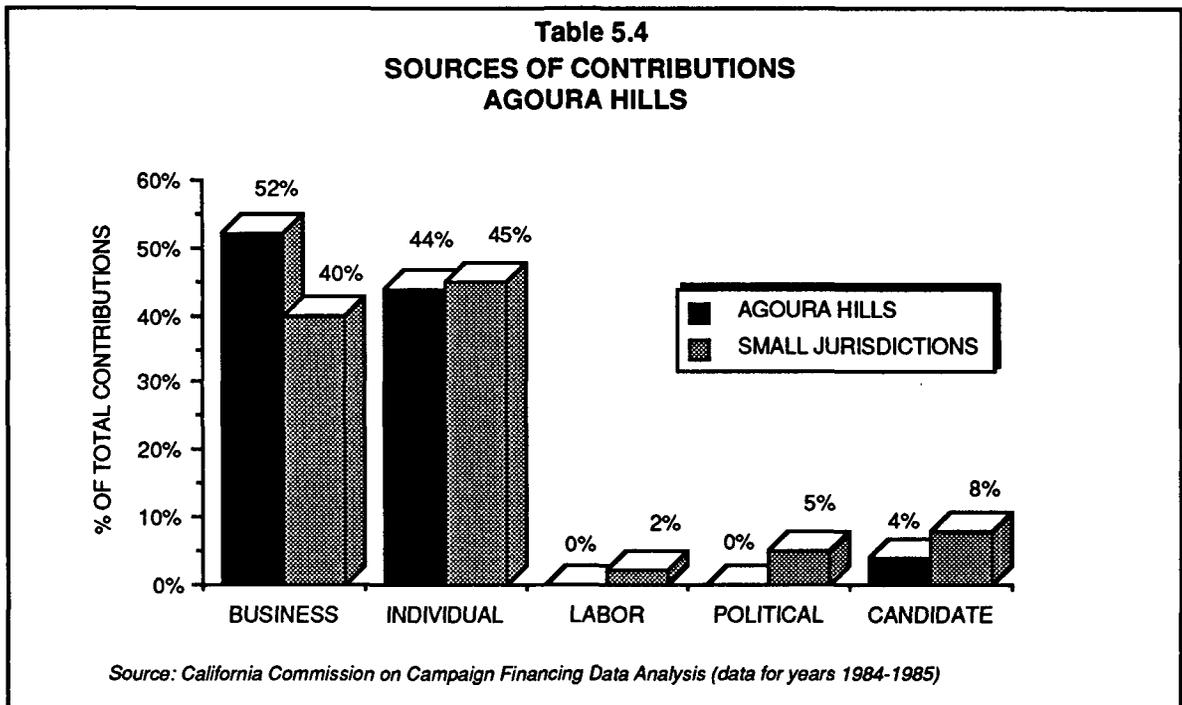
Over the last few elections, incumbents obtained most of their contributions (64%) from business, while challengers accepted the largest portion of their contributions (53%) from individuals. (See Table 5.5.) These figures, while consistent with statewide patterns, also reflect the character of the hotly contested race between the pro-growth incumbent mayor and his challengers.

This sharp division is even clearer when average contributions are studied. From business contributors, the average challenger raised slightly more than \$3,200 while the average challenger raised just over \$1,200. From individuals, the fundraising advantage is reversed: the average challenger raised more than \$1,900 from individual contributors, while the average incumbent raised slightly more than \$1,800.

C. Residents' Coalition Defeats Big-Spending Candidates

For the 1985 election, pro-development forces raised large war chests, solicited big contributions (the likes of which Agoura Hills residents had never seen before) and spent relatively large amounts on campaign mail pieces. Angry residents, concerned over the explosion of new development, emulated the town's western

history and (according to the *Herald Examiner*) formed a posse to “lasso” the city’s pro-growth councilmembers.¹² The Katell project and the cutting of the oaks converted many residents into anti-development advocates.



1. Pizza Parlor Politics

In early 1985, 14 Agoura Hills residents met at a local pizza parlor to discuss their frustrations with the city council decisions. If residents organized, they concluded, they could significantly impact the election of 1985.¹³ They called their new organization, “For Agoura ’85.” As paranoia over development and developers swept the town, the formation of For Agoura ’85 was crucial in converting this popular feeling into political action. In the months leading up to the election, For Agoura ’85 registered voters, sent out “informational” mailers with news of the city council’s pro-development actions and held candidate debates. As a result of the debates three candidates—incumbent Fran Pavley and candidates Jack Koenig and Darlene McBane—were endorsed in an attempt to retain one seat (Pavley’s), defeat the incumbent mayor (Hood) and win an open seat. Anti-development candidates pledged to disclose fully all campaign contributions and reject all donations from out-of-city sources.

Through numerous neighborhood meetings, mail parties and candidate forums, For Agoura ’85 struck a responsive chord in the community. Membership in the group swelled to 426 two days before the election.¹⁴ Raising \$10 and \$20 contributions, For Agoura ’85 was able to collect \$8,000. The group even turned down a \$3,000 contribution for fear it might be perceived as having an “obligation” attached to it.¹⁵ On behalf of their endorsed candidates, For Agoura ’85 sent out mailers listing their slate of candidates, spending approximately \$2,000 per candidate.

Opponents quickly charged For Agoura ’85 with “political machine-like” tactics. Carol Dynda, wife of then-Councilmember Ernest Dynda, lodged claims that the organization had not reported all its \$100 or more contributions. She felt it unlikely that For Agoura ’85 could have raised \$8,000 in “five and ten dollar contributions.”¹⁶ For Agoura ’85 member Patricia MacGregor replied, “I’m really

interested in how in just a few short weeks a bunch of housewives who care for this city has now become a 'political machine,' as some of our critics have called us."¹⁷

Eric Haupt, one of the original members of the group explained, "I see a machine as a fine-tuned instrument. If that is what we are, what is wrong with that?"¹⁸ In November 1985, For Agoura '85 candidates overwhelmingly defeated the pro-development candidates Hood and Finley by more than a three-to-one margin, even though Hood and Finley raised 87% more than the citizens' coalition and its candidates. In fact, Hood and Finley out-raised *all other candidates in the race combined* by almost 50%. To the victors of the 1985 race and other community activists, the true history of Agoura Hills begins not with its 1982 incorporation but with its 1985 election.

Table 5.5

**INCUMBENT/CHALLENGER DATA PROFILE
AGOURA HILLS**

Percentage of Total Contributions Raised From Each Source

	<u>Incumbent</u>	<u>Challenger</u>
Business	64%	40%
Individual	36%	53%
Labor	0%	0%
Political	0%	0%
Candidate	0%	7%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	76%	48%	0%	100%	0%
Challengers	24%	52%	0%	0%	100%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1984-1985)

2. Growth Battle Resurfaces in 1989

The 1987 election year proceeded with low-spending and non-controversial campaigns. In stark contrast, however, the 1989 election year may prove even more tumultuous than the 1985 campaign. In late 1988, a coalition of pro-development forces backed by a number of out-of-town developers initiated a recall drive against the For Agoura '85-backed councilmembers.

In their signature gathering efforts, the recall committee—For Responsible Leadership—had raised and spent approximately \$16,000 on various mail pieces and phone bank operations. In response, the For Agoura '85 coalition formed a committee named "F.A.I.R." (Fighting Against Irresponsible Recall).

Though the recall effort failed to raise the required number of signatures (2,200), recall backers have vowed to challenge the F.A.I.R. coalition candidates in

the November 1989 election. Many expect an intense battle between the pro- and slow growth factions.

D. Conclusions and Recommendations: Targeted Reforms to Deter Future Problems May Be Needed

"To pour tens of thousands of dollars into a local election is ridiculous."

— Councilmember Jack Koenig¹⁹

Worried about a repeat of the expensive 1985 election, the newly-elected city council discussed various ideas for campaign reform. They spoke about the high spending and the dominance of developer and out-of-city contributions. Reflecting self-confessed paranoia over "developer money," councilmembers Pavley, McBane and Koenig all expressed interest in an ordinance that would require the "full disclosure" of all contributions as low as "a few dollars." "I feel the public and the citizens have a right to know where our money's coming from," Pavley said.²⁰ The current city council is expected to pass an ordinance including stricter disclosure and limitations on contributions in 1989.

City Manager David Carmany is also pursuing a proposal to change the city from a general law to a charter municipality. In his words, such a change would have the effect of "locking reform in."²¹ If Agoura Hills became a charter city, a campaign reform measure could be passed by charter amendment. Thereafter, a vote of the people could be required to change or repeal it.

A change to charter city status would have the potential effect of allowing Agoura Hills more leeway in constructing further campaign finance reform. Recent court decisions suggest that charter cities may not be affected by Proposition 73's restrictions since charter cities generally reserve the right to conduct their own elections. (See Chapter 22, "Proposition 73.") Agoura Hills' change to charter city status could therefore be of critical importance to the city's efforts for campaign reform. The Commission recommends that Agoura Hills consider a broad range of reforms that would help to preserve the positive qualities of the city.

1. Expenditure Ceilings

The Commission believes keeping the cost of campaigns checked at a reasonable limit is the most important component of comprehensive reform. Expenditure ceilings would ensure that, in the event of a truly competitive race, candidates would be on relatively equal financial footing. In Agoura Hills elections, the highest amount ever spent was \$18,152; in the low-charged elections of 1984 and 1987, campaign spending by a single candidate never reached \$5,000. The Commission suggests an expenditure cap of between \$7,500 and \$10,000, adjusted by cost of living changes, as a prudent limit to permit reasonable competition by potential challengers and to remove the possibility of excessively high-spending campaigns.*

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voters' adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities. Recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public

If the courts rule that Proposition 73 does not apply to charter cities and Agoura Hills gains charter city status, it could consider offering a low level of limited public matching funds as the inducement for acceptance of expenditure ceilings, perhaps matching dollar for dollar for the first \$25 of each contribution up to a maximum amount of 50% of the established expenditure ceiling. Under an expenditure cap as high as \$10,000, the most a candidate could receive per election would be \$5,000. Eight candidates ran in the 1985 election; if all eight candidates raised and spent \$10,000 (which is highly unlikely), the most in public matching funds that would have been provided under this proposal would have been \$40,000—about \$2.06, or less than the price of a two dozen eggs per resident.

2. Contribution Limitations

As part of a comprehensive package of reforms, the Commission believes contribution limits are desirable to reduce concerns over large contributor influence. A contribution limit of \$250 is suggested to fit the realities of Agoura Hills' fundraising patterns and to help preserve the importance of the small contributor.

3. A Limited Ban on Contributions From City Contractors

A provision, similar to one currently used in the City of Gardena (see Chapter 7, "Gardena"), would prohibit anyone contracting with or bidding on contracts with the City of Agoura Hills from contributing to city council candidates or officeholders. Due to the city's relative youth, many decisions on future city development and other city services have yet to be made. The Commission recommends this innovative provision to help to ensure that decisions regarding new city services will be above reproach and unaffected by campaign contributions. This proposal should only apply to businesses and individuals who must seek contract approval directly from the city council. A threshold level (e.g., contracts of over \$5,000) should be set to simplify enforcement. The city clerk could keep a current file of all city contractors that might be affected. During a campaign, the city clerk would distribute this list to all candidates for city office.

4. Full Disclosure of Donors Contributing \$25 or More

Under state law, candidates must only disclose the identities of contributors if their contributions total \$100 or more. In Agoura Hills, however, approximately 37% of contributors give less than \$100. Those concerned about developer influence have indicated suspicion that some candidates "hide" their contributors by soliciting and receiving large numbers of contributions in under-\$100 amounts. The Commission suggests the disclosure of donors who give contributions of \$25 or more to inhibit any such practice and to ease public suspicions.

Some have suggested that disclosure should include *all* contributions down to a penny. Record keeping, however, would be tedious and time consuming for the city clerk, who would be forced to check the correctness of all \$1, \$5 and \$10 contributor information. It would also impose cumbersome reporting requirements on candidates accepting small cash contributions at local fundraising events (e.g., through the selling of campaign buttons and T-shirts).

financing. (See Chapter 22, "Proposition 73.") If charter jurisdictions are exempt and Agoura Hills becomes a charter city, the city is free to offer the most effective incentive for candidates to accept expenditure limits—limited public matching funds. If Proposition 73 is found to apply to all jurisdictions, or Agoura Hills remains a general law city, the city could consider other possible incentives for candidates to accept expenditure caps. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, "The Commission's Model Ordinance," for discussion of this alternative.)

Agoura Hills is in a unique situation. The city is less than a decade old; yet it has experienced extremes in its campaign financing system that have prompted city officials to evaluate, at a very early juncture, the effectiveness of their election system. Agoura Hills city officials seem bent on correcting the system's problems while at the same time preserving its positive qualities. While this spirit remains alive, it is hoped that Agoura Hills will move swiftly to adopt a reasonably comprehensive set of reforms.

NOTES

1. Richard Nordwind, *Escape to Agoura Hills*, Los Angeles Herald Examiner, Aug. 31, 1986.
2. *Id.*
3. *Id.*
4. Telephone interview with Fran Pavley, then-Mayor, now Councilmember, City of Agoura Hills, June 11, 1987.
5. David Silver, *From Horse Ranch Haven to Rich Suburb*, Daily Commerce, June 1, 1987.
6. Interview with Eric Haupt, Member of For Agoura '85, July 1, 1987.
7. *Id.*
8. Telephone interview with Jack Koenig, then-Councilmember, now Mayor, City of Agoura Hills, July 1, 1987.
9. *Id.*
10. Hayden Finley, in the 1985 election, raised \$20,556 and spent \$18,152.
11. The Political Reform Act requires information (name, address, occupation and employer) for contributors of \$100 or more.
12. Nordwind, *supra* note 1.
13. Telephone interview with Koenig, *supra* note 8.
14. Cynthia Lee, *Councilman's Spouse Assails For Agoura '85*, Daily News, Nov. 2, 1986.
15. Interview with Haupt, *supra* note 6.
16. Lee, *supra* note 14.
17. *Id.*
18. Interview with Haupt, *supra* note 6.
19. Cynthia Lee, *Agoura Hills Considers Enacting Municipal Election Laws*, Daily News, Feb. 14, 1986.
20. Telephone interview with Pavley, *supra* note 4.
21. Telephone interview with David Carmany, City Manager, City of Agoura Hills, Feb. 24, 1988.

CHAPTER 6

The City of Alturas and Modoc County: Living the Politics of Yesteryear

Some political observers would say that the politics of Alturas and Modoc County are the politics of yesteryear. They harken back to an era when community reputation and family history were as critical to a candidate's success as fundraising ability in larger cities and counties. Candidates in both Modoc County and Alturas spend little on campaigns and rarely accept contributions. Successful candidates must simply be well-known and liked in the community "by being in the fire department, Rotary Club, working in the barber shop, or anywhere else where people know you and see you."¹

Alturas, the only incorporated city in Modoc County, lies tucked in the northeasternmost portion of California near the Nevada and Oregon borders. Great spans of ranch country, forests and lava beds blanket the area, rising to the looming snowcapped Warner Mountains of the Cascade Range. Mount Shasta stands impressively in the backdrop as cattle graze on ranch land 4,500 feet above sea level. With a population of 3,020, Alturas hosts one movie theater, a few hotels, small residential areas and one of only two traffic lights in the entire 4,100 square mile county. Main Street in Alturas is 650 miles north of downtown Los Angeles. Modoc County is larger than the state of Rhode Island and yet its total population (9,375) would fill only one-fifth of Dodger Stadium in Los Angeles.

Modoc County's rustic surroundings and rich Old West history live up to the Modoc County Chamber of Commerce's description: "Modoc County: Where the West Still Lives." One of the last confrontations between Native American Indians

and white settlers took place in the Modoc area from 1872 to 1873. According to the chamber of commerce, the fight was "probably the most costly Indian campaign ever waged by the United States." It took 1,000 cavalymen to remove 52 Modoc Indian warriors led by the legendary Indian Chief Captain Jack.² The U.S. Cavalry, in the end, suffered 15 times the casualties of the Indians. "The area seems presided over by unquiet ghosts," wrote an observer.³

Some things have not changed since the county's creation in 1874. Traveling to Alturas in the winter is still nearly impossible. Although Alturas has an airport for small planes, the closest major airport is 100 miles away in Oregon. Most Modoc County residents catch flights out of Reno, more than 160 miles away, for a greater selection of flight destinations and for the local entertainment in town. Dry cleaning is another modern convenience Alturans do without; any dry cleaning needs have to be trucked 140 miles away to Redding.

As the seasons change, the weekly *Modoc County Record* typically devotes front page coverage to the use of studded snow tires or the oncoming "calving season, when ranchers spend long nights out with their cows," waiting for them to give birth.⁴ Modoc County is home to unincorporated communities with names like Surprise Valley, Fort Bidwell and Likely, where a visitor can find the "Most Likely Cafe and Trailer Park."

Elected officials in Modoc County and the City of Alturas reflect a cross section of local interests. One councilmember runs a bakery delivery service. Another two work in real estate, and one councilmember sells firewood—the prime source of heat in the region. Members of the board of supervisors include a log truck driver and a seller of mobile homes. One supervisor has three professions: taxidermist, barber and Baptist preacher.⁵

Modoc County is governed by a five-member board of supervisors that administers an \$11 million budget (fiscal year 1987-88). Each supervisor receives a salary of approximately \$9,600 annually. Supervisorial elections are held in even-numbered years with three seats up in one election and two up the next. Members of the Alturas City Council receive \$1,800 per year and also run in staggered elections every two years for four-year terms. The annual city budget is approximately \$1.5 million (fiscal year 1987-88). (See generally Table 6.1, "The City of Alturas and Modoc County Data Profile.")

A. Modoc County and the City of Alturas Are "Nothing Like the Image of California"

Former *Modoc County Record* editor Smith Pineo, a one-time Orange County resident, describes the Modoc region as "nothing like the image of California." He adds, "[Modoc County] is more like an area in southern Oregon or western Colorado."⁶ Pineo's southern Oregon parallel almost became historic reality as Modoc County, along with one southern Oregon county and two other northern California counties, tried to secede from their respective states in 1941. For a brief moment in history, before Alaska and Hawaii became states, Modoc County sought to become part of "Jefferson, The 49th State in the Union."⁷ Because the move toward secession came a few days before the Japanese bombing of Pearl Harbor, it was effectively eclipsed by the war.⁸ To this day, residents feel separated from the rest of the state. Many Modoc County residents do not want state or federal government interference; they simply want to live their lives in their own way.

Modoc County residents pride themselves on being "very friendly." If two residents have a political disagreement, "that would never stop them from helping each other out if one was having car trouble on the side of the road."⁹

"Unfriendliness" can make the front page of the newspaper. "Newell Dump Manager Is Accused of Being Unfriendly," read a recent *Modoc County Record* front page headline.¹⁰

The county's population has been slow to change. Many residents descended from families that settled the area more than 100 years ago. "Newcomers" are those whose families moved to the area 40 or 50 years ago. (Some observers call newcomers "flatlanders" or "transplants.") "Real newcomers" are those who moved to the county since World War II. Since 1950, the county's population has declined by 1,000 to 9,375.

For more than a century, Modoc County's economy thrived on cattle ranching, livestock and timber. Rich natural resources of timber, water, geothermal springs, big game and semi-precious stones and minerals are plentiful in the region. At one time, Alturas hosted the Pickering Mill, the largest lumber mill of its kind in the world.¹¹

Table 6.1

THE CITY OF ALTURAS AND MODOC COUNTY DATA PROFILES

Local Government

City of Alturas

STRUCTURE: General law city; five city councilmembers elected to four-year terms; weak mayor appointed by city council; city clerk elected; city attorney appointed by city council.

CITY BUDGET: \$1.5 million (fiscal year 1988-89)

CITY FACTS: Population (1989): 3,020; Area 2 3/8 square miles; Registered voters (May 1989): 1,672; Voter turnout (Apr. 1988): 34%

Modoc County

STRUCTURE: General law county; five-member board of supervisors elected by district; county clerk elected.

COUNTY BUDGET: \$12 million (fiscal year 1988-89)

COUNTY FACTS: Population (1989): 9,375; Area: 4,100 square miles; Registered voters (Mar. 1989) 5,213; Voter turnout (Nov. 1988): 79%

Contributions

(No candidate reported receiving contributions totaling \$500 or more.)

Expenditures

(No candidate reported making expenditures totaling \$500 or more.)

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1988)

Recently, the region's economy has been hard hit by slumps in lumber and meat prices and increases in the cost of power and irrigation. According to Modoc County Clerk Maxine Madison, 13 ranches have recently filed for bankruptcy.¹² With its dwindling tax base, the financially strapped county is prohibited by Proposition 13, the state property tax cutting measure, from raising property taxes to cover budgetary shortfalls. These factors have spelled economic hard times for the city and county government as well as for the whole region.

In an attempt to avoid the fate of recently-bankrupt Tehama County, a neighbor to the south, elected officials in Modoc County and the City of Alturas have taken steps to diversify the area's economy. They recently rezoned several acres of land near Alturas for light industry in hopes of wooing high-tech firms from the San Francisco Bay Area and elsewhere.¹³

B. Personal Politics Dominate Low-Cost Alturas and Modoc County Campaigns

Political success in Modoc County and Alturas rests primarily on voters' personal knowledge of the candidates. In 1980, when former Modoc County Supervisor Lesley Chace successfully conducted her first campaign, she knew "80 to 85%" of the 2,000 constituents in her district.¹⁴ Many in Modoc County make their voting decisions even before the campaigns begin, simply because they know "by word of mouth and through personal acquaintance who is a good guy and who is a bad guy."¹⁵ This eliminates the need for sophisticated and expensive campaigns.

Lineage and the number of years a candidate's family has been in the region also contribute to political success. "Real newcomers" have a hard time getting elected. One resident warns that unless a "real newcomer" is married to a descendant of one of the area's old families, chances of political success are limited.¹⁶

Campaigns consist largely of personal contacts. Little or nothing is spent on media (broadcast, newspaper and outdoor advertising, and campaign literature). Large campaign contributions are nonexistent. Even without expensive outreach techniques—thought to be essential in other jurisdictions—voter turnout is significantly higher than for the state as a whole. In the November 1986 election, Modoc County's voter turnout was 66% compared to the state's 59%. In June 1988, 62% of the county's registered voters turned out, compared to 48% statewide. And, in November 1988, while 73% of the state's registered voters turned out, 79% of Modoc County's registered voters cast their votes. "We're quite unique in that department. We like to vote," says County Clerk Madison.¹⁷

Competition in elections occurs almost entirely during open seat contests; these contests typically attract several candidates. While open seats spur vigorous fundraising and spending in other jurisdictions, competition in Alturas and Modoc County manifests itself in grassroots campaigning and clashes between candidates on issues.

Incumbents are rarely challenged and, when challenged, rarely defeated. The one recent exception to this occurred in June 1988 when incumbent Lesley Chace—the first and only woman ever to be a Modoc County supervisor—was soundly defeated in her attempt to win a third term on the board. According to an observer, Chace was the target of a concerted effort waged by two other supervisors. "During board meetings, there was a lot of animosity displayed between Chace and some of her fellow supervisors," says Smith Pineo.¹⁸ Former Modoc County Roads Commissioner Don Polson was urged by fellow residents to run against Chace and ultimately beat her by a two-to-one margin. "Many people told me that the election

was really reflective of the power of the old-boy network," added Pineo.¹⁹ While Chace was a highly visible and very active supervisor, Polson was well-known and had a long history in the community.

Even though the campaign ended in the defeat of an incumbent, high campaign spending did not occur; neither candidate spent more than \$500. The entire campaign was waged by candidates going door-to-door, handing out inexpensive flyers and making appearances at a candidates' night forum. According to Pineo, the campaign was conducted on a level of friendliness; sharp attacks and animosity between candidates were absent.²⁰

1. Friendly Low-Cost Campaigns

According to Alturas City Clerk Denise Utter, the most money a candidate ever has raised for a city council race is approximately \$300, and individual contributions did not exceed \$20 or \$30 per contributor.²¹ Supervisorial and city council candidates usually pay for their own campaigns. Candidates and elected officials are intensely sensitive about the "possible obligation" attached to campaign contributions and some view them as tantamount to bribery.

Former Alturas Mayor Roger Dorris reports that he did not spend more than \$100 in each of his two campaigns for city council.²² Stan Townsend, a successful 1988 candidate for an open seat on the city council, agrees that money is "not important." At most, in his campaign he spent "a couple of hundred dollars" on a few newspaper advertisements and some "brochures to hand out." The most important ingredient to a successful run for city council is community visibility, "pounding on a lot of doors and shaking a lot of hands," says Townsend.²³ Townsend ended up with the largest number of votes in the April 1988 open seat contest for the city council.

In the county's supervisorial campaigns, similarly small amounts are spent. One Modoc County political observer comments, "Spending your money on glossy advertising won't do a thing for you. You can't put up an image. Everyone knows you."²⁴ When candidates do spend money on their campaigns, they spend it on newspaper advertisements—never more than \$100—and on outdoor lawn signs. One candidate for county sheriff, Bruce Mix, made his largest campaign expenditure on the purchase of personalized license plates that read, "MIX-N-86."

Former Supervisor Lesley Chace's first campaign in 1980 was typical for Modoc County. Running as an open seat candidate for supervisor, Chace raised no more than \$100 in \$1, \$2 and \$5 donations. Her campaign strategy was almost exclusively to meet every resident in her area. "I spent six weeks going door-to-door," she says. Chace's only significant campaign expenditures were candidate filing fees, a few lawn signs and one newspaper advertisement.²⁵ County Clerk Maxine Madison confirms that between 1976 and 1988, no supervisorial candidate spent over \$500.²⁶

Politics and debates over issues are conducted on a level of familiarity. Some city council members discuss local concerns over a cup of coffee at the local cafe. Interested restaurant customers offer their own ideas, turning a cup of coffee into an informal public hearing.

One of the most exciting experiences in Modoc County politics occurred in 1987 when a group of residents attempted the first supervisorial recall in county history. They alleged that newly-elected Supervisor John Schreiber had distributed incorrect information about the potential effects of a countywide water project. Recall proponents also charged that Schreiber misspelled words on his campaign signs posted in the barbershop and flip-flopped on major issues. The recall failed, reportedly because a majority of Schreiber constituents felt the remedy was too strong for his alleged shortcomings.²⁷

Modoc County has the distinction of being the last county in the state to adopt a mechanized vote tally system. Before 1986, county officials counted all ballots by hand. The 1986 election year also saw the first filing of campaign statements by city council candidates in Alturas' history. According to Alturas City Clerk Utter, prior city clerks apparently had not been aware such statements were required under state law.²⁸

2. The Big Event

The most important event in Alturas and Modoc County campaigns is "candidates' night," a town hall forum and debate for all candidates held prior to each election by the local Farm Bureau. After the debate, the *Modoc County Record* prints at great length the answers given by the candidates on various topics. Former Mayor Dorris says that "everybody waits for this edition of the newspaper" to find out the candidates' views on city and county issues.²⁹

During the 1986 elections, eight candidates running for two open seats on the Alturas City Council attended the Farm Bureau's candidate forum. While their views varied little on the city's economic woes and how to deal with them, the issue apparently dividing the winners from the losers was whether street trees should be included in a city beautification plan. The two candidates who opposed the trees both won. For candidates vying for open seats, a good performance during the candidate forum is crucial.

3. Anti-Government Sentiments

An important factor in candidates' political success in Alturas and Modoc County is a strong anti-government, anti-regulation stand. Yet, ironically, the U.S. Government owns three-quarters of the land in Modoc County and the U.S. Department of Agriculture is the largest employer in the region. Anti-government and anti-regulatory feelings emanate from a desire by local residents to be left alone. Ranchers do not want to be told where they can graze cattle; farmers do not want to be told where they can grow crops; lumber companies do not want to be told where they can cut trees. They have been "doing it their way" for generations. Because the federal and state governments are often in the business of protecting wildlife and preserving forests, local anti-government attitudes also translate into strong anti-environmental feelings. Former Supervisor Chace feels that her defeat in 1988 was partly due to misplaced voter hostility toward state and federal government intrusion.

A recent episode between the Sierra Club, the Fair Political Practices Commission (FPPC) and Modoc County Supervisor M. W. "Mick" Jones illustrates the area's strong anti-outside interference sensitivity. In 1985, the Sierra Club and an area resident initiated a lawsuit against the board of supervisors for not adequately considering environmental concerns when it approved a plan to subdivide and rezone a vacation area known as "California Pines." Supervisor Jones, whose business had a contract to sell mobile homes to the California Pines project, cast the deciding vote in the matter. The FPPC charged Supervisor Jones with 10 violations of state conflict of interest and disclosure laws relating to the California Pines development. Jones was fined \$13,500 for voting when he had a conflict of interest, failing to disclose economic interests in his mobile home business and failing to disclose additional sources of income and loans. Jones answered the charges in a letter to the *Modoc County Record* saying his vote in favor of the California Pines project "was best for Modoc County, and that it would bring in additional tax revenues."³⁰

According to former *Modoc County Record* editor Pineo and others, this matter had no effect on Supervisor Jones' reelection chances; he won easily.³¹ Modoc

County residents, being anti-government and anti-outside interference, stood by their supervisor. A majority of residents also felt that Jones' position on California Pines was correct since the county needed additional tax revenues. Residents undoubtedly viewed the FPPC and the Sierra Club as outsiders attempting to deny Modoc County much needed moneys.

C. Conclusions and Recommendations:

Major Campaign Finance Reforms Are Unnecessary

The Commission believes the personalized nature of Alturas and Modoc County campaigns avoids the need for significant campaign finance reforms. Unlike candidates in other larger jurisdictions, local candidates experience no pressure to secure campaign contributions or compete in a spending arms race. Money and politics in these two jurisdictions are scarcely related to each other. Constituents make their choices through personal knowledge of the candidates and a review of their stands on issues. The two most important factors contributing to a candidate's success are visibility in the community and performance in the Farm Bureau's candidates' night.

The Commission recommends only minor adjustments of Alturas and Modoc County's campaign laws involving local campaign contribution disclosure levels. In 1986, the state increased—from \$500 to \$1,000—the threshold amount candidates must raise and spend before being required to file detailed campaign statements. While this new \$1,000 level may be appropriate in larger jurisdictions and in state campaigns, it may be too high for small jurisdictions the size of Alturas or Modoc County. To monitor more closely the financial activities of local candidates, the Commission recommends both jurisdictions lower the threshold amount back to \$500 or to an even smaller sum. A second minor adjustment relates to the reporting of contributor information. Current state law requires candidates who spend more than \$1,000 to disclose the names, addresses and employers of contributors giving \$100 or more. The Commission recommends for small jurisdictions a lower level of disclosure—perhaps \$25. These minor adjustments could enhance the positive qualities of the Alturas and Modoc County election systems.

Alturas and Modoc County's quiet campaign financing systems seem destined to continue for generations to come. Local campaigns of personal relationships and community involvement may never need large infusions of campaign funds. When told of the amounts of money raised and spent in Los Angeles County, one Modoc County resident gasped and said, "That's unbelievable."³² "Politics are quiet here," another observer added.³³

NOTES

1. Telephone interview with Roger Dorris, then-Mayor, City of Alturas, Feb. 24, 1988.
2. Charles Hillinger, *Battered Spirits of Modocs Lure 250 to Scene of Forgotten War*, Los Angeles Times, Mar. 31, 1988. The Modoc War "virtually ended the 10,000-year-old [Modoc Indians] civilization, one of the oldest cultures . . . in North America." At the war's conclusion, a large percentage of the Indian Tribe was "exiled" to Oklahoma.
3. David Darlington, *California's Great Outback*, California Magazine, Feb. 1988.
4. Telephone interview with Smith Pineo, former editor, *Modoc County Record*, Mar. 10, 1988.
5. *Id.*

6. *Id.*
7. Michael Olson, *Will the North Rise Again?*, San Francisco Chronicle, Dec. 6, 1987. Residents of the region were protesting the lack of attention paid to them by their respective states. They were particularly disturbed by their states' inaction in remedying their poor road system.
8. *Id.*
9. Telephone interview with Pineo, *supra* note 4.
10. *Id.*
11. Modoc County General Plan: General Report, Oct. 25, 1985.
12. Telephone interview with Maxine Madison, County Clerk, Modoc County, Feb. 23, 1988.
13. *Id.*
14. Telephone interview with Lesley Chace, then-Supervisor, Modoc County, Oct. 1986.
15. Telephone interview with Pineo, *supra* note 4.
16. Telephone interview with Chace, *supra* note 14.
17. Telephone interview with Maxine Madison, County Clerk, Modoc County, Mar. 31, 1988.
18. Telephone interview with Smith Pineo, former editor, *Modoc County Record*, Mar. 1, 1989.
19. *Id.*
20. *Id.*
21. Telephone interview with Denise Utter, City Clerk, City of Alturas, Oct. 21, 1986.
22. Telephone interview with Dorris, *supra* note 1.
23. Telephone Interview with Stan Townsend, 1988 candidate for Alturas City Council, Mar. 28, 1988. (He was elected in April 1988.)
24. Telephone interview with Chace, *supra* note 14.
25. *Id.*
26. Telephone interview with Maxine Madison, County Clerk, Modoc County, Mar. 28, 1988.
27. Telephone interview with Pineo, *supra* note 4
28. Telephone interview with Denise Utter, City Clerk, City of Alturas, Mar. 15, 1988.
29. Telephone interview with Pineo, *supra* note 4.
30. *Id.*
31. *Id.*
32. Telephone interview with Madison, *supra* note 12.
33. Telephone interview with Pineo, *supra* note 4.

CHAPTER 7

Gardena: Betting on Campaign Finance Reform

In 1976, the City of Gardena adopted its first campaign finance ordinance. Along with sections providing for expenditure ceilings, contribution limits and strict disclosure requirements, the ordinance included a provision that banned campaign contributions from persons or parties negotiating or holding contracts for goods or services with the city. The provision was included as an afterthought by the city attorney and was not considered unusual by candidates or city officials. Yet over the years the contractor clause has improved the public's perception of the government process during the negotiation of major city contracts and appears to be a straightforward way for cities of all sizes effectively to address problems of improper contributor influence on local decision-making.

Gardena is renowned for its gambling. Card clubs for poker, legal within city limits for over 50 years, have been the city's dominant industry and provider of tax revenues. Club owners have actively participated in city politics, particularly involving themselves in real estate development and initiatives that might threaten the clubs' continued existence. For decades the clubs poured thousands of dollars into the campaign funds of favored candidates and launched high-cost independent campaigns to defeat officials that opposed clubs or club-sponsored initiatives. "The clubs ran the town," said former *Gardena Valley News* editor Charlie Farrell, "[as does] the dominant industry in other cities."¹ Yet it was the perceived political

influence of the card clubs that motivated the city council to adopt and local residents to ratify a campaign finance ordinance in the mid-1970s that included contribution limits, spending ceilings and strict rules for financial disclosure.

Gardena is located in southern Los Angeles County to the south and west of downtown Los Angeles. It covers 5.36 square miles and is home to approximately 51,000 citizens. (See Table 7.1, "Gardena Data Profile.") The Gardena area was settled in the 1800s as a loosely organized agricultural community of large ranches. In 1930 it was incorporated as a city to avoid annexation (and subsequent taxation) by the neighboring cities of Hawthorne, Inglewood, Redondo Beach and Torrance.² Gardena grew rapidly in the 1940s and 1950s, slowing its development only in the subsequent decades.

Over the years, the city has progressed from an agricultural town to a residential community whose working class population looks to industry and manufacturing in neighboring cities for employment. Gardena's own economic development has been hampered by lack of available vacant land within city limits. It is an ethnically diverse city with a balanced population of white, black, Latino and Japanese-American citizens.³

Gardena's city government is notably stable. Incumbent officeholders are often challenged but rarely defeated. Political newcomers must run two or three times to be successful. Voters tend to elect familiar faces, visible people they have come to know through community organizations. Local elections seldom see high-powered political techniques. Candidates traditionally rely on low-cost fundraisers, election committees staffed with volunteers, family and friends and obligatory walks through all the city's precincts.

Gardena employs a council-manager form of government. Voters elect four city council representatives at-large for four-year terms and a mayor for a two-year term. Two council seats and the post of mayor are up for a vote each election cycle. The office of city clerk is also an elected post, while the city manager and city attorney are appointed by the city council.

A. Gardena's Colorful Gambling Heritage Distinguishes It From Other Cities

"Card clubs" offering legal poker games have flourished in Gardena since the 1930s. For many of those years, Gardena's card clubs held a *de facto* regional monopoly that built the city's reputation as a local gamblers' mecca. "The clubs had a terrible image," says former *Gardena Valley News* editor Farrell, "and although they didn't live up to it, the club owners played upon it."⁴ Some club owners adopted the style and mannerisms of gamblers and gangsters in popular movies and carefully nurtured their reputations as political power brokers. For decades, clubs financed candidates for city offices, and club support was widely recognized as the key to local political success. Some politicians were uncomfortable with the clubs' politics, yet all recognized the tremendous impact they had on the city's economy and were reluctant to disagree publicly with club positions.

The card clubs' political influence began to wane in the 1970s. Then-Mayor Ed Russ became the first official publicly to reject card club political contributions. Although the refusal was tactically easy for Russ—who was popular, considered undefeatable and had solid financial support from non-club interests in the community—the move made it politically fashionable for other candidates to reject club money as well.

"The irony was that in the 1970s club candidates were losing despite expensive campaigns," says Farrell.⁵ The turning point in club influence came in the mid-

1970s during a ballot initiative to create a City Redevelopment Agency. Local card club owners supported the initiative because they hoped to use the agency as a vehicle to develop land that they owned. Although club interests spent \$50 to \$60 per vote compared to agency opponents who spent approximately \$1 per vote, the measure was overwhelmingly defeated. Since then, efforts to rebuild club influence have been unsuccessful.

Table 7.1

GARDENA DATA PROFILE**Local Government**

- STRUCTURE:** Charter drafted in 1930; weak mayor system; four city councilmembers elected at-large to four-year terms; mayor elected citywide to two-year terms; city clerk elected; city attorney appointed by council.
- CITY BUDGET:** \$30 million (fiscal year 1988-89)
- CITY FACTS:** Population (1989): 50,900; Area: 5.36 square miles; Registered voters (Apr. 1989): 20,535; Voter turnout (Apr. 1988): 27%

Contributions

	<u>Gardena</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	23%	40%	52%
Individual	61%	45%	33%
Labor	0%	2%	4%
Political	2%	5%	6%
Candidate	14%	8%	5%
Non-Election Year	0%	6%	42%
Election Year	100%	94%	58%

Expenditures

	<u>53 %</u>	<u>57 %</u>	<u>38 %</u>
VOTER CONTACTS			
Broadcast	0%	0%	7%
Literature	37%	48%	26%
Newspaper	8%	6%	2%
Outdoor	8%	3%	3%
OVERHEAD	47 %	43 %	62 %
General	19%	17%	22%
Personnel	2%	5%	6%
Fundraising	20%	6%	13%
Survey	1%	5%	4%
Consulting	4%	8%	10%
Travel	0%	0%	1%
Candidate Transfer	1%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

B. Campaign Finance Reforms Seek to Restructure the Local Balance of Power

Councilmember Mas Fukai had carefully distanced himself from the card clubs during his political life, refusing all contributions from club interests and developing political and financial support from alternate sources within the community. First elected in 1974, he had been the clubs' most vocal adversary on the city council and devoted considerable effort toward reducing the clubs' influence on city government. Despite this, Fukai's 1975 proposal to limit campaign contributions and candidate spending took the council by surprise.

Because of the clubs' traditional political clout and their immediate opposition to the proposal, most city officials were reluctant to support Fukai's ordinance for fear they would lose club support at the next election. When then-Mayor Russ requested written comments on the proposal from the council, none were submitted.⁶ Although the public expressed little interest in campaign finance reform, card club representatives attended council meetings in full force to oppose the ordinance. Loud and accusatory arguments ensued between councilmembers and card club supporters. Business groups and labor unions also made statements in opposition to the ordinance.⁷ The *Gardena Valley News* printed a strong editorial stating, "Better no legislation than bad legislation."⁸

In response to opponents' vehement complaints, the council considered alternate proposals that adjusted the proposed contribution and spending limits upward to pacify card club objections. But the clubs persisted, arguing that any campaign finance ordinance would violate their First Amendment rights of free expression. "Men who can afford it should be able to use their money to achieve the things they believe in and to inform their fellow citizens," said card club owner George Anthony.⁹ Anthony's attorney even distributed copies of "The Federalist" to councilmembers to remind them of their constitutional obligations.¹⁰

In mid-October 1975, Fukai's savvy political strategy resulted in passage of a compromise campaign finance ordinance. The council had wanted to postpone action on the measure until the United States Supreme Court rendered its first decision on campaign finance restrictions in *Buckley v. Valeo*.¹¹ To force council action, Fukai telephoned the city attorney, who was attending a conference in Washington, D.C., to get his recommendation. The city attorney acknowledged the potential impact of the *Buckley* case but recommended that the council proceed with its own ordinance. Fukai used the recommendation to put pressure for the deciding vote on Councilmember William Cox, sponsor of the compromise proposal. Cox later commented that he would have preferred to postpone consideration of the ordinance but voted in favor of passage because he thought it would look "silly" to oppose his own proposal.¹²

Card club owner Anthony immediately denounced the council action and launched a highly visible and flamboyant referendum campaign, seeking to repeal the ordinance by appealing to the voters' sense of patriotism. Anthony concluded his referendum signature drive with a widely publicized parade ending at the city clerk's office with the delivery of a red, white and blue wheelbarrow full of petitions.¹³

Fukai fought the referendum campaign with public statements and letters to the editor of the local paper, defending the propriety of the ordinance:

"Some ceiling should be placed upon the contribution of major contributors particularly in a community the size of Gardena An example of the situation is seen in the recent elections in the City of Torrance In that election, the distinguished Mayor of that city,

which is four times our size and three times our population, spent \$5,600. While in Gardena, a Councilman had to spend upwards of \$11,000. Is it really necessary? I think not.”¹⁴

Referendum supporters began a campaign to discredit Fukai, alleging that he had accepted unethical contributions from card club interests. Fukai threatened to sue his accusers, and he promised to resign his council post and his position as deputy to a Los Angeles County supervisor and to relinquish his insurance underwriter's license if the charges were proven in court.¹⁵ No such attempt was made.

Despite the controversial referendum campaign, voters overwhelmingly (63%) rejected the referendum and reaffirmed the council's adoption of the ordinance on March 2, 1976. Gardena's original ordinance contained the following provisions:

- Expenditure ceilings—for candidates for council, clerk or treasurer, 70¢ per registered voter for incumbents and \$1.00 per registered voter for challengers (\$9,100 and \$13,000, respectively); for mayor—75¢ per registered voter for the incumbent and \$1.10 per voter for challengers (\$9,750 vs. \$14,300);
- \$500 contribution limit;
- \$2,500 limit on candidates' contributions to their own campaigns;
- \$50 limit on anonymous contributions;
- Full disclosure of contributions of \$50 or more;
- \$500 aggregate limit on anonymous contributions accepted by each candidate;
- Prohibition of contributions from city contractors;
- Disclosure by broadcast and print media of revenues from political ads; and
- Disclosure by suppliers of goods and services to campaigns of revenues from political sources.

Gardena's campaign finance ordinance has been amended several times since its 1976 adoption. The first changes removed the expenditure limits to accommodate the landmark *Buckley* Supreme Court decision which ruled that expenditure ceilings standing alone could not be imposed on candidates without their consent. In response to a council belief that the original law went too far, an amendment modified the financial disclosure rules to exempt the media and contributors of goods and services from mandatory reporting requirements. One amendment in the late 1970s attempted to prohibit multiple business contributions by banning donations from individuals whose employers had already met the law's contribution limit. A card club employee challenged the amendment in Los Angeles Superior Court, which ruled that the amendment was an unlawful restriction on the rights of individuals.¹⁶

Gardena's existing ordinance currently contains the following major provisions:

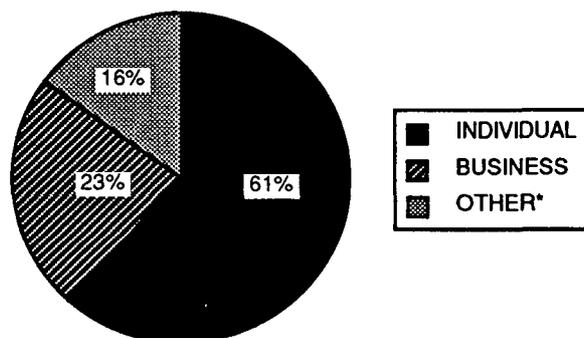
- A \$500 contribution limit per candidate per election;
- A ban on individual anonymous contributions of \$50 or more;
- A \$500 aggregate limit on anonymous contributions accepted by each candidate;
- A total prohibition of contributions from any person who contracts with the city for goods, services or property, during negotiations for and throughout the term of the contract;
- Full disclosure of gross receipts from fundraisers; and
- Disclosure by clear notice on independent expenditure materials that the purchase was not authorized by their candidate.

C. Individuals Make Significant Contributions to Gardena Campaigns

Recent contribution and expenditure data for Gardena suggest low-tech, homestyle grassroots campaigns. In 1984, the average council candidate spent about \$15,000, with some candidates spending upwards of \$25,000, to compete for part-time council posts that pay \$2,400 per year. Recently, candidates have begun to build war chests of campaign funds in amounts up to \$10,000.¹⁷

Contributions from individuals (61%) are very high for a small city (the small city average is 45%) and clearly dwarf business contributions (only 23%). (See Table 7.2.) This high level of individual contributions may be credited in large part to the city's law prohibiting any contributions from city contractors. The city's strict interpretation of this provision places many city businesses within the definition of "contractor." Owners of local businesses are thus likely to contribute as individuals in order to participate. The high percentage of individual contributions is also attributable to the city's active Japanese-American community which has been very generous toward favored candidates.

Table 7.2
SOURCES OF CONTRIBUTIONS
GARDENA



*"Other" includes contributions from political and candidate sources. Gardena candidates accepted no money from labor sources.

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

The sizeable percentage of contributions (18%) above the \$500 contribution limit points to a major loophole in the city's ordinance—loans. Candidates have accepted loans in amounts far above the contribution limit. In 1984, for example, Councilmember James Gragin accepted a \$10,000 loan from one source. In 1982, another council candidate accepted two loans well above the contribution limit. This loan loophole has allowed easy circumvention of the law.

1. Incumbent/Challenger Fundraising

Incumbents enjoy a significant fundraising advantage in Gardena. (See Table 7.3.) On average, individuals and businesses each give more than three-quarters of their contributions to incumbents. Political sources also greatly favor officeholders. Challengers lead incumbents only in candidate money (money contributed from the candidates to their own campaigns).

Both incumbents and challengers raise the bulk of their contributions from individuals—incumbents raise almost three-quarters of their contributions from

individuals. While incumbents and challengers raise most of their campaign funds from the same source, the incumbents' fundraising advantage ultimately drives challengers to contribute more than 10% of their total contributions to themselves.

Table 7.3

**INCUMBENT/CHALLENGER DATA PROFILE
GARDENA**

Percentage of Total Contributions Raised From Each Source

	<u><i>Incumbent</i></u>	<u><i>Challenger</i></u>
Business	24%	26%
Individual	74%	63%
Labor	0%	0%
Political	1%	1%
Candidate	1%	11%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbents	79%	82%	0%	84%	39%
Challengers	21%	18%	0%	16%	61%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

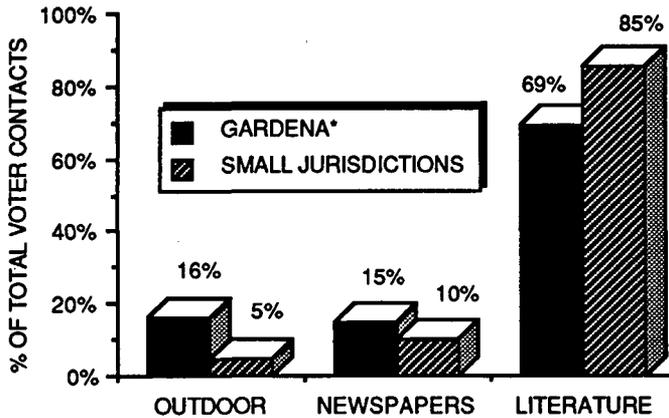
2. "Traditional" Campaign Expenditures

Campaign expenditures in Gardena also reflect the old-fashioned nature of local politics. While candidates in other small cities devote the bulk of their total voter contact dollars to campaign literature, Gardena candidates prefer a more traditional balance of literature, newspaper and outdoor advertising that is disappearing elsewhere. (See Table 7.4.)

Fundraising expenditures as a percentage of total expenditures appear to be significantly higher in Gardena than in other small cities (20% versus 6%). Because only small-to-moderate dollar amounts are spent in Gardena campaigns, however, the relatively fixed costs of fundraising events are larger proportionately than those in other small cities with total expenditures far greater than Gardena's.

Political consulting fees during the 1982-1984 cycles were proportionately low in Gardena (4% versus 8% of total expenditures in other small cities studied). Consultants currently are rare in local campaigns, but their presence is likely to increase. Many local politicians interviewed by the Commission said they are considering hiring professional consultants for future campaigns.

Table 7.4
VOTER CONTACT EXPENDITURES
GARDENA



*Gardena candidates reported no money spent on broadcast advertising.

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

D. Gardena's Current Laws Have Addressed Effectively Several Specific Campaign Finance Problems

The most interesting and most important provision in Gardena's campaign finance ordinance is its prohibition against contributions from city contractors. Some reports state that the clause was introduced in response to cronyism charges casting suspicion on the contractual success of the city's 30-year garbage contractor. Under the ordinance, no one in negotiations or bound by a contract with the city may make a contribution to a Gardena campaign. City Attorney Michael Karger believes the provision relieves the council of monetary pressure during contract negotiations. It appears to ease the public's suspicion as to the role of contributions in the city's decisionmaking process.

The prohibition was successfully tested in 1982 when the council considered bids for a franchise to provide cable television service within city limits. Candidates and officials were prohibited from receiving *any* money from cable companies or their officials and avoided all contact with bidding companies during negotiations. Prohibition of *ex parte* contact with city officials by any company vying for the Gardena cable television franchise was written into the contract specifications and the "Invitation for Applications" issued by the City of Gardena. Cable company representatives were only permitted to contact the city administrative officer and the city attorney. Contacts with councilmembers were limited to participation in formal council meetings where all bidders were represented. The city attorney adopted a broad interpretation of *ex parte* contacts that included local campaign contributions as prohibited activities, and required strict adherence to the city contractor clause—both of which were clearly explained at the "Applicants Meeting" preceding acceptance of bids. No applicant violated the rules. By adopting this policy, Gardena enhanced the public impression that the multimillion dollar cable television contract was awarded without political strings.

Although Gardena officials expressed surprise on learning that their contractor prohibition was unusual, it was in fact the first of its kind in the state.

Only four other California jurisdictions have similar restrictions (the cities of Poway, South San Francisco, Belmont and Rancho Mirage), and none enforces its rule as strictly as does Gardena. Gardena can thus serve as an enforcement model for this type of ordinance.

Gardena had adopted a very tough interpretation of "contractor," including *anyone* engaged in providing the city with *any* service, no matter how small. This interpretation even included the sporting goods store that sells baseballs to the Parks Department and the hardware store that sharpens the blades of city lawnmowers. Because of these relatively minor city contracts, the sporting goods and hardware stores were barred from contributing to city officials. Although the city clerk's office keeps a list of all businesses considered "contractors" to help candidates abide by the restrictions, the strict definition of "contractor" has made enforcement burdensome.

For the 1988 municipal election, City Attorney Karger and City Clerk May Doi revised their administrative interpretation of the contractors prohibition to ban campaign contributions only from those businesses whose transactions with the City of Gardena require council approval. The new interpretation reduces the length of the official list of "contractors" and allows vendors who provide Gardena with goods or services without needing council approval to resume campaign contributions.

The most publicized violation of the city contractor clause occurred in 1986 when Councilmember Mas Fukai accepted \$1,700 in contributions from individuals and businesses that met the city's definition of "contractor."¹⁸ Surprisingly, the voters learned of the contributions during a highly emotional city council meeting when Fukai accused several of his colleagues of "conflicts of interest" because of contributions from card clubs. One of the accused, Councilmember James Cragin, responded that while his contributions from card clubs were legal under the ordinance, contributions that Fukai had accepted from those doing business with the city were not.¹⁹ Fukai's treasurer maintained that the acceptance of the contributions was an "inadvertent oversight,"²⁰ yet \$1,500 of the questionable contributions were given by representatives of Group W Cable and Haagen Development Company, easily the most visible entities that do business with the city. When his contributions from city contractors became public, Fukai returned the money along with \$400 in contributions from non-contractors in order to avoid further appearance of conflict of interest.

Karger has extended the interpretation of the city contractor provision during the process of awarding the city's refuse contract in 1988. Beyond the campaign ordinance's prohibition of contributions from those bidding for contracts, Karger plans to add the contribution prohibition to the language of the contract specifications. Under the new interpretation, if a contractor makes a campaign contribution to a candidate for public office in the City of Gardena, it could invalidate the contract. Karger included a similar provision in the development agreement between the City of Gardena and Haagen Development Company, although development agreements are not specifically mentioned as "contracts" in the campaign ordinance.

Authority to enforce violations of Gardena's ordinance is in the hands of the Los Angeles County district attorney and the California attorney general. Since Gardena's city attorney is appointed and funded by the Gardena city council, this designation of an outside enforcement authority avoids the appearance of impropriety during investigations. To date, however, there have been no prosecutions and any alleged violations of the city ordinance have been deemed inadvertent. "Candidates, if anything, are over-concerned with compliance," notes Karger.²¹

Gardena election officials and candidates operate under the assumption that the ordinance requires them to disclose fully all contributions of \$50 or more. Candidates have therefore invented a variety of fundraising methods to dodge this requirement, including events which charge \$25 per person or \$45 for two. In fact, although the \$50 disclosure rule was quite clearly stated in previous versions of the ordinance, the current version makes no reference to the rule and its applicability is therefore unclear. The city attorney maintains that the restriction on individual anonymous contributions implies that contributions of \$50 or more must be fully disclosed.²²

The *Gardena Valley News* and *The Daily Breeze* monitor candidate disclosures closely and have been quick to report inconsistencies or omissions. The city attorney and clerk prefer to remedy disclosure problems with the candidate through informal discussions rather than by initiating formal investigations.

By 1975, local card clubs had begun to lose their influence in the community. Club-sponsored candidates were defeated despite high spending campaigns. It became politically chic to refuse card club contributions and to generate funds from other sources. Gardena's card clubs also faced new competition from clubs in neighboring cities that threatened Gardena's regional monopoly. Since 1980, regional competition has forced 50% of Gardena's card clubs to close. In retrospect, Gardena's campaign finance ordinance may actually have *helped* card clubs—saving them money in city elections and allowing them to divert their money to seek the defeat of anti-card club initiatives in nearby cities.²³

The closures and the related drop in club revenues have forced Gardena officials to reevaluate the city's future tax base.²⁴ City leaders have sought to strengthen local economic development and attract new businesses to Gardena. Although the card club owners maintain political visibility, they are no longer the dominant driving force in Gardena politics.

Candidates in Gardena continue to run traditional campaigns. Competition for council seats is strong in each election. Independent expenditures are few, and most focus upon specific initiatives instead of individual candidates. Off year fundraising is minimal, although incumbent Mayor Donald Dear favors expansion of the practice. "No one does it much now, but it's a good idea. It's an advantage to raise money early."²⁵ Ironically, this attraction to off year fundraising and larger campaign funds has arisen in response to the tremendous fundraising resources of Mas Fukai, originator of the city's campaign finance ordinance. As chief deputy to Los Angeles County Supervisor Kenneth Hahn, Fukai has tremendous influence in the Los Angeles political community and has gained a reputation as a consummate fundraiser and supporter of local Asian political candidates. He has transferred funds to support candidates in several area cities. Although his protegés have not yet been successful in Gardena, his fundraising muscle appears to have threatened his peers on the city council. (Fukai refused numerous Commission staff requests for an interview.)

Some councilmembers interviewed by the Commission felt that raising the city's contribution limit from \$500 to \$1,000 per candidate per election might be necessary to enable them to balance Fukai's fundraising strength. Higher individual contribution limits would allow their campaigns adequately to compete in future races. But Gardena's existing \$500 individual contribution limit is high for a city of its size and campaign simplicity. Cities as large as Fresno and San Diego have \$250 individual limits although candidates in these jurisdictions must communicate with electorates ten times larger than Gardena's. Contribution limits as large as \$500 are most commonly found in larger metropolitan cities like Los Angeles, San Francisco and Sacramento.²⁶ Gardena contributors typically donate

considerably less than the law allows. The most frequent contributions during the 1982-84 election cycles were in the \$100 to \$300 range.

It is not evident that raising the contribution limit would act to balance the fundraising scales. While Fukai's fundraising ability is important, it is overly emphasized by proponents of higher limits. Fukai's political strength is drawn from strong ties to the community and a long council incumbency rather than his campaign war chest. Although Gardena's \$500 limit appears high, local contributors operate well within the boundaries of the limit and no undue contributor influence is apparent.

E. Conclusions and Recommendations: Additional Reforms May Be Desirable

Gardena's campaign ordinance already goes far to meet the city's needs. The Commission believes Gardena's provision prohibiting city contractor contributions to be an excellent innovation. It has apparently helped to relieve elected officials from political pressures regarding contracts and has improved residents' perception of city government. A law similar to Gardena's might be an appropriate addition in every city, regardless of size.

Campaign financing trends in Gardena do not appear to warrant an increase in individual contribution limits. Gardena has the good fortune to have a participatory community, and any campaign reforms should seek to maintain or even increase political activity by more residents. Based on the experience of many other communities, the present \$500 limit is not unreasonable for a community of Gardena's size and political scope.

The Commission recommends, however, that Gardena broaden its contribution limit to apply to loans. Currently, candidates can receive loans of any size, an easy route for circumventing the contribution limits. The most extreme abuse of this loophole occurred in 1984 when an incumbent accepted a \$10,000 loan. The closing of this loophole is essential.

It is further suggested that Gardena consider an amendment to clarify the city's disclosure rules. As noted earlier in this chapter, it is currently unclear whether candidates must disclose contributions of \$50 or more or whether candidates need only meet the state's disclosure rules (disclosure of contributions of \$100 or more). The Commission urges that the ordinance be clarified. The \$50 limit is in tune with the city's existing contribution patterns. Candidate complaints over "cumbersome" paperwork appear unjustified. At a time when council candidates regularly spend \$20,000 per election, it is common sense for election committees to follow procedures that account for fundraising and spending in each campaign. Strict public disclosure of such transactions is a necessary component of political accountability.

Gardena's law contains criminal misdemeanor penalties for violations. Its law is unique because it also prescribes all of the penalties contained in the Political Reform Act. This includes civil actions for monetary damages against violators by the attorney general, district attorney or individual residents of the city. No civil or criminal actions have been filed thus far.

The Commission does not believe it is necessary at this time for Gardena to consider a comprehensive reform including expenditure ceilings along with partial public matching funds. Candidate expenditures thus far do not appear to make such reforms essential.

NOTES

1. Interview with Charlie Farrell, former editor, Gardena Valley News, Mar. 2, 1987.
2. *Historical Gems From Gardena's Past*, Gardena Dateline, Fall/Winter 1986.
3. Gardena's current ethnic makeup is: 31% white, 23% black, 21% Japanese and 17% Latino. City of Gardena Community Development Department Planning Division, Demographic Economic Social Profile and Development Activity Report (1986).
4. Interview with Farrell, *supra* note 1.
5. *Id.*
6. *Suggestions Asked for by Mayor Russ*, Gardena Valley News, Sept. 4, 1975.
7. *Sparse Turnout at Limitation Meeting*, Gardena Valley News, Sept. 21, 1975.
8. Editorial, *Better No Legislation Than Bad Legislation*, Gardena Valley News, Sept. 11, 1975.
9. Polly Warfield, *GBGC Meeting Finally Comes Off*, Gardena Valley News, Sept. 11, 1975.
10. *Limitation Ordinance Is Passed . . . Passage Surprises Many, Including Council Itself*, Gardena Valley News, Oct. 19, 1975.
11. 424 U.S. 1 (1976).
12. Gardena Valley News, *supra* note 10.
13. Mike Runzler, *Referendum Drive Stops Ordinance*, Gardena Valley News, Nov. 16, 1975.
14. Mas Fukai, Letter to the Editor, Gardena Valley News, Oct. 30, 1975.
15. Mike Runzler, *Fukai May Subpoena Members of GBGC*, Gardena Valley News, Nov. 2, 1975.
16. *McAvoy v. City of Gardena*, No. C-325219, Los Angeles Superior Court, Los Angeles, 1981.
17. Interview with May Doi, City Clerk of Gardena, Feb. 26, 1987.
18. *Fukai Returns "Illegal" Campaign Contributions*, Gardena Valley News, Mar. 29, 1986.
19. *Councilmen Favor Stricter Laws on Campaign Finance*, Gardena Valley News, Mar. 19, 1986.
20. Gardena Valley News, *supra* note 18.
21. Interview with Michael Karger, City Attorney, City of Gardena, Feb. 25, 1987.
22. It could be argued that the existing provision only prevents candidates from receiving anonymous contributions of \$50 or more, but the ordinance does not require candidates to disclose the identities of contributors making such \$50-plus contributions.
23. Interview with Farrell, *supra* note 1.
24. *Supra* note 22.
25. Interview with Donald Dear, Mayor, City of Gardena, Feb. 26, 1987.
26. See Chapter 3, "California's Local Campaign Finance Ordinances."

CHAPTER 8

Irvine: Uneasiness in a Master- Planned Community

Irvine is one of the nation's largest and most successful master-planned communities. "Irvine's official slogan is 'Another day in paradise.' Here the phrase 'quality of life' is as common as 'what's for breakfast.'"¹ Irvine voters participate in civic affairs. They support officials who promise to control development and developers. They have backed campaign finance reforms to reduce the influence of special interests. Yet despite the city's campaign finance regulations and lack of evidence documenting special interest influence, voters remain uneasy over the feared influence of the Irvine Company in municipal affairs, over rapid building and development and over a perceived deterioration in Irvine's "quality of life." Like many other California cities, Irvine's residents are confronting the politics of growth.

To the passerby, life in Irvine appears serene. What was ranch land twenty years ago is now an extraordinary planned community. Buildings are new and landscaped. "Villages" are laid out to encompass a mixture of land uses, such as housing tracts, commercial centers, schools and parks. Landscaped buffers surround individual villages. Homeowner associations maintain common grounds, facilities, swimming pools, tennis courts and greenbelts. Association rules protect local aesthetics.

Underneath this patina of security, there is uneasiness. Residents worry over encroachments upon their quality of life. Nearly 200,000 non-residents crowd the streets during the day as they find their way to jobs in the city. Vacant hills

surrounding the city are being quickly covered with new housing tracts. Traffic in and around Irvine is congested. Elected city officials feel powerless to affect development in surrounding unincorporated acres. Their influence seems dwarfed by the Irvine Company, which owns over one-third of all land in Irvine and nearly all the undeveloped property within city limits.

A. Voters Attempt to Defend Their “Quality of Life” From Growth and Excessive Development

James Irvine, Jr. formed the Irvine Company in 1893. Its primary asset throughout its history has been the land of the Irvine Ranch, which stretches from the Pacific Ocean (between Newport Beach and Laguna Beach) to the Riverside County border. Today the Irvine Company owns about 68,000 largely undeveloped acres in the center of Orange County.

The City of Irvine was incorporated in 1971. (See generally Table 8.1 “Irvine Data Profile.”) Its entire 28,000 acres had once been Irvine Ranch land. Despite significant development within city limits, the Irvine Company still owns about 10,000 acres within the city limits, or approximately 80% of the city’s undeveloped land. The city is surrounded by extensive tracts of undeveloped Irvine Company land lying in unincorporated regions of Orange County.

Development within the city carries themes pioneered in the 1960s, when the Irvine Company contracted with architect William Pereira to design a “planned community” surrounding the new University of California at Irvine campus. City officials have continued to follow the same themes: small villages with complete services available and a “university town” with concomitant cultural and recreational amenities. Irvine residents choose to live in Irvine because of these features. They fear new development will cause their quality of life to deteriorate. They vote, they campaign, they attend city council meetings and they participate on civic committees in the effort to preserve what they have. Their economic and educational backgrounds make them worthy advocates.

Residents do not, however, own the undeveloped land in and around Irvine. Lack of control over new development in surrounding communities and the economic dominance of the Irvine Company within the city have generated suspicion of the Company that neither the election of anti-Irvine Company candidates nor campaign reform legislation has allayed.

Since the city’s incorporation in 1971, however, there has been little evidence to confirm residents’ fears that the Company exercises undue influence over politics in Irvine. The Irvine Company neither endorses nor contributes to local candidates. Company employees participate as individuals but the Company assumes no formal position in campaigns. “the Irvine Company’s influence in Irvine elections was highest on the day of incorporation,” says company spokesperson Mike Stockstill. “Our influence has gone downhill ever since.”² Still, many voters and council candidates *believe* the Company is involved behind the scenes. So much is at stake.

1. Irvine’s Incorporation

The Irvine Company supported incorporation of the City of Irvine because its development plans were routinely rejected or held up by “a hostile [Orange County] Board of Supervisors,” according to Stockstill.³ In 1970, the Company sponsored formation of the Council Communities of Irvine (CCI) to investigate the feasibility and benefits of cityhood. CCI examined the economics of a new city, considered its boundaries, recommended incorporation and actively campaigned for cityhood. One CCI member later commented, “I think we were spoonfed. We met often in the

[Irvine Company's] tower offices, we had a company man presiding and we seemed to be using a heck of a lot of material they provided."⁴

Table 8.1

IRVINE DATA PROFILE

Local Government

STRUCTURE: Incorporated in 1971; charter adopted in 1978; four city councilmembers election at-large to four-year terms; mayor elected to a two-year term; city attorney and city clerk appointed by council.

CITY BUDGET: \$46.65 million (fiscal year 1987-88)

CITY FACTS: Population (1989): 100,500; Area: 44 square miles; Registered voters (Feb. 1989): 56,637; Voter turnout (June 1988): 58%

Contributions

	<u>Irvine</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	32%	40%	52%
Individual	57%	45%	33%
Labor	1%	2%	4%
Political	2%	5%	6%
Candidate	8%	8%	5%
Non-Election Year	3%	6%	42%
Election Year	97%	94%	58%

Expenditures

VOTER CONTACTS	72%	57%	38%
Broadcast	1%	0%	7%
Literature	65%	48%	26%
Newspaper	4%	6%	2%
Outdoor	2%	3%	3%
OVERHEAD	26%	43%	62%
General	11%	17%	22%
Personnel	2%	5%	6%
Fundraising	6%	6%	13%
Survey	0%	5%	4%
Consulting	7%	8%	10%
Travel	0%	0%	1%
Candidate Transfer	0%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1986)

CCI organized a successful petition campaign to require an incorporation election on December 21, 1971. The Company and CCI spoke in favor of incorporation. Joan Irvine Smith, minority stockholder in the Irvine Company, however, joined incorporation opponents to argue that the Company's support for incorporation stemmed from its plans to develop property within Irvine more rapidly and more densely than would be allowed under county regulations. Fear of rapid development also led University of California Regent Norton Simon to oppose

incorporation. Simon believed it threatened a 1960 University of California agreement with the Irvine Company which guaranteed adherence to the "university town" concept in the development of the surrounding properties. Unable to persuade other regents to oppose incorporation, Simon complained about "interlocking corporate and conservative Republican interests [among the Regents] with Irvine Company figures."⁵ State Senator Dennis Carpenter campaigned against incorporation, calling it "a breech baby if ever there was one."⁶ The *Los Angeles Times* editorialized that "cityhood for Irvine is premature."⁷

Despite the strong opposition, voters approved incorporation by a 2-to-1 margin. Residents thereby demonstrated that they wanted greater control over local policies and development. The 1971 vote offered the Company a mixed blessing: a newly incorporated city but one governed by a city council somewhat hostile to the Company's interests. As the *Daily Pilot* observed, "nearly every candidate [for the first city council] swore he or she would not be a puppet for the Irvine Company."⁸ In each of the seven city elections since 1971, voters have reaffirmed their desire for control over development in their town and for city officials independent of the Irvine Company.

2. Subsequent Elections

Since the incorporation vote, local elections have frequently turned on whether candidates are pro- or anti-business, pro- or anti-growth. Irvine voters are sympathetic to pro-business candidates. Many believe their quality of life can be improved by economic growth, and they support candidates who want to attract and promote business in Irvine. At the same time, Irvine voters want an independent city council that believes business should not rely on the city government for support and works to balance developers' interests against broader civic goals. These sometimes conflicting objectives occasionally produce surprising election results.

Pro-business/pro-growth candidates and anti-business/slow-growth candidates appear to meet with approximately equal success in Irvine. The controlling edge appears to lie in the candidate's visibility in the community and the degree of his or her independence from the Irvine Company. Recently, threats to Irvine's quality of life have come largely from *outside* the city limits. Orange County is growing very rapidly. Entire new communities have been erected on unincorporated land in a space of five years. Road improvements lag behind development and traffic has become gridlocked in some areas. In addition, Irvine sits in the flight zone of the El Toro Marine Corps Airport so that air traffic over Irvine is dense. Residents feel squeezed. In 1986, the squeezing factors contributed to the election of two slow-growth candidates, Larry Agran (an incumbent) and Ed Dornan.

Irvine's contribution limit ordinance was passed in 1977 in the wake of many indictments of elected and appointed officials in Orange County. Irvine residents were active in the county reform initiative known as TinCup (see Chapter 12, "Orange County") and pushed campaign reform for Irvine as well. The city council adopted a contribution limit ordinance to "get one step ahead of a popular movement," suggests Irvine Planning Commission Chair Mary Ann Gaido, a councilmember between 1976 and 1984.⁹ The council hoped that contribution limits would ease the appearance of special interest influence, especially by the Irvine Company.

B. Campaign Finance Reform Seeks to Reduce Special Interest and Irvine Company Influence

Irvine's "Campaign Reform" law was enacted by the city council on December 13, 1977 and later amended by ballot measures on November 3, 1981 and November 3,

1987. The law now contains two key provisions. First, no individual, corporation, PAC or association can contribute more than \$160 in a single year to any candidate.¹⁰ Second, candidates must file a third pre-election campaign statement in addition to those mandated by state law on the last Friday before the Tuesday municipal election, disclosing all contributions and expenditures through the Wednesday immediately preceding the election.

The stated purpose and intent of Irvine's "Campaign Reform" law is twofold:

- To insure an environment in which all candidates for elective office are "placed on an equal plane" concerning the amounts of money they can raise from each contributor; and
- To insure that "the amount contributed by any person does not materially influence the outcome of any election."

Former councilmember Bill Vardoulis, co-author of the 1977 ordinance and a successful proponent of the 1981 amendments, describes the law's real intent: "We wanted to limit the influence of any one contributor . . . , mostly because everyone was worried about the influence of the Irvine Company."¹¹

As originally passed in 1977, Irvine's contribution limit was set at \$250 per contributor per election, but the amounts were allowed to rise in accordance with two escalators: one for cost-of-living increases and another for increases in the number of registered voters (adding one cent for each new registered voter). With Irvine's rapid population growth, the contribution limit rose quickly and dramatically. By the 1980 election, contributors could give up to \$523. City officials estimated that the contribution limit would automatically rise to \$600 by 1982.

In November 1981, voters moved the contribution limit back to \$250 and eliminated the escalator for the number of registered voters and added a cost of living index. Voters amended the campaign reform law again on November 3, 1987, reducing the contribution limit from \$250 per candidate *per election* to \$150 per candidate *per calendar year* (but leaving the cost of living escalator intact). They also removed a provision which limited husbands and wives to just one combined contribution. Voters approved the lower limit and amended law by a 78% favorable vote.¹²

C. Grassroots Campaigns Flourish in Irvine

A grassroots political campaign can still be run in Irvine, a city of nearly 100,000 people. Such grassroots campaigns use volunteers, neighbor-to-neighbor canvassing, shopping center leaflets and word-of-mouth endorsements. Several aspects of Irvine's contribution and expenditure data reveal a strong propensity toward grassroots campaigns:

- A low correlation between candidate spending and success at the polls;
- Proportionately high giving by individuals compared with businesses and other organizations (see generally Table 8.1, "Irvine Data Profile");
- Relatively low spending on campaign overhead and relatively high spending on direct voter contacts; and
- Relatively competitive city council races without entrenched incumbents and sizeable war chests or overwhelming name identification.

After the ordinance's adoption in 1981, average spending by major candidates has increased dramatically. For example, in 1978 average candidate spending was approximately \$7,000; by 1986 the average amount spent jumped fourfold to \$32,000.

Neither spending increases nor Irvine's ordinance have affected the grassroots character of campaigns.

1. Variable Spending

Some of Irvine's campaign spending increases have been caused by a rapid increase in the number of registered voters, forcing candidates to contact many more voters than before. Between 1978 and 1986 registered voters in Irvine increased from 26,000 to nearly 40,000. By 1989, the number of Irvine voters had topped 56,000. Voter turnout also increased greatly after 1980, when municipal elections were moved from April to the June primaries. Voter turnout among registered voters was only 29% in 1978; by 1986, it had doubled to almost 60%.

While the average cost per vote in Irvine also doubled between the 1984 and 1986 elections—from an average of \$3.31 in 1984 to \$6.08 in 1986—the average cost per vote among *winning* candidates remained exactly the same—\$3.52. Winning candidates were able to use grassroots campaign techniques such as volunteers and in-kind services thereby reducing their citywide spending-per-vote.

Larry Agran, for example, has been elected to the Irvine City Council three times. Each time his spending-per-vote has been about the same—\$3.70 in 1978, \$3.37 in 1982 and \$4.72 in 1986. Ed Dornan, a candidate supported by Agran in 1986, also won his election by spending only \$2.34 per vote. By contrast, unsuccessful 1986 opponent Tom Jones ran a more expensive campaign than either Agran or Dornan without much of a grassroots flavor and spent \$9.98 per vote. Electoral success in Irvine appears to turn less on how much candidates spend than on how they spend it, how well known they are and where they stand on the issues.

2. Broad-Based Contributions

In Irvine, candidates raise more money from individuals and less from businesses than candidates in many other cities and counties. In two recent election cycles, for example, Irvine city council candidates raised 57% of their campaign treasuries from individuals and only 32% from businesses. In the averages for "All Jurisdictions" studied by the Commission, these figures are reversed, with 33% coming from individuals and 52% from businesses. (See Table 8.2 and, generally, Table 8.1, "Irvine Data Profile.") In some Irvine campaigns, individual contributions are even more dominant than they appear in overall city averages. Candidates Larry Agran and Ed Dornan (both ran in 1982 and 1986), and David Baker (who ran in 1984), raised much lower percentages of business contributions than other candidates. (See Table 8.3.)

3. Competitive Fundraising

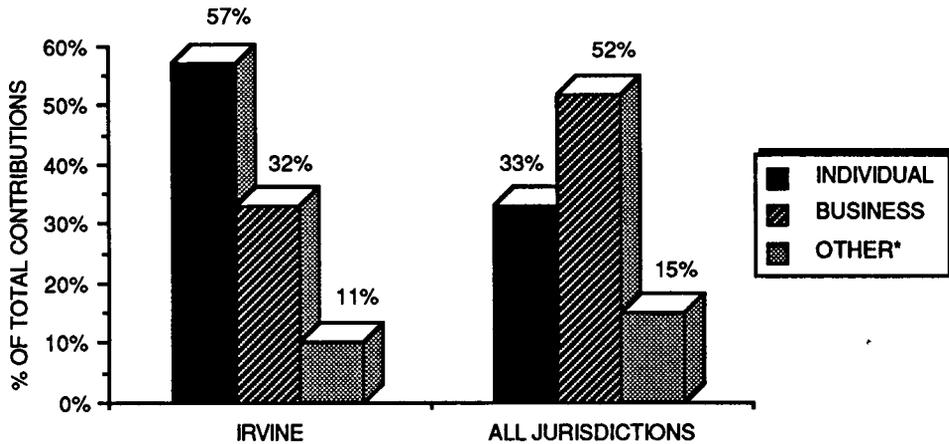
Irvine's competitive election system creates a highly competitive fundraising situation. Challengers are not outraised or out-matched by incumbents. In fact, challengers receive 64% of all the money contributed.

The traditional relationship between incumbents and business contributors, and challengers and individual contributors, is reversed. Incumbents raise more of their money from individuals than do challengers. Challengers raise more of their contributions from business than do incumbents. (See Table 8.4.) Irvine's hotly debated growth issue has impacted fundraising patterns dramatically. Pro-growth challengers have tried to unseat slow-growth councilmembers, while at the same time, slow-growth challengers have tried to defeat pro-growth incumbents.

In average races between incumbents and challengers, the Commission's data analysis shows that challengers raise slightly more from business while incumbents raise slightly more from individuals. From labor and political sources, incumbents also raise more than challengers. The only traditional component of

Irvine's incumbent versus challenger relationship is in how much money is personally contributed by the candidate; challengers, on average, contribute slightly more. The fundraising situation that has developed in Irvine's elections seems unique: rather than running at a tremendous fundraising disadvantage, challengers raise equal amounts to incumbents.

Table 8.2
SOURCES OF CONTRIBUTIONS
IRVINE



*"Other" includes contributions from labor, political and candidate sources.

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1986)

4. Emphasis on Direct Voter Contact

Overall candidate spending in Irvine also emphasizes grassroots campaigns. During the 1982, 1984 and 1986 election cycles, candidates spent 72% of all campaign moneys on *voter contacts* (campaign literature, broadcast, newspaper and outdoor advertising). By contrast, candidates in jurisdictions studied by the Commission overall spent an average of 38% while candidates in small jurisdictions spent an average of 57%. (See Table 8.5.)

Irvine candidates, for the most part, can spend their dollars on direct communications with voters because they have so many willing volunteers to cover overhead and personnel costs. People are interested in civic affairs and the city's environment, and they contribute their dollars, skills and time to candidates. With such generous contributions, Irvine candidates often have the luxury of using their contributions for media messages to the voters.

Council candidates also avoid expensive consulting fees. Irvine candidates spent an average of just 7% for consulting. In all other jurisdictions studied, candidates spent an average of 10% on consultants. In 1986, Larry Agran garnered the most votes without spending any money on campaign consultants. In part, this is because Agran and Ed Dornan are themselves talented political consultants. Together they have created the best available mailing list for Irvine voters. Their targeting is state-of-the-art and they write their own literature and oversee its production.

Agran and Dornan also offer their personal expertise without charge to selected other candidates for Irvine city council. These other candidates can preserve their precious campaign dollars for voter contact expenditures. Since this

assistance to the campaigns is a voluntary personal service, it is not regarded as a campaign contribution under the Political Reform Act or Irvine's local laws.¹³ Candidates not supported by Agran and Dornan are on their own and may need to hire professionals for strategy, literature or management. Consulting fees in these cases can vary from 3% to 30% of total campaign budgets.

Irvine candidates are also unique in that their spending on voter contacts is devoted significantly more to literature and significantly less to broadcast and outdoor advertising than in most other jurisdictions studied. Several unique characteristics of Irvine help explain this trend. First, Orange County sits under the umbrella of the Los Angeles media market. Few television or radio stations broadcast solely to the Orange County area. To purchase media directed at all of Southern California is thus expensive and inefficient. Advertising on Irvine's cable television system does not reach sufficiently large numbers of voters. Literature therefore remains the most cost-effective way to reach Irvine voters. Second, Irvine has a regulation against posting political signs on public rights-of-way, and candidates may display signs only on private property. Strict fines discourage improper outdoor advertising.

Table 8.3

**SOURCES OF CONTRIBUTIONS BY CANDIDATE
IRVINE**

<i>Candidate</i>	<i>Less Than \$100*</i>	<i>Individual</i>	<i>Business</i>	<i>Other</i>
1986 Agran	51%	42%	1%	6%
Dornan	44%	34%	11%	12%
Jones	5%	47%	46%	2%
Maloney	7%	35%	53%	5%
1984 Sills	2%	51%	46%	1%
Miller	11%	53%	33%	3%
Baker	11%	74%	7%	8%
Gaido	16%	51%	25%	8%
1982 Agran	55%	25%	0%	20%
Dornan	60%	10%	7%	23%
Weiner	20%	47%	26%	7%
Nakaoko	15%	34%	49%	2%

**These contributions may come from any contribution source, since state law does not require disclosure of the identities of under-\$100 contributors.*

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1986)

5. Competitive Races

Incumbents have held a clear electoral advantage in Irvine: only one incumbent has been defeated in the last decade. Irvine elections, however, have remained competitive due to the presence of open seats in each election, save one, over the last ten years. Turnovers are now guaranteed by a two-term limit applicable to city councilmembers after the November 1986 election.

Competitive races also are encouraged by the predominance of individual (compared to business) contributions and the predominance of election year (compared to non-election year) fundraising. Individuals making contributions

encourage competition because they are more likely to support candidates for ideological reasons. Moreover, individual contributions in Irvine are made primarily during the election year. This suggests that contributions are inspired more by issues or candidates' personalities than "access" to incumbent government decisionmakers.

In Irvine, a whopping 97% of all contributions made during the election cycles studied were made during campaign years; candidates raised only 3% of their money in the non-election year. Irvine's low non-election year fundraising percentage is even lower than the average among all small jurisdictions studied (6%). In Irvine municipal elections, as in most small cities, challengers start on a relatively even footing with incumbents in the election year.

Table 8.4

**INCUMBENT/CHALLENGER DATA PROFILE
IRVINE**

Percentage of Total Contributions Raised From Each Source

	<u><i>Incumbent</i></u>	<u><i>Challenger</i></u>
Business	26%	36%
Individual	65%	54%
Labor	2%	1%
Political	2%	1%
Candidate	5%	8%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbents	43%	55%	79%	60%	82%
Challengers	57%	45%	21%	40%	18%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1986)

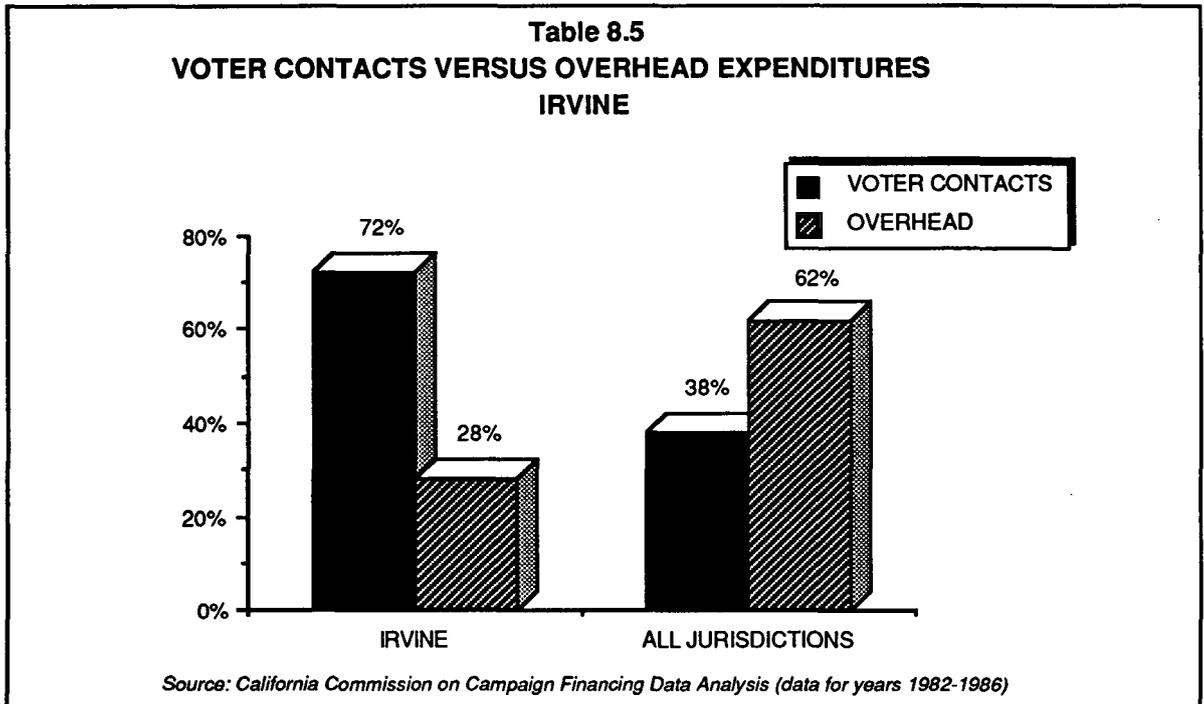
D. Voters Remain Suspicious of Special Interest Influence

Irvine voters retain their deep-rooted distrust of the city's major landowner, the Irvine Company, even though its influence in local elections is difficult to discern. Yet Irvine Company spokesperson Mike Stockstill explains, "We do not make endorsements or contributions to any local races. We don't feel it would be productive. Many executives personally choose to support local candidates with either contributions or fundraising. It's never been somebody's assignment to work on a city council campaign. We do encourage employees to be involved politically on their own time."¹⁴

Nonetheless, the popular perception persists that the Irvine Company is involved somehow, somewhere, in local elections. Since the Company owns all but

20% of the undeveloped land within city borders, the Company has an obvious interest in who is elected to the city council. The Irvine Company, in turn, is equally important to city officials and planners.

“Hardly anything gets done without the Irvine Company’s approval,” comments *Orange County Register* reporter Bill Boyer. “For example, there was a grassroots group that wanted a city float in the Rose Parade. The group assumed that the Irvine Company would support the float. It was only a question of how much. The Irvine Company decided to think about it. Without the Irvine Company taking a lead, other businesses won’t follow with contributions.”¹⁵



In administering their master-planned community, city officials rely on the Irvine Company to implement their vision of the city’s future. The city cannot develop land it does not own. As owner, developer and future landlord of 80% of the undeveloped land in Irvine, the Irvine Company holds the key to what gets developed, whether it is developed at all, when it is developed, and how it is maintained.

Land use consultant Larry Hoffman describes the power of the Irvine Company over city plans: “In the 1970s, there were several developers appearing before the Irvine City Council. In the 1980s, the only land that doesn’t have zoning belongs to the Irvine Company. And the Irvine Company [which also owns much land in other parts of Orange County] can go elsewhere if it wants to and ignore problems in Irvine. The Company has the option to focus on land development in Orange or Tustin, or in the county along the coast.”¹⁶

“The Irvine Company doesn’t buy influence,” observes reporter Boyer. “Its influence comes from a unique relationship with the city because the Irvine Company owns so much land. There is a different attitude among city management officials and elected officials toward the Irvine Company. The city management comes from the private sector. It realizes that it needs the Irvine Company’s cooperation to support projects. Elected officials are always grandstanding against the Company, and then they pass it onto the city staff to get it done.”¹⁷

Irvine Company spokesperson Mike Stockstill concurs. "The Irvine Company and the city's fate are inextricably linked. We are married to each other and there is no possibility of divorce. So when you are in that situation, you have no choice but to work with one another and find common ground."¹⁸

But Irvine Company officials and candidates are careful not to appear too closely linked. In 1986, for example, unsuccessful council candidate Tom Jones fired his consulting firm Nelson-Padberg one month before the election. "Since Nelson-Padberg has done consulting for the Irvine Company, I chose to end that relationship and retain another firm. Even an appearance of impropriety was unacceptable."¹⁹

Stockstill explains the political rationale for the Company's avoiding endorsements or contributions: "I suspect most candidates would not want the monopoly landowner involved in their campaign. Just on the sheer face of it, that has some negatives."²⁰ Instead, the Irvine Company helps candidates raise funds for their campaigns, and employees of the Company volunteer in local campaigns.

There have been occasional allegations that the Irvine Company has used other means for influencing local elections. These alleged techniques include reimbursements to subcontractors for campaign contributions, sharing public opinion polls with favored candidates, supporting independent expenditure committees, favoring candidates or issues with editorials in the company-owned *Irvine World News* and allowing favored candidates to affix political signs onto Company signs throughout the city, while other candidates are prohibited by city ordinance from posting political signs in public rights-of-way.²¹

The Irvine Company flatly denies any illegal or unreported contributions. Reimbursement of Irvine Company subcontractors would be illegal, if it occurred. The Orange County District Attorney investigated one such allegation after the 1986 election and was unable to establish a case against the Irvine Company. Investigations by city council staff members have also been unproductive. The Irvine Company insists that it has never shared polling results with candidates. "It is absolutely untrue that we share results of polls and make in-kind contributions that way," Stockstill says.²²

The Company's *Irvine World News* does not endorse candidates for political office. The paper's publisher, Brien Manning, admits that the paper may give more coverage to incumbents over challengers but only because it tends to report on *all* local events, including incumbents involved in ribbon-cutting ceremonies. Manning denies that certain non-incumbent candidates were singled out for more attention than other candidates because of pro-Irvine Company philosophies.²³

In the 1986 election, political signs promoting candidate Tom Jones appeared throughout the city affixed to Irvine Company signs advertising leasing space. The value of this "in-kind contribution" was not reported. Opposing candidates Larry Agran and Ed Dornan responded by distributing postcards picturing the Jones signs stapled to Irvine Company signs. Their message suggested the proximity of the two signs symbolized a close relationship between Jones and the Irvine Company. The voters rejected Jones, and the postcards may have contributed to his defeat. In Irvine's politicized environment, such "in-kind" contributions may be self-regulating.

City Manager Bill Woollett believes, "the Irvine Company is active in local elections, despite its policy not to make endorsements or contributions." "But," he comments, "there is no way to find that out."²⁴ Yet even if the Irvine Company does not seek to control local elections, that participation—no matter how small—bothers many voters. Bill Lobdell, former Irvine Planning Commissioner, comments, "I'm

surprised that the Irvine Company doesn't do more to get involved in local campaigns because so much is at stake. Still, it bothers me that they get involved at all. And they do."²⁵

E. Conclusions and Recommendations: Several Reforms Should Be Considered

Irvine's campaign finance ordinance limits contributions for the stated purpose of placing all candidates on an equal plane and reducing the influence of any one contributor. Irvine's ordinance has not discouraged competitive, grassroots campaigns in which the amounts of money raised are not determinative.

Irvine's ordinance, however, has not allayed public suspicion about the influence of the Irvine Company and other special interests in local elections, despite a lack of hard evidence supporting such suspicions. The Commission believes Irvine could consider a number of amendments to enhance the ordinance's effectiveness and to maintain the high degree of accessibility now present in Irvine's elections.

1. Expenditure Ceilings

Since Irvine enacted its ordinance in 1977, election expenditures have jumped fourfold. To control further spending increases, it may prove possible—since Irvine is a charter city—to adopt expenditure ceilings in exchange for limited public matching funds or other incentives.*

In the end, the Irvine electorate must balance its desire to hold down excessive campaign spending against its willingness to spend taxpayer dollars to achieve these goals. Any public funds committed to this purpose can be limited by an overall cap on the amount of public funds candidates can receive, such as 50% of the expenditure ceilings.

2. Tighter Contribution Limits

Irvine's ordinance currently limits contributions to \$160 *per year*. Even though non-election year fundraising has not occurred in significant amounts to date, this provision allows candidates to raise a total of \$640 per contributor (four years times \$160) before each election and thus places challengers at a potential disadvantage. The Commission believes it is more even-handed to specify limits (for example, \$250) on a *per election* basis, rather than per year, and in addition, to prohibit non-election year fundraising.

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voter's adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure limitations may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities such as Irvine. Recent court cases have upheld the right of charter cities to conduct their own elections and the application of the ballot measure is being challenged in court. If charter cities are indeed exempt, Irvine is free to offer the most effective incentive for candidates to accepting expenditure limits—public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure limits. Such incentives might include higher contribution limits for candidates accepting the spending ceilings. (See Chapter 22, "The Commission's Model Ordinance," for discussion of this alternative incentive.)

3. Enforcement Authority

Overall compliance with Irvine's ordinance appears to be good. Yet there are omissions and ambiguities in the ordinance which require correction. The Irvine ordinance is sorely deficient because it neither identifies an enforcement body nor specifies penalties for non-compliance. Other cities, such as Los Angeles, San Diego and San Francisco, designate an enforcement authority, establish its responsibilities and spell out penalties for non-compliance, such as candidate loss of office.

Enforcement authorities in other cities issue declaratory rulings to clarify ordinance provisions, investigate violations and file complaints against documented violations. The Commission suggests that Irvine's ordinance be amended to specify an enforcement agency and its responsibilities. (See Chapter 23, "The Commission's Model Ordinance.")

Although the Irvine ordinance does not detail specific penalties, violations constitute a misdemeanor. Irvine might consider a range of civil penalties for violations of its ordinance. If the only penalties are criminal sanctions, the appropriate enforcement authority will be reluctant to seek a remedy, especially for minor violations.

Any new enforcement authority in Irvine can be expected to enforce existing state requirements for the public reporting of in-kind contributions and independent expenditures, which can create an appearance of undue influence in local elections. Increased disclosure of poll result sharing, fundraising activity, PAC spending and printing discounts would improve the effectiveness of the local ordinance in restricting the influence of any one contributor.

To encourage active oversight by the enforcement authority, the Commission suggests that, as is the case in a number of other local ordinances, individual citizens also be allowed to file complaints for violations of the Irvine ordinance. If an individual can prove a violation in court, his or her complaint should generate the same fines and penalties as if the action were brought by the enforcement authority. Allowing individual citizens to bring civil actions creates a healthy safeguard against inactive regulators.

4. Independent Expenditures

As a matter of constitutional law, spending by independent expenditure committees cannot be limited. (See Chapter 24, "Constitutionality.") But limits can be placed on contributions to independent expenditure committees, and disclosure of contributions to and expenditures by such committees can also be required. California state law currently requires all independent committees spending \$1,000 or more in local elections to file disclosure reports with the city clerk.

Independent expenditures have occurred in Irvine, although not in large amounts to date. The Commission suggests placing limits on contributions to independent committees. Such limits would, in the words of Irvine's ordinance, help to ensure that "no one person can materially influence the outcome of an election." It would also be useful for the city council to require contributions to independent expenditure committees to be disclosed to require independent committees to file "statement-of-purpose" reports describing their general goals when they solicit their first contribution or make their first local expenditure and to file an extra local report on the Friday before the election, as candidates in Irvine must already do.

5. Extensions of Credit

Extensions of credit are not limited by Irvine's campaign reform law. Candidates who find friendly vendors, such as printers or advertisers, can gain a

substantial and unfair advantage over other candidates by incurring campaign expenses without immediately paying for them. In Irvine, some candidates have taken liberties with extensions of credit. In the 1986 election, for example:

- Larry Agran and Ed Dornan finished their campaigns with large accrued debts to the same vendor, Kenny the Printer. In their final reports after the election, Agran owed \$5,358 and Dornan owed \$9,580 to Kenny the Printer. Dornan took the remainder of the year to reduce his debt to an insignificant amount. These extensions of credit for printing enabled Agran and Dornan to conduct campaigns beyond their means—an option not allowed most other candidates. The value of these extensions of credit exceeded the limit for regular contributions.
- Challengers Tom Jones and Hal Maloney purchased an advertisement in the *Irvine World News* during the closing days of the campaign. The paper ran the ad and did not demand immediate payment, as it had for other candidates. This credit favored Jones and Maloney, who were allowed to pay later.

The Commission believes it desirable for an amendment to be enacted to limit the amount of debt a candidate can incur and the length of time available for repayment, as is done in other local ordinances. If the limit on the amount of accrued debt is too low, violations could be encouraged. The City of San Diego, for example, prohibits candidates from accepting extensions of credit in excess of \$250 or for a term longer than 30 days. Experience with San Diego's ordinance suggests that its restrictions are too tight and that non-compliance is widespread. (See Chapter 16, "City of San Diego.") For a city the size of Irvine, a limit of \$500, or a term somewhat longer than 30 days, might be appropriate.

6. Caveat

Candidates in the City of Irvine to date have not utilized fundraising practices which have created problems in other cities, such as:

- Non-election year fundraising to give incumbents a large head start on challengers;
- Accumulation of war chests to ward off challengers;
- Extensive employee giving as an alternative to direct corporate contributions;
- Transfers from candidates or partisan committees to other
- Candidate loans and contributions to provide a major advantage to wealthy candidates; or
- Public relations campaigns to strengthen incumbents' name recognition before campaigns begin.

Candidates in Irvine elections have been able over a substantial period of time to conduct effective grassroots campaigns. In many cases, challengers have matched incumbents in fundraising. The value of these positive election characteristics in Irvine should not be neglected. The Commission recommends that any new legislation be evaluated for its ability not only to redress existing problems but also to preserve the positive qualities of Irvine elections.

NOTES

1. Heidi Evans, *Irvine City Council Elections Could Decide Future of City*, Los Angeles Times, May 18, 1986.
2. Interview with Mike Stockstill, Governmental Affairs Manager, The Irvine Company, Mar. 13, 1987.
3. *Id.*
4. Herman Wong, *Smoke of Battle Clouds Irvine Election*, Los Angeles Times, Dec. 12, 1971.
5. *Id.*
6. W.B. Rood, *Voters to Decide City of Irvine Fate on Tuesday*, Los Angeles Times, Dec. 19, 1971.
7. Editorial, *Cityhood for Irvine Is Premature*, Los Angeles Times, Dec. 17, 1971.
8. *3 Form Moderate Slate in Campaign for Irvine Council*, The Daily Pilot, Oct. 15, 1971.
9. Written comments by Marianne Gaido, Chair, Planning Commission, former Councilmember, City of Irvine, Mar. 28, 1988.
10. The \$150 contribution limitation was raised to \$160 in 1989 to reflect the cost of living adjustment.
11. Interview with Bill Vardoulis, former Councilmember, City of Irvine, March 17, 1987.
12. The 1987 changes were provoked by 1986 council candidate Tom Jones, who filed a lawsuit claiming that the Irvine ordinance was discriminatory because of the husband/wife limit. The council used the opportunity to draft a ballot measure clearing up other ambiguities, such as the period during which the contribution limit applies. Before November 1987, the \$250 limit applied to the year prior to and the year following the candidate's campaign, which was difficult to monitor. Now the limit is \$150 per candidate per year.
13. If Agran and Dornan were to pass their mailing lists to these other candidates, formal disclosure of this "donation" would be required and the monetary value of the lists would be subject to Irvine's contribution limit. See Advice Letter from the state Fair Political Practices Commission to Jonathan Redding, City Clerk Department, City of Berkeley, July 6, 1981.
14. Interview with Stockstill, *supra* note 2.
15. Interview with William Boyer, reporter, Orange County Register, Feb. 26, 1987.
16. Interview with Larry Hoffman, land use consultant, Mar. 10, 1987.
17. *Id.*
18. Interview with Stockstill, *supra* note 2.
19. Interview with Tom Jones, attorney and 1986 candidate for Irvine City Council, Mar. 2, 1987.
20. Interview with Stockstill, *supra* note 2.
21. Presentation by Larry Agran, Mayor of Irvine, to City Council, March 10, 1987.
22. Interview with Stockstill, *supra* note 2.
23. Interview with Brien Manning, Mar. 15, 1987. A review of the *Irvine World News* six months prior to the 1984 municipal elections confirms the publisher's assertions. Incumbents were featured frequently "in the line of duty." All challengers were generally ignored, regardless of their predispositions toward or against the Irvine Company.
24. Interview with Bill Woollett, City Manager, City of Irvine, Mar. 16, 1987.
25. Interview with William Lobdell, Editor, South County News; former member, Irvine Planning Commission, Mar. 10, 1987.

CHAPTER 9

Long Beach: Developing a New Lease on Life

“When shopping center magnate Ernest Hahn began scouting Long Beach in 1975, he was struck by the city’s natural beauty—and by its empty downtown shops The downtown was so close to dead that Long Beach would soon rank sixth on a national list of moribund cities

“One year shy of its 100th birthday [celebrated in 1988], the sprawling city—California’s fifth largest with 400,000 residents—is experiencing its greatest boom in office, home and industrial construction in decades. The surge of investment, boosters say, demonstrates that Long Beach is quietly moving out of Los Angeles’ shadow to become a center of business and international trade in its own right—and that the big small town is coming of age as a racially diverse and dynamic city.”

— David Kelly, *Los Angeles Times*¹

Long Beach is a city in transition. Over its 100-year history, the city has played a variety of roles, from oil boomtown to retirement haven, all while struggling to develop a distinctive municipal identity. By the 1970s, Long Beach had suffered a severe decline and appeared doomed as a major city. At the last minute, local officials initiated a massive redevelopment campaign to revitalize the community and remove it from under the shadow of Los Angeles. Lucrative

redevelopment contracts and promising economic opportunities have since raised the financial stakes involved in Long Beach governmental decisions—dramatically affecting the character of political campaigns.

In the 1970s and 1980s, Long Beach city officials authorized \$2 billion in redevelopment money to rejuvenate the city. An additional \$1 billion in further projects are slated for completion through the 1990s. Emphasizing resurrection of the port area for recreational and commercial use, the city promoted its low real estate prices and abundance of available oceanfront property to attract major hotel and retail projects. In the last few years, Long Beach has focused attention on the infrastructure and city services necessary to support its rapid growth and projected boom in tourism. The city has pushed a controversial plan to expand Long Beach Airport to accommodate a busier flight schedule of large passenger jets.

The city has largely centered its redevelopment efforts to date on the waterfront area. The Long Beach port, together with the Port of Los Angeles, is now the busiest shipping area on the west coast and second only to New York/New Jersey in the entire country. Since 1975, port traffic has increased more than 500%. Approximately 5.4 million tons of goods, with an estimated value of \$25 billion, pass through port facilities each year. The Long Beach harbor has also succeeded as a popular tourist attraction. The luxury liner Queen Mary and Howard Hughes' experimental aircraft, the "Spruce Goose," highlight the commercial-retail portion of the harbor, which also includes the Long Beach Convention Center, a number of hotels and shopping areas and 4,000 private boat slips.

The newest focus for Long Beach's port redevelopment is construction of the Greater Los Angeles World Trade Center. Located near the downtown waterfront, the \$550 million dollar business, hotel and retail complex is designed for completion in phases between 1988 and 1996. Long Beach then hopes to attract businesses from around the world and to become an international financial center rivaling downtown Los Angeles.

As a result of urban redevelopment and industrial diversity, Long Beach has become a booming city as well as one of the more attractive residential communities in southern Los Angeles County. Its rejuvenated port and diversified industries provide a strong employment base for local residents. Convenient opportunities for higher education are available at Long Beach City College and California State University, Long Beach, the second largest member of the California State University system. The community has successfully encouraged the fine arts and now boasts its own art museum, ballet company, light and grand operas and symphony orchestra. The city has nurtured national visibility by sponsoring world class sporting events such as the Long Beach Grand Prix, the Long Beach Marathon, selected events for the 1984 Olympics and the Congressional Cup sailing race held in March of each year.

Long Beach employs a council-manager form of government with nine part-time councilmembers elected to four-year terms from geographical districts. (See Table 9.1, "Long Beach Data Profile.") While past mayors were selected by the council from its membership to serve a largely ceremonial two-year term, Long Beach instituted a full-time, elected mayor in 1988. The move was intended to give Long Beach an active ambassador to represent the city and attract new commerce to the area. The elected mayor has no regular vote on the council but has veto power over council decisions. This move to a full-time mayor exemplifies the changes occurring in Long Beach. A decade of development and redefinition has launched Long Beach into the transition from a quiet, declining, mid-sized city to an aggressive, growing community with big city ambitions.

Table 9.1

LONG BEACH DATA PROFILE

Local Government

STRUCTURE: Founded in 1897; current charter drafted in 1921; nine city councilmembers elected by district to four-year terms; a strong mayor system as of 1988; mayor elected at-large; city attorney elected; city clerk appointed by council.

CITY BUDGET: \$1.12 billion (1988)

CITY FACTS: Population (1989): 419,800; Area: 50 square miles; Registered voters (Apr. 1989): 187,544; Voter turnout (June 1988): 46%

Contributions

	<u>Long Beach</u>	<u>Medium Jurisdictions</u>	<u>All Jurisdictions</u>
Business	27%	37%	52%
Individual	50%	46%	33%
Labor	6%	3%	4%
Political	5%	5%	6%
Candidate	12%	9%	5%
Non-Election Year	38%	30%	42%
Election Year	62%	70%	58%

Expenditures

	<u>Long Beach</u>	<u>Medium Jurisdictions</u>	<u>All Jurisdictions</u>
VOTER CONTACTS	55%	49%	38%
Broadcast	0%	8%	7%
Literature	46%	30%	26%
Newspaper	2%	3%	2%
Outdoor	7%	8%	3%
OVERHEAD	45%	51%	62%
General	20%	16%	22%
Personnel	2%	10%	6%
Fundraising	10%	11%	13%
Survey	5%	3%	4%
Consulting	6%	8%	10%
Travel	1%	1%	1%
Candidate Transfer	1%	2%	6%

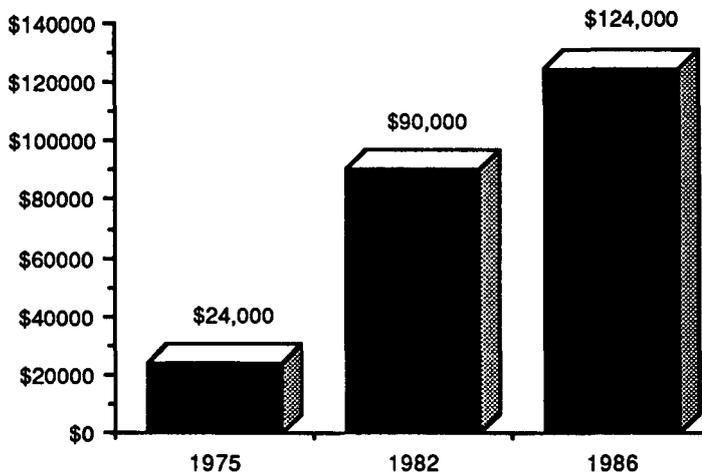
Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1986)

A. Massive Redevelopment Has Raised the Campaign Ante for Local Politicians

Prior to the rejuvenation of Long Beach, the city's political system operated much like that of other smaller cities. Candidates for office emerged from the ranks of established businessmen, and political success depended largely upon favorable

endorsements from the local newspaper. Incumbents were frequently unopposed and campaigns were relatively inexpensive. In 1975, combined campaign expenditures for nine city council candidates totalled about \$73,000. One candidate spent a then-shocking \$24,000 in an unusually competitive special election, but the average candidate spent only \$5,000 to \$10,000. By 1982, however, with redevelopment in full swing, the highest spending levels of the 1970s had become the norm. The average candidate spent over \$20,000 per campaign, and the most expensive 1982 campaign cost approximately \$90,000. (See Table 9.2.)

Table 9.2
A COMPARISON OF HIGHEST SPENDING CAMPAIGNS
LONG BEACH



Source: California Commission on Campaign Financing Data Analysis (data for years 1975-1986)

In the 1986 election, while the average candidate spent nearly \$25,000, one city council candidate spent approximately \$124,000. Three additional candidates each spent over \$75,000. Total expenditures for all candidates in the 1986 election exceeded \$414,000—over five-and-a-half times the 1975 expenditure totals.

The local economy's recovery along with boomtown predictions for the city's future have had far-reaching effects on local politics. When city officials decided to pursue downtown and harbor redevelopment, they attracted the political participation of special interest groups, particularly land developers who wanted to share in the city's successful future. For local elected officials, developer contributions became a significant and influential new resource in the drive to win increasingly competitive elections.

The *Long Beach Press-Telegram* has taken a significant interest in the changing patterns of local campaign financing. In February 1988, the newspaper published an extensive report on 1987 political contributions that included two full pages devoted exclusively to a breakdown of contributions to mayoral candidates. The paper classified contributions by interest group (industrial, port, real estate, retail, political, etc.) and listed every contribution of \$100 or above in each category.

According to *Press-Telegram* estimates, one-third of 1987 campaign contributions to mayoral candidates were made by individuals and businesses "easily identified" with real estate interests. Among the largest 1987 contributors to mayoral candidates and councilmembers were IDM Corp., developer for the World

Trade Center (\$8,000); Southern California Builders Assn. (\$7,800); Kilroy Industries, developer for an airport area business park (\$6,625); and Wrather Corp., developer and operator of the Queen Mary and Spruce Goose (\$6,375).² Surprisingly, the study revealed that 39% of reported contributions were made by sources outside Long Beach. In addition, *only 2%* of all contributions came in amounts under \$100.³ Both findings indicated that campaign fundraising strategies were shifting from small town to big city approaches.

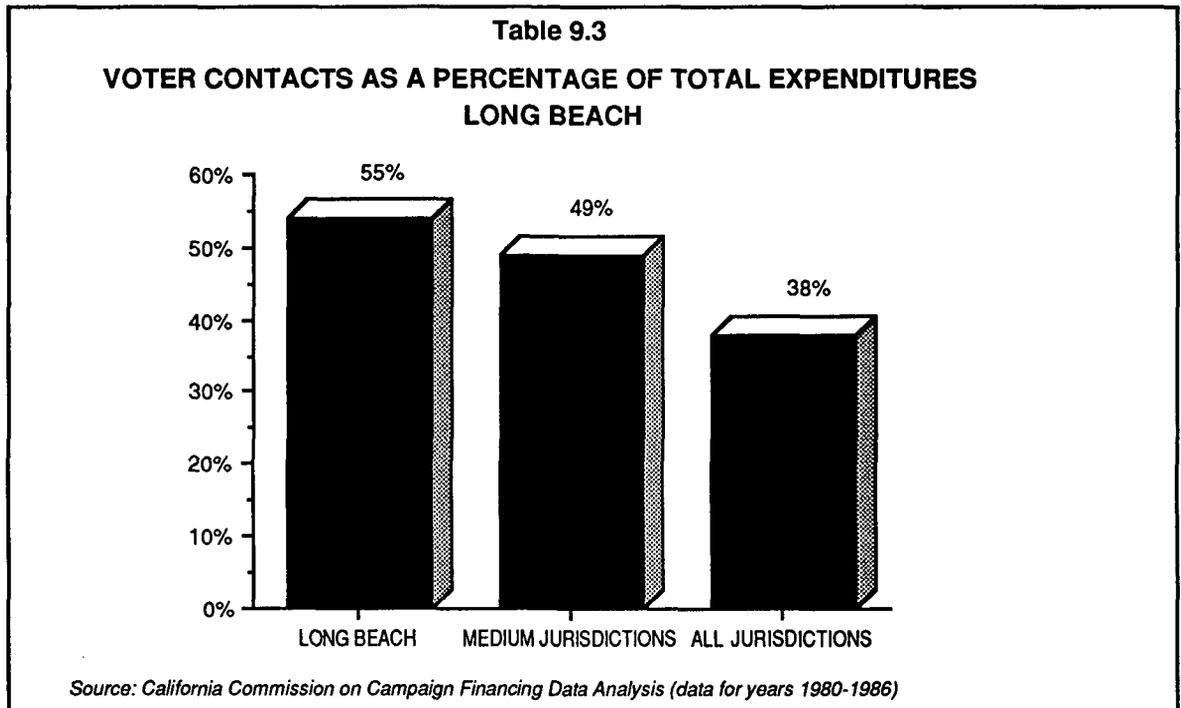
B. Long Beach Campaigns Are Competitive Despite Incumbent Fundraising Dominance

Though incumbents have enjoyed a wide edge in fundraising and spending, campaign finance patterns in Long Beach indicate a lively and competitive election system. Incumbents who outspent challengers have been beaten. In 1986, for example, incumbent Eunice Sato lost to challenger Ray Grabinski who spent \$10,000 less.

Long Beach candidates receive the largest single share (50%) of their contributions from individuals. Only 27% of Long Beach contributions come from business sources. (See generally Table 9.1, "Long Beach Data Profile.")

1. Voter Communication

Long Beach candidates spend most of their campaign funds on communicating with the voter. Voter contact expenditures on literature, newspaper and outdoor advertising account for 55% of total expenditures by Long Beach candidates. This amount outpaces other medium-sized jurisdictions studied by the Commission and beats the average for all jurisdictions studied. (See Table 9.3.)



Candidates spend 83% of their voter contacts expenditures on campaign literature. The average candidate in a medium-sized jurisdiction uses only 62% of his or her voter communication expenditures on mail. The average percentage of voter contact expenditures devoted to campaign literature in all jurisdictions studied was 68%.

Long Beach candidates, however, spend less than 1% on broadcast advertising. Because they are under the Los Angeles media umbrella, candidates would have to place television advertisements that reach the entire Los Angeles basin. Broadcasting is thus an inefficient means of contacting the voter.

2. Incumbent Fundraising Advantage

Incumbents receive 66% of the total contributions raised by incumbents and challengers. The average incumbent receives 83% of business contributions and 74% of all individual contributions given to incumbents and challengers. The average incumbent also receives 88% of all labor contributions to incumbents and challengers. Political sources also favor incumbents. (See Table 9.4.) The components of the incumbent and challenger war chest, however, further illustrate the competitive nature of Long Beach campaigns. Both incumbents and challengers accept 51% of their contributions from individuals. But incumbents receive their second highest percentage of contributions from business, while challenger contributions to their own campaigns (candidate money) have accounted, to date, for their second most important source of money.

Table 9.4

INCUMBENT/CHALLENGER DATA PROFILE LONG BEACH

Percentage of Total Contributions Raised From Each Source

	<i>Incumbent</i>	<i>Challengers</i>
Business	35%	19%
Individual	51%	51%
Labor	8%	3%
Political	2%	4%
Candidate	4%	23%
Total	100%	100%

Average Percentage of Contributions Given to Incumbents and Challengers

	<i>Business</i>	<i>Individual</i>	<i>Labor</i>	<i>Political</i>	<i>Candidate</i>
Incumbent	83%	74%	88%	57%	34%
Challenger	17%	26%	12%	43%	66%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1980-1986)

The impact of the development boom on campaign finance trends has recently become nationwide. Business contributions are on the rise, and candidates are accepting non-election year contributions with more frequency. In recent election cycles, Long Beach candidates—mostly incumbents—have accepted 38% of their contributions in the non-election year. Incumbents have already started to use non-election year funds as a way of discouraging challengers and for launching mid-

term public relations campaigns. In the elections studied (1980 to 1986), 21% of all Long Beach candidate expenditures were made in non-election years. These trends could have a substantial adverse effect on competition as off year funding in other jurisdictions has only aided incumbents.

3. The City Council's Differing Views on the Campaign Finance "Problem"

Despite rapid increases in campaign costs, Long Beach has no law regulating campaign finance practices. Current members of the city council have divided opinions regarding the existence of a local campaign finance "problem." Several longtime councilmembers maintain that increases in expenditures do not threaten the character of local elections. "State disclosure rules give the public enough information about the source of contributions, and the voters can draw their own conclusions. Any 'problem' is exaggerated by ultra-liberals who want to change the balance of power and continue to contribute to their candidates uninhibited," says Councilmember Edd Tuttle.⁴ Councilmember Jan Hall agrees. "It's a lot of money, and it's difficult to raise, but limitations merely penalize one segment of the community, those who have the funds available to contribute."⁵

Some councilmembers, particularly those first term members who won difficult and expensive victories in the 1986 general election, believe that a campaign finance problem does exist. Councilmember Ray Grabinski, who defeated incumbent Eunice Sato despite being outspent by \$10,000, observes: "I was naive enough to think we could run the campaign on \$15,000 or \$20,000. We ended up spending \$40,000." With these expenditure levels as the norm, he continues, "the high cost of campaigns limits the number of contenders and the quality of contenders."⁶

Councilmember Evan Anderson Braude agrees. "I spent \$80,000, and that's way out of proportion for my district."⁷ Braude accepted one of the largest contributions of the 1986 campaign—\$10,000 from the Democratic Party—and conceded that he courted such contributions out of fear that his opponent would outspend him. "No one wants to be outspent, so that means you're running scared."⁸ Braude's \$10,000 contribution from the Democrats was one of a very few large contributions from a political party to a local candidate in California during 1986.

Rising campaign costs are causing some Long Beach candidates to reconsider their decision to enter local politics. Councilmember Braude, the stepson of U.S. Representative Glenn M. Anderson (D-Long Beach), relied on family political connections in the course of fundraising to keep pace with his opponent. He took out a \$10,100 personal loan to cover projected expenditures for the last days of the campaign. He observes that his reported \$80,000 in expenditures substantially underestimates the actual cost to him of the campaign because it fails to take into account lost income while the campaign pulled him away from his law practice. "If I'd known how expensive it would be before the campaign, I probably wouldn't have run."⁹ Councilmember Warren Harwood, at one time a leading proponent of local campaign finance reform, says, "Campaigns are too expensive for incumbent and challenger." Harwood indicated that while policy decisions by city officials are frequently affected by campaign contributions, "it's next to impossible to prove and often becomes a chicken-egg question."¹⁰

C. City Council Concern Over Campaign Financing Remains Low Despite the Moriarty-Wilson Scandal

Campaign spending has only recently become controversial in Long Beach. No significant public alarm arose over spending levels prior to the 1986 election. Revelations of large campaign contributions, such as a \$13,000 in-kind contribution

from a developer to Councilmember Jan Hall in the 1986 election,¹¹ and Evan Braude's \$10,000 contribution from the Democratic Party in the same election, sparked a movement for local campaign reform.

The public complacency of earlier years changed in light of the recent, highly publicized statewide scandal involving bribery and political payoffs to a popular Long Beach politician. In 1986, Councilmember James Wilson was indicted on 21 counts of federal mail fraud for failing to report over \$50,000 in cash and gifts from fireworks manufacturer W. Patrick Moriarty made to cause him "to introduce, support and vote for ordinances to legalize the sale of 'safe and sane' fireworks in the city of Long Beach."¹²

Moriarty's attempts to influence decisionmaking in Long Beach began in 1969 with an effort to reverse a citywide ban on fireworks. Contributions to the campaign funds of many local politicians, including those in Long Beach, were a regular part of Moriarty's drive to legalize fireworks in a number of California cities. Councilmember Wilson became an ally of Moriarty and a proponent of legalized fireworks in Long Beach, apparently because he saw the sale of holiday fireworks as a fundraising opportunity for community groups in his predominantly low income district. In 1978, when Wilson reportedly found it difficult to support his family on the \$12,000 yearly council salary, Moriarty offered him a consulting job as his liaison to California's black community. To avoid the "bad publicity" that often followed direct association with Moriarty, Wilson was put on the payroll of one of Moriarty's other businesses, Financial Loan Consultants, although he reported directly to Moriarty at Red Devil Fireworks.¹³

Wilson denied that the cash and gifts he received from Moriarty were payment for votes placed while on the Long Beach council. (Wilson also received \$17,000 in complimentary home improvements provided to him by one of Moriarty's colleagues in 1981. This contributor was part of a team that later won a Long Beach redevelopment contract. Wilson was not billed until mid-1984, after it became clear that the redevelopment project would not be built.) During his term as Moriarty's "consultant," however, Wilson twice sponsored proposals to legalize fireworks in Long Beach (both were defeated) and lobbied members of the California legislature in favor of a pro-fireworks bill. When Moriarty was indicted on counts of fraud and bribery, he agreed through a plea bargain to provide information regarding payments to political officials. He implicated Wilson as one of the first in a series of California public officials involved in his scheme.

Wilson was convicted on all charges and resigned his council seat although considerable support for him continued throughout the community. "If he's guilty of anything, he's guilty of trying to survive," said Long Beach NAACP President Frank Berry.¹⁴ An editorial in the *Long Beach Press-Telegram* stated, "Serious though Wilson's offense was . . . , [h]e was more a victim of poor judgment than an abuser of the public trust."¹⁵ Thousands of dollars were collected to help defray Wilson's legal expenses. The city council sent a letter urging leniency in sentencing to the judge who presided over his case. Wilson was sentenced to three years in prison and died shortly after sentencing.

Despite public and political support for Wilson and the popular consensus that he was victimized by Moriarty, the city took no action to protect both the public and local officials in the future. The council considered neither creating a full-time city council with adequate salaries to decrease the temptation to accept gifts, nor adoption of a stricter local financial disclosure law, nor development of clear rules regarding councilmembers' outside income. "We saw it as a state problem," says Councilmember Harwood. "We didn't feel we could change much."¹⁶ Councilmember Clarence Smith, who replaced Wilson on the council, maintains

that the council's refusal to institute reform was a political decision. "Steps weren't taken because of the pressure to institute the citywide mayor. The community would not have accepted pay raises for both mayor and council, and the mayor's raise prevailed."¹⁷ One of Smith's goals is to strengthen salaries for councilmembers, reducing the temptations of outside money. "The current salary deters future leaders—now only the wealthy or retired can run and support their families."¹⁸

D. Recent Reform Attempts Are Blocked at City Hall

A variety of campaign finance reform proposals for Long Beach have been made since the 1970s. The city council and its various committees have considered contribution limits, expenditure ceilings, restrictions on the amounts candidates can carry over between elections, prohibitions on transfers between campaign committees, public financing of campaigns and rules disqualifying councilmembers from voting on measures directly affecting major contributors. Each new proposal has been rejected in committee or by the full council.

In January 1984, the council considered a disqualification ordinance identical to Orange County's successful law. (See Chapter 12, "Orange County.") The *Long Beach Press-Telegram* editorialized in favor of the new law as a step toward serious reform. It argued the law would have "the virtue of emphasizing that council members are elected to serve the public, not to serve campaign contributors."¹⁹ Councilmember Warren Harwood originally supported the proposal but later criticized it, saying it would not have been enough to deter big contributors. "If votes on issues would be lost because of the \$1,000 limit, then I think the contributors would start seeking pass-throughs from PACs and thereby defeat the purpose of the ordinance."²⁰ Opponents of the proposal complained that contributions would be difficult to track and that the law was "a can of worms."²¹ The disqualification ordinance was defeated 5-to-4.

In December 1984, after defeat of the disqualification ordinance and shortly following passage of Los Angeles City's campaign finance ordinance (see Chapter 10, "Los Angeles"), Harwood suggested that the Long Beach City Council consider a proposal similar to the Los Angeles ordinance. The council referred the proposal to the Finance Committee, where Chairman Harwood allowed it to languish for over a year, hoping the council's negative attitude toward reform would change. The proposal was reintroduced in January 1986 and quickly became a "bargaining chip" in the battle to achieve a full-time mayor. "It was a matter of some members of the council saying, 'I won't give you campaign contribution limitations until you give me a mayor-at-large,'" said Fred Kugler, Director of the Long Beach Coalition for Responsive Government, a group of local citizen groups interested in campaign reform.²² Consideration of higher contribution ceilings was used as a bargaining device to appease opponents of the limits, but once again campaign reform was rejected. The council decided it was inappropriate to tie reforms and the full-time mayor proposal together. It chose to continue with plans for a full-time mayor.

In August 1986, new Finance Committee Chairman Tom Clark asked his committee to reconsider campaign reform and develop a new proposal. In March 1987, Clark recommended to the council that the city adopt legislation that would limit campaign expenditures to \$50,000 per candidate in a district race and \$150,000 per candidate for citywide office. Concurrently, local community groups—Long Beach Area Citizens Involved, the League of Women Voters and the Long Beach chapter of Common Cause—made a reform proposal of their own, including contribution limits and a plan for limited public financing of local campaigns. Spearheaded by Councilmember Clark, the full council began consideration of a comprehensive reform proposal in May 1988. While public statements at the first

hearings were supportive of the proposal, reaction of the council membership as a whole was lukewarm and it failed to pass the proposal.

Each time campaign reform has been proposed in Long Beach, similar arguments have surfaced in opposition. Contribution limits are "unfair" to incumbents; they are "unfair" to challengers; they are an "incumbent's insurance policy"; they "disenfranchise sectors of the community that can afford to give to campaigns"; they have "too many loopholes." All such arguments could be addressed by a carefully drafted ordinance. Councilmember Harwood explains the view of reform opponents, "Incumbents don't want to go out of their way to help someone defeat them."²³ Councilmember Evan Braude adds, "Incumbent fear has stopped every reform attempt."²⁴ Councilmember Ray Grabinski agrees, "Anyone who has undergone the agony of campaigning doesn't want to change the rules for others . . . it's a question of fairness."²⁵

Thus, attempts to enact campaign reforms in Long Beach have failed in part because a majority of incumbent councilmembers are reluctant to place restrictions on their own fundraising; in part because the consequences of specific reforms are uncertain; and in part because the community has not until recently expressed significant dissatisfaction with recent campaign spending increases or the apparent influence of contributors on the city council's decisionmaking process. Community attitudes toward campaign reform appear to be changing, and there is evidence that significant and broad-based public support is building in favor of comprehensive campaign laws for Long Beach.

E. Mayoral Elections Catapult Spending Into Higher Brackets

Support for reform may build with the shifts in the balance of power at City Hall. The first campaign for full-time mayor in the spring of 1988 became a very competitive and expensive race between two powerful, longtime city councilmembers. Mayor Ernie Kell, a Democrat, and Councilwoman Jan Hall, a Republican, declared their candidacies early and launched expensive campaigns. The primary campaign expenditures of Kell and Hall each exceeded \$200,000, while independent candidate Luann Pryor spent about \$50,000.

Interestingly, the expensive primary campaigns of Kell and Hall did not appear significantly to affect their voter support, nor did Pryor's financial shortcomings significantly impair her campaign. Kell won a place in the June runoff election with a comfortable 40%-plus share of the vote. Hall won the second runoff slot with barely 25%. And Pryor nearly scored an upset by garnering 24% of the vote, despite the handicap of a lower campaign budget. In the general election, however, Kell defeated Hall, spending a record \$646,000 on his primary and runoff elections combined. Hall spent more than \$271,000.

Local political observers predict that record-breaking campaign costs in the mayor's race will certainly affect spending levels in city council races. Some city councilmembers agree. "Citywide elections for mayor will raise the costs for all offices," says Councilmember Grabinski. "It almost has to. Candidates gauge spending to the most expensive campaigns."²⁶ Expensive mayoral fundraisers will deaden many contributors' sensitivity toward increasing costs for council fundraisers. "What would have been an expensive ticket in 1986 will look like a bargain after the mayor's race," Grabinski predicted.²⁷ Councilmember Harwood also thinks future fundraising will increase with the advent of mayoral elections. "A council majority will be crucial to the no-vote mayor."²⁸

The threatened jump in election spending in the upcoming mayoral election motivated former Wisconsin legislator Michael Ferrall of Long Beach Common Cause to involve himself in a community effort to initiate comprehensive reform.

“The \$100,000 each candidate spent in the 3rd District [in 1986] is absurd for a part-time job with low pay,” Ferrall says.²⁹ He is trying to build a coalition of community groups to back reforms and has clear ideas of what the ordinance should contain: contribution limits, spending caps with public matching funds and local election boards to monitor campaigns.

Although many local officials are wary of any public financing, Ferrall ran several successful campaigns while a Wisconsin state representative subject to comprehensive state reforms that included limited public financing. “I’m one of the few that can compare before and after. Campaigning was a whole new ball game with limited public financing.”³⁰ Since candidates needed only to raise a threshold amount to qualify for matching funds, “the constant money pressure was off, and the amount of legislator’s time spent fundraising dropped to near-zero. Legislators could concentrate on their jobs instead of the next election.”³¹

Ferrall, Common Cause and other community groups have high expectations for Long Beach campaign reform and intend to pursue reform with or without sanction by the council. “We’ll gauge public opinion regarding reform options and then work for a council majority to implement an appropriate law. If that fails, we’ll draft a ballot initiative to amend the City Charter, he says.”³² A ballot initiative is not a move the council would welcome. “It’s probably the only way to get the council’s attention,” says Councilmember Braude, “but I would prefer that it doesn’t happen that way. I want the council to have a say in the law’s content.”³³

Councilmember Warren Harwood has expressed his frustrations for repeated attempts at reforms. “It’s not a matter of the council taking a chance, it’s just that we can see the problems. You have to close all the loopholes. Most laws create the illusion of reform—Los Angeles is a perfect example of [candidate and contributor] use of multiple committees to circumvent campaign limits. The situation in Los Angeles is almost laughable—it creates the impression of fairness, equity and accountability, but sophisticated candidates can get around the rules. Laws like that are worse than no rules at all. At least with no rules, we all start evenly.”³⁴

In Harwood’s view, constitutional restraints and problems ensuring adequate law enforcement are the major roadblocks to reform in Long Beach. Surprisingly, even the most conservative councilmembers interviewed were interested in exploring limited public financing options, “even to the preclusion of all other contributions,” says Councilmember Edd Tuttle. “It would clean up the public perception of the process and prohibit many common abuses.”³⁵ None of the councilmembers who support limited local public financing, however, believes voters would approve it. “The public is hesitant to fund elections with scarce tax dollars,” explains Harwood.³⁶

F. A Progressive City Clerk Creates a Unique Opportunity for Improved Law Enforcement

Long Beach has the good fortune to have an excellent city clerk in Shelba Powell. She has enlisted the help of her department’s computer to track contributions and expenditures for all incumbents back to 1974 and for all candidates in the last election. Powell’s computerized campaign finance tracking system is unique among California cities. “It made sense to use the computer to store campaign finance disclosure information rather than spend hours wading through boxes of paper files each time we receive a request for research,” says Powell.³⁷

Powell worked with in-house city computer programmers to tailor available software to meet her needs. Her program stores all information on candidate disclosure forms (such as candidate names, addresses and treasurer information);

compiles current and cumulative totals of fundraising activity and itemizes accounts of each reported contribution or expenditure (including the name and address of the contributor or recipient of funds). The program is complete enough to provide an immediate copy of a candidate's disclosure form and sophisticated enough to sort data in ways that can reveal specific contribution and expenditure activity by one or all candidates. The computer system "certainly helps us handle research requests more efficiently," says Powell.³⁸

The clerk's office also maintains complete paper files of all candidate disclosure forms back to 1974, but it keeps computerized data on those candidates and committees that attract the most frequent requests for information. "We delete the information on losing candidates a few months after the election. Outside interest in their records drops off right away. But we have questions about incumbents year around."³⁹

Newly received disclosure forms are reviewed, entered and made available for research just a few days after filing. Powell plans to expand her software to include various mathematical functions, allowing her office to easily double check candidates' figures and provide cumulative totals by contributor, expenditure or other classification.

The enforcement capabilities of Powell's system are almost unlimited. In the event that Long Beach adopts a sophisticated campaign ordinance, the city clerk's office would be able to provide immediate, comprehensive enforcement information. Long Beach may wish to define the level of the clerk's participation in the enforcement of any future campaign finance ordinance. Such a comprehensive computer file could be a tremendous asset to ordinance enforcement.

G. Conclusions and Recommendations: Expenditure Ceilings Are Desirable in Long Beach Elections

Many local officials agree that the dominant campaign financing problem in Long Beach is excessive spending. Incumbents have a strong advantage in local elections, yet they continue to raise increasingly large amounts of money to enhance their own political security and to discourage challengers. Challengers, in turn, have been forced to make fundraising a higher priority than the discussion of issues. Reduction of the fundraising hysteria that tends increasingly to swamp local elections in Long Beach should be a top priority for councilmembers.

The city council appears also to have failed adequately to confront the potential for contributor influence on the policymaking process. Councilmembers often articulate the prevailing attitude that contributions "probably" influence their peers but do not compromise their own decisions.⁴⁰

Yet large contributions from developers with projects pending before the council heighten the public perception that contributions benefit the givers. The Wilson-Moriarty scandal is the best publicized example of contributor influence, but it is not considered an anomaly for Long Beach city government.

Rapid redevelopment and growth in Long Beach have produced a sophisticated political environment. Business and political groups are well-organized and actively participate in the daily operations of the city. Many have well-developed fundraising networks and use PACs to disburse funds to favored candidates.

Some councilmembers are concerned that certain individuals or groups not able to afford large campaign contributions are being alienated from the political process as candidates focus their time and efforts on big contributors. "We must allow *all* constituents to be full participants in the process," comments Councilman Clarence Smith.⁴¹

1. Expenditure Ceilings and Comprehensive Reforms

The Commission believes the most effective option for campaign finance reform in Long Beach, a charter city, would be a comprehensive approach, including contribution limits, expenditure ceilings and partial matching funds for qualified candidates (if feasible). It would be preferable to adopt such an ordinance before problems multiply. The Commission believes expenditure ceilings of approximately \$75,000 per election for council races and \$150,000 for mayoral elections adjusted by cost of living changes would be appropriate to cap rising election costs and diminish the pressure on candidates to raise increasing sums.*

Limited matching funds would also soften candidates' panic regarding fundraising and would lessen the opportunity for improper contributor influence. Long Beach has a solid and expanding tax base from which to draw funding and all councilmembers apparently believe the system has merit. Policymakers can benefit from the experience of Tucson, Seattle, and Sacramento County in developing methods for distributing matching funds. (See Chapter 3, "Ordinances.")

The Commission also suggests that the city enact contribution limits for individuals, businesses, PACs and independent committees. Contribution limits no higher than \$500 would be seem appropriate for Long Beach.

2. City Contractor Provisions

Controls over contributions by city contractors might also be appropriate. Long Beach could prohibit any contributions from contractors who hold or are bidding on contracts large enough to require council approval. (See Chapter 7, "Gardena," for discussion of such a provision.) Long Beach might extend this prohibition to entities seeking development or redevelopment agreements that call for council approval.

3. Conclusion

Long Beach today has all the components necessary to stimulate interest in successful campaign reform: rapidly increasing election spending, the appearance of significant contributor influence and diminishing competition for council seats. Long Beach is also the only major California city which has generated significant community interest in achieving comprehensive campaign reform. The broad-based support for reform shown in the May 1988 public hearings indicates that the chances for successful reform are substantial. If the Long Beach City Council is slow to enact a reform measure, it may be that citizen groups will step forward with an initiative campaign to accomplish the desired reforms.

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voter's adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as Long Beach) and charter counties. The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, "Proposition 73.") If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure caps. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, "The Commission's Model Ordinance," for discussion of these alternatives.)

NOTES

1. Daryl Kelley, *Once Moribund Long Beach Is Booming*, Los Angeles Times, Sept. 8, 1987.
2. *Contributions to Long Beach Mayoral Race Listed*, Long Beach Press-Telegram, Feb. 28, 1988.
3. Bob Zeller, *Long Beach Mayor's Race to Set Ballot-Cost Record*, Long Beach Press-Telegram, Feb. 28, 1988.
4. Interview with Edd Tuttle, Councilmember, City of Long Beach, June 8, 1987.
5. Daryl Kelley, *Support Grows to Limit Campaign Donations*, Los Angeles Times, Aug. 7, 1986.
6. Interview with Ray Grabinski, Councilmember, City of Long Beach, June 10, 1987.
7. Interview with Evan Anderson Braude, Councilmember, City of Long Beach, June 11, 1987.
8. *Id.*
9. Interview with Braude, *supra* note 7.
10. Telephone interview with Warren Harwood, Councilmember, City of Long Beach, June 3, 1987.
11. Kelley, *supra* note 5. A local developer donated a mobile home for use as office space to the Hall campaign, valued at over \$13,000.
12. Bob Houser, *Chronology of the Wilson-Moriarty Connection*, Long Beach Press-Telegram, Apr. 17, 1986.
13. John Zappe, *Moriarty Testifies on Wilson*, Long Beach Press-Telegram, Apr. 10, 1986.
14. Henrietta Charles, *Friends, Supporters Still Backing Convicted Councilman*, Apr. 17, 1986.
15. Editorial, *A Regrettable End to a Council Career*, Long Beach Press-Telegram, Apr. 18, 1986.
16. Telephone interview with Harwood, *supra* note 10.
17. Interview with Clarence Smith, Councilmember, City of Long Beach, June 10, 1987.
18. *Id.*
19. Editorial, *For Political Purity*, Long Beach Press-Telegram, Jan. 17, 1984.
20. Telephone interview with Harwood, *supra* note 10.
21. Eric Bailey, *Council Rejects LB Campaign Donation Law*, Los Angeles Times, Mar. 1, 1984.
22. Telephone interview with Fred Kugler, Director of the Long Beach Coalition for Responsive Government, June 17, 1987.
23. Telephone interview with Harwood, *supra* note 10.
24. Interview with Braude, *supra* note 7.
25. Interview with Grabinski, *supra* note 6.
26. *Id.*
27. *Id.*
28. Telephone interview with Harwood, *supra* note 10.
29. Telephone interview with Michael Ferrall, June 17, 1987.
30. *Id.*
31. *Id.*
32. *Id.*
33. Interview with Braude, *supra* note 7.
34. Telephone interview with Harwood, *supra* note 10.
35. Interview with Tuttle, *supra* note 4.
36. Telephone interview with Harwood, *supra* note 10.
37. Interview with Shelba Powell, City Clerk, City of Long Beach, June 8, 1987.
38. *Id.*
39. *Id.*

40. **Mayoral candidates Ernie Kell and Jan Hall stated during the campaign that they had an open-door policy to anyone and that contributors did not have preferential access to the councilmembers. Both councilmembers nevertheless refused Commission requests for interviews.**
41. **Interview with Clarence Smith, Councilmember, City of Long Beach, June 10, 1987.**

CHAPTER 10

The City of Los Angeles: Limited Success From Contribution Limits

"You can say anything about Los Angeles and it's true. It's the land of extremes and the land of dreams It's the new American melting pot, in which a fifth of the population was born in another nation and whose schools try to educate children who speak 80 separate languages It's the butt of comedian jokes. It's the envy of the world."

— Dan Walters,
*The New California*¹

That campaign finance reforms took so long in the City of Los Angeles is ironic. In its early days, the city pioneered in municipal reforms. Led by John Randolph Haynes, city founders in 1903 instituted three mechanisms for popular control of local government: the recall, the initiative and the referendum. Eight years later, state reformers adopted the same populist laws for all California voters. In 1909, Los Angeles became the first city to declare that municipal ballots should be non-partisan. A year later, it became state policy.

Los Angeles was also one of the first cities in the state to adopt its own charter. Unlike San Francisco, Boston, Chicago and New York, Los Angeles adopted a charter in 1925 which created a "weak mayor" system that reformers hoped would "root out the inherent vices of bossism, patronage and spoils which they believed had distorted democracy in other cities."²

By the 1970s, however, Los Angeles had fallen behind other cities in the area of political reform. San Diego and San Francisco had enacted campaign reform ordinances in 1973, but Los Angeles failed to pass similar legislation until 1985. The overwhelming size and complexity of the city, the structure of local government, the

dominance of business and development interests at City Hall and public apathy resulting from these factors—all contributed to the delay in campaign finance reform. Even today, these factors have continued to undermine compliance with the city's campaign finance reforms since their passage by the voters.

A. Frustrated Voters Enact Limited Reforms

Los Angeles overwhelms by its sheer size. Two mountain ranges cut across its midsection, separating the San Fernando Valley from the rest of the city. Its girth encompasses 464 square miles, completely surrounding "the autonomous cities in Beverly Hills, [West Hollywood] and San Fernando. It partially encircles the cities of Inglewood, Santa Monica and Culver City."³ The *Atlantic Monthly* has concluded that "Los Angeles has become America's true 'second city'—second only to New York in economic power and cultural influence."⁴

The pattern of development in Los Angeles has become its trademark and is characteristic of developing communities throughout California. Essentially a suburban sprawl tied together by hundreds of miles of freeway, Los Angeles has no single dominant downtown core. The city comprises multiple commercial centers and independent communities. Many—including Century City, East Los Angeles, Hollywood, Watts and Westwood—have strong identities of their own. Residents often identify more with their local community than the city at large. Commuting between suburbs is more common than commuting to downtown Los Angeles.

The city's rapid population growth is also legendary. Although 3.2 million people populate the City of Los Angeles, it is increasingly drawing its residents from Asian and Spanish-speaking immigrants. Between 1970 and 1980, the city's percentage of white Angelenos dropped from 57% to 48%.⁵ By the year 2000, Los Angeles' population is projected to be 60% Hispanic.

Local political power, however, has not shifted to the newer immigrant population. Professor Bruce Cain of the California Institute of Technology observes:

*"In a city that thinks of itself as the nation's modern melting pot, the political controls rest securely in the middle class, with the number of white, affluent voters increasing at a greater rate than voters from the city's burgeoning nonwhite, immigrant population . . . [T]he majority of the voters (59%) live in the city's whitest and wealthiest neighborhoods on the Westside and in the San Fernando Valley, areas that contain less than half (48%) of the city's population."*⁶

Vast, populous and culturally diverse, Los Angeles is governed by a complex city government. In 1988, the city's budget exceeded \$2.9 billion. City employees number over 38,000. City council positions are full-time and pay \$55,929 (in 1987-88). Councilmembers are required by law to meet three days a week. The 15 councilmembers each represent districts with approximately 200,000 constituents (about 100,000 less than a state Assembly legislative district). Councilmembers individually cast over 30,000 votes per year. The mayor is elected citywide and has executive authority over the municipal government but must work with the city council to pass legislation, set a budget or appoint members of city commissions and boards. Also elected citywide are a city attorney and controller.

The city's vastness and complex municipal structure may discourage voter participation. During the April 1987 municipal election, less than 13% of the city's 1.7 million registered voters turned out. Mayoral contests appear to draw more voters—about 35% in the city's April 1985 election. In April 1989, however, the mayoral race attracted only 23% of the city's voters. Voter turnout, while never high, has decreased in the last five years.

Table 10.1

CITY OF LOS ANGELES DATA PROFILE

Local Government

STRUCTURE: Founded in 1850; city charter adopted 1925; weak mayor system; 15 city councilmembers elected by district; no term limits; city attorney and controller elected; city clerk appointed.

CITY BUDGET: \$2.9 billion (1988)

CITY FACTS: Population (1987): 3.2 million; Area: 464 square miles; Voter registration (April 1989): 1,365,709; Voter turnout (April 1989): 23%

Contributions

	<u>Los Angeles City</u>	<u>Large Jurisdictions</u>	<u>All Jurisdictions</u>
Business	56%	60%	52%
Individual	28%	27%	33%
Labor	5%	4%	4%
Political	6%	6%	6%
Candidate	4%	3%	5%
Non-Election Year	51%	49%	42%
Election Year	49%	51%	58%

Expenditures

VOTER CONTACTS	24%	33%	38%
Broadcast	1%	7%	7%
Literature	21%	23%	26%
Newspaper	1%	2%	2%
Outdoor	1%	1%	3%
OVERHEAD	76%	67%	62%
General	36%	25%	22%
Personnel	2%	4%	6%
Fundraising	14%	15%	13%
Survey	4%	3%	4%
Consulting	11%	11%	10%
Travel	1%	1%	1%
Candidate Transfer	8%	8%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1985)

Lack of interest in local elections may also be fueled by public perception that City Hall responds more to campaign contributors than to citizen concerns. Before 1985, Councilmember Ernani Bernardi, author of Los Angeles' current campaign finance ordinance, frequently complained that major contributor interests had inhibited campaign finance reforms. In a 1983 speech, Bernardi warned that million-dollar war chests had been built up by fellow councilmembers to discourage competitors, and he decried the cozy relationship between campaign contributors and elected officials. In his view, the public perceived "that big money not only buys

access [to councilmembers], but influences his [or her] vote as well." He cited as an example the lucrative cable television franchise for the East San Fernando Valley, "in which money flowed like water to officeholders." He concluded, "the prevailing attitude of many people today is 'Oh, what's the use.'"⁷

Councilmember Bernardi first proposed campaign finance reform in the City of Los Angeles in 1973. Between 1973 and 1985, he and other reform supporters had a decade to observe and document the city's problems. In 1983, Bernardi concluded, "In light of the ever-escalating campaign contributions and the massive campaign funds being built up for councilmembers for their own and other candidates' use, it has become increasingly clear that Los Angeles is more and more under the influence of special interests."⁸ After repeated defeats before the City Council, Bernardi circulated and qualified a campaign finance initiative. The Council slightly amended the text and agreed to put the modified measure on the April 1985 ballot as Charter Amendment 1. The Bernardi-inspired ballot measure hit the voters at a time when the effects of unrestrained growth and an apparently unresponsive city council were at an all-time high.

High-rise buildings constructed in downtown Los Angeles with redevelopment agency support had increased traffic on freeways and surface streets to "peak congestion."⁹ Zoning around Westwood Village had allowed significantly denser apartment living. Four million square feet of office space had been constructed in a small mile-and-a-half circle on the Westside. Continued rapid construction in the San Fernando Valley had helped to dilute the quality of life for all residents. Charter Amendment 1 provided frustrated residents with the first of many "referenda" on the city council's policies.

On April 9, 1985, Los Angeles voters approved the charter amendment by a 77% majority. It received 6,000 more votes than did Mayor Tom Bradley in his landslide reelection the same date. Three months later, on June 4, 1985, voters in council District 13 again expressed their frustration by ousting incumbent Peggy Stevenson. Her challenger, Michael Woo, charged that Stevenson had been unresponsive to voter concerns.

On November 4, 1986, Los Angeles voters sent to City Hall the strongest message yet—Proposition U, a dramatic growth-control ordinance which passed by a 2-to-1 margin. It cut in half the size of new buildings allowed on more than 70% of the commercial and industrial properties in the city. The co-author of Proposition U, Councilmember Marvin Braude, heralded its passage as "the dawn of a new era in Los Angeles politics and Los Angeles land-use planning. We look upon this as a very significant turn in the citizen participation movement."¹⁰

Voters again expressed their frustration with the city council, especially on the issue of growth, when they elected challenger Ruth Galanter to replace veteran incumbent Councilmember Pat Russell in the 6th District on June 2, 1987.¹¹ Commenting on the developments at City Hall, Gerald Silver, president of Homeowners of Encino, said, "There was a broad-based distress from San Pedro to the farther reaches of the Valley that the city was not responding to residents but to special interests."¹²

The Los Angeles campaign finance law—Charter Section 312—addresses these concerns with conventional mechanisms borrowed from the ordinances of several other California cities. Its overall purpose as stated is "to encourage a broader participation in the political process by placing limits on the amount any person may contribute or otherwise cause to be available to candidates . . . and by regulating disposition of unexpended contributions received by or on behalf of such candidates."¹³ Charter Section 312 includes the following key provisions, some of

which may be out of compliance with the newly-passed state campaign finance law, Proposition 73.

1. Contribution Limits

Contributions from a single source in a single election are limited. In city council campaigns, a person can give no more than \$500 to any one candidate plus no more than \$500 to an uncontrolled, independent committee supporting that candidate per election. These limits comply with Proposition 73.

In citywide campaigns, a contributor may give no more than \$1,000 to a candidate (mayoral, city attorney and city controller) plus no more than an additional \$500 to an independent, uncontrolled committee supporting the candidate, per election. Because the Los Angeles election cycle takes place entirely within one fiscal year, the \$1,000 per election (or \$2,000 per election cycle) limit arguably conflicts with Proposition 73's \$1,000 per fiscal year limit. One way to bring the Los Angeles law into compliance would be to lower the primary contribution limitation to \$750 per contributor and allow those donors to give an additional \$250 in the general election.

2. Total Limits

Contributors in Los Angeles can give no more than an overall total amount to all candidates in any one election, according to the following formula: \$500 times the number of council seats in the election, plus \$1,000 times the number of citywide seats in the election.

3. Wealthy Candidates

Currently, candidates wishing to give their campaigns more than \$30,000 of their own money must give 30-days advance notice to their opponents. Compliance with this provision requires such candidates to deposit the funds 30 days before their actual expenditure. After such notification, all their opponents may raise contributions up to the amount of the "personal" contribution without observing the contribution limits.

Because of Proposition 73's contribution restrictions, the wealthy candidate provision allowing wealthy candidate opponents to raise funds in unlimited amounts should be amended to reflect the current interpretation of the city attorney's office. To bring the Los Angeles law into agreement with Proposition 73, the city attorney could allow opponents of wealthy candidates to raise contributions in the highest amounts prescribed by Proposition 73. Thus, when a wealthy candidate gives his or her campaign more than \$30,000, his or her opponents would be allowed to raise up to \$1,000 from individuals, or up to \$5,000 from a "broad-based political committee."¹⁴ Under Proposition 73 opponents would also be allowed to raise up to \$2,500 from "political committees."¹⁵

4. Limit on Carryovers and War Chests

After an election, candidates may not carry over more than \$5,000 in unused funds. Funds up to \$5,000 can be used for lawful purposes, such as officeholder expenses, but may not be used for a future city election. Funds over \$5,000 must be returned to contributors on a pro-rata basis, donated to charitable organizations or deposited in the city's General Fund. The limit on carryovers only applies after the general election. Proposition 73 prohibits any carryover of funds to the next election although officeholders may use such funds for officeholder-related expenses.¹⁶

5. Declaration of Intent

All candidates must file a "Declaration of Intent to Solicit and Receive Contributions" before soliciting or accepting any contribution. This provision is

similar to the requirement in Proposition 73 which permits candidates to collect funds for only the office listed in the Declaration of Intent.¹⁷ Candidates may raise funds for only one office at a time. If a candidate changes his or her mind and decides to seek another office, the candidate must return funds raised for the initial office and begin raising funds for the second office.

6. Cash and Anonymous Contributions

Cash contributions (as opposed to contributions by check) cannot exceed \$25, and the total amount of anonymous contributions received by any candidate cannot exceed \$200 in a single election.

7. Enforcement, Audits and Penalties

The law has various provisions designed to increase the ability of the city clerk and city attorney to identify potential violations. As amended by voters in June 1987, either the city attorney or an individual may bring a civil action to enforce the law. If a candidate is convicted of a misdemeanor, the court may rule that he or she loses office and is ineligible to run again for five years.

B. Loopholes and Other Problems Have Compromised the Law's Effectiveness

In the first year of the Los Angeles campaign finance law, frustrated city councilmembers, candidates and a reluctant city attorney's office tested its limits. During a December 1985 special election, for example, council candidate (and then-state legislator) Richard Alatorre made illegal campaign expenditures from funds he had raised as a state legislator and which were received in amounts over the Los Angeles City limitations. Although Alatorre was ultimately assessed with the largest fine in the state's history, the city attorney's office initially referred the case to the District Attorney before itself enforcing the law against Alatorre and his committee.¹⁸

In January 1989, the Los Angeles City Clerk's office disclosed that two incumbents for reelection in 1987—Pat Russell and Robert Farrell—had accepted contributions that exceeded the limits imposed by the Los Angeles campaign law. According to the *Los Angeles Herald Examiner*, Russell's oversized contributions amounted to over \$38,000, while Farrell's exceeded \$5,300.¹⁹ In one case, one contributor reportedly gave under the names of several entities that he owned.

Despite the violations, the city clerk's office failed to enforce remedies against the candidates because the discovery was made after the original law's statute of limitations of one year had expired. (Under amendments passed in June 1987, the statute of limitations on criminal actions was changed to two years, and on civil actions to four years.) City Clerk Elias Martinez blamed the oversight on a backlog caused by a shortage of auditors assigned to check candidate compliance with the law. The city council and the mayor, as a budgetary responsibility, have the power to choose the number of auditors available. According to the *Los Angeles Times*, Martinez had requested that the city council and mayor allow in their budget 13 auditors to be assigned to review the 1987 campaign statements; Mayor Bradley reduced the number to seven, and the city council ultimately allotted money for just three auditors.²⁰ Under the Los Angeles law, candidates convicted of knowingly accepting contributions or gifts exceeding the limitations could be sentenced to up to six months in jail.

Councilmembers may have interpreted this type of enforcement laxness as license to look for loopholes. Contending that the city's new law applied only to candidates and not to their PACs, they began to raise PAC contributions without observing either the contribution limits or the restrictions against the use of these

funds for campaign-related expenses. Instead of campaign war chests, councilmembers built PAC war chests for unspecified purposes. Councilmembers used some of these funds, however, for the same expenditures that they had previously charged to campaign committees. Even the elected city attorney established and raised money through his personal PAC, using it to pay off his 1985 campaign debts.

With pressure from the press and the charter amendment's original supporters, the city attorney began to monitor compliance with the law somewhat more closely. His office issued specific guidelines as to how PAC monies could and could not be spent and suggested amendments to improve enforcement. These amendments were approved by Los Angeles voters on June 2, 1987.

These slow and shaky beginnings undermined the law's credibility and proponents' hopes for effective campaign finance reform. The growth and use of PAC war chests that developed after the law's adoption conveyed the same impression of special interest influence that had appeared before 1985. Initial experience with the charter provision has cast doubt on its ability to achieve many of its goals.

1. Influence of Large Contributors

The proponents of the Los Angeles charter amendment sought to reduce the influence of individual large contributors in local elections. Prior to adoption of Charter Section 312, California Common Cause found that major contributors gave very large contributions to councilmembers. Common Cause analyzed the largest amounts given in 1982-1983 to determine how much of those same contributions could have been given under the proposed ordinance. It concluded that over 90% of the largest contributions would be eliminated under the new law. (See Table 10.2.)

Table 10.2

PROJECTED EFFECT OF CHARTER SECTION 312 ON LARGE CONTRIBUTIONS

CITY OF LOS ANGELES

<i>Contributor</i>	<i>Total Given (1982-1983)</i>	<i>Amount Not Allowed Under Charter Amendment</i>	<i>Percentage Lost Under Charter Amendent</i>
Engineering Technology, Inc.	\$99,650	\$96,150	96%
Occidental Petroleum Corp.	\$55,100	\$51,600	93%
Land Resources Corp.	\$52,250	\$48,750	93%
Metro Theatres PAC	\$40,474	\$36,974	91%
Civic Betterment Assn.	\$37,599	\$34,099	90%
Group W Cable	\$36,150	\$32,650	90%

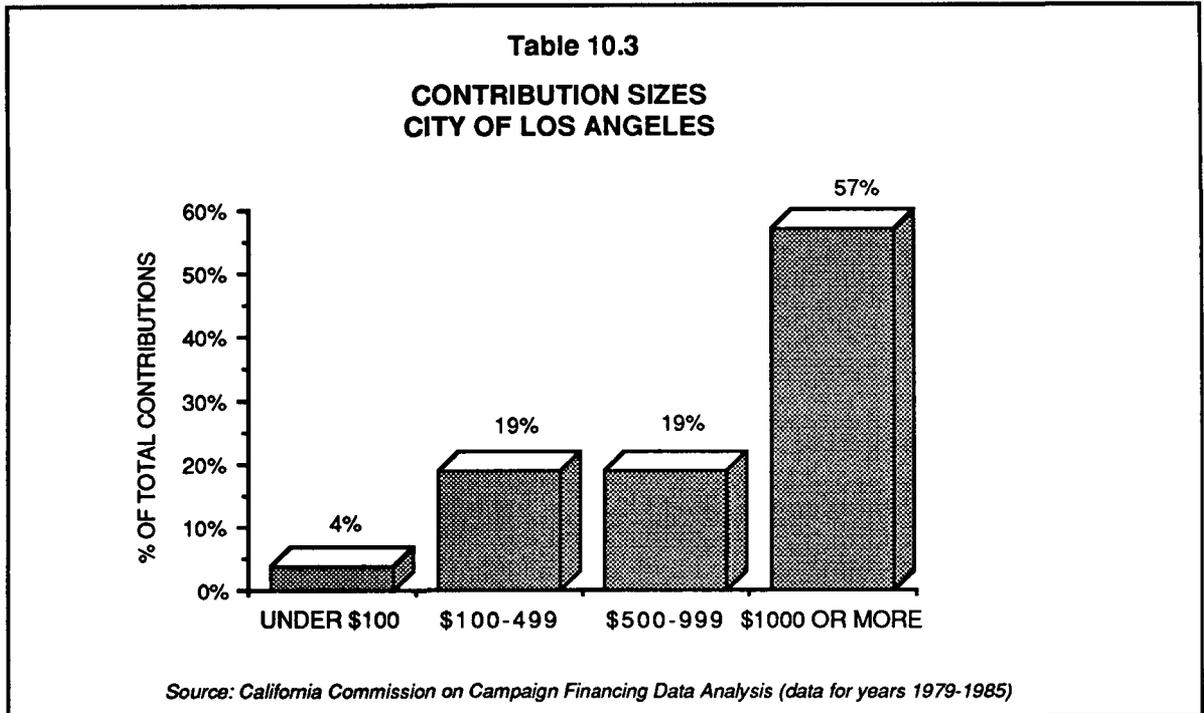
Source: California Common Cause (data for years 1982-1983)

A review of all campaign contributions to Los Angeles city councilmembers between 1980-85 (before passage of Charter Section 312) reveals the trend toward large contributions. Fifty-eight percent of all funds were given in amounts of \$1,000 or more. (See Table 10.3.)

Charter Section 312 has reduced the size of campaign contributions to \$500 or less. In the 1987 Russell-Galanter race, the *Daily Breeze* examined campaign finance statements and found, "The majority of Russell's contributors gave the maximum of \$500. In a number of cases, there were husband-wife donations of

\$1,000 In contrast, Galanter's filing showed most contributions in the \$100-\$200 range, although there were a sprinkling of \$500 gifts."²¹ Galanter reported total spending of \$185,000 and Russell reported spending just under \$800,000.²²

Despite the new contribution limits, contributors can still arrange to provide candidates with large sums in excess of the \$500 limit by using one or more of several strategies. The following are the most common.



a. Organized Giving

Former large contributors can still solicit contributions from others and then convey them to the candidate in a "bundle," thereby retaining the appearance of special interest influence despite the new law. Anticipating this trend, top city lobbyist Phil Krakover (recently deceased) predicted prior to passage of the law that he would be asked to become a fundraiser. "And then I'll have to spend half a day on the phone being a schnorrer [Yiddish for beggar] asking my clients to contribute. It'll be a pain . . . my wife, my daughter and my dog Spot [will each] give \$500."²³

Krakover's predictions were realized. The *Los Angeles Weekly* reported, "Because the law limits contributions to a candidate [for mayor] to \$1,000 per person, developers often 'bundle' money from their spouses, from fellow executives and from subcontractors such as architects and electricians, who are not required to list the connection on the campaign reports."²⁴ The *Weekly* cites examples from the fundraising reports of then-prospective mayoral candidate Zev Yaroslavsky, including \$12,000 in contributions from individuals connected with Casden Company, applicants for the proposed Pico-Westwood Entertainment Center, \$10,000 from contributors connected with the Homestead Group, a North Village developer and \$5,000 from contributors affiliated with proponents of the Westside Pavilion.²⁵

b. Officeholder Committees

As noted above, officeholders have set up separate PACs or committees to receive large contributions, arguing that these contributions are not bound by the ordinance's limits because the moneys are not spent for campaign-related purposes.

Councilmember Robert Farrell uses his PAC moneys “to pursue broader goals including fighting apartheid, aiding black candidates in other cities and enlisting more money for charities in Los Angeles and across the country.”²⁶ Councilmember Gilbert Lindsay uses his PAC for “supplemental staff,” “building my power base”²⁷ and having “money to play with.”²⁸ Councilmember Hal Bernson used \$13,000 in PAC monies to take his wife and daughters to London and Japan. Councilmember Joan Milke Flores used \$15,000 in PAC monies to take two staff members to Paris for 21 days to visit a trash-to-energy facility.²⁹

Even though the city attorney has ruled that officeholders cannot use their PAC funds in connection with campaigns for city office, they reap substantial benefits from PAC expenditures, and contributors are able to please or “influence” officeholders with PAC donations. Assistant City Attorney Shelley Rosenfield observes, “the public may be left with the perception that influence and access is still being bought.”³⁰ The *Los Angeles Times* has noted potentially “influential” PAC contributions, including:

- \$3,000 from Los Angeles City Employees Union Local 347 to Friends of Councilmember Michael Woo in December 1985, used to repay a previous campaign debt; and
- \$9,000 from Ogden Martin Systems to LINPAC (Councilmember Gilbert Lindsay’s PAC), while the company was one of two finalists for a city contract to build the LANCER trash-to-energy project.³¹

2. Continuing Narrow Contributor Base

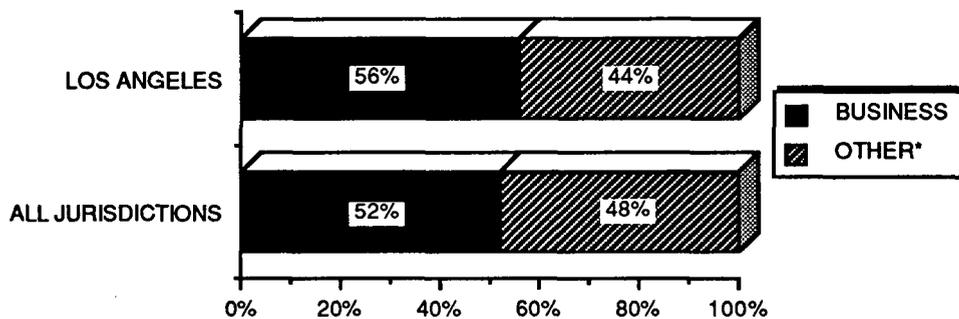
The contribution limits in Charter Section 312 were designed not only to limit the influence of “large” contributions, but also to broaden the base of contributors. Prior to the law’s passage, the *Los Angeles Times* surveyed 1,500 contributors to city elections and found that they did not represent a cross section of Los Angeles voters. “While [Mayor Tom] Bradley and [Councilmember John] Ferraro vie for votes of the ethnic groups, poor people and renters who make up a majority of the city’s population, the two candidates get most of their campaign funds from the city’s leading real estate developers, lobbyists, lawyers, financiers, and entertainment industry executives,” concluded the *Times*, referring to the 1985 mayoral race. “[T]he typical giver [is] a middle-aged, Westside homeowner whose annual income of \$75,000 or more puts him within the top 3% of income producers in the city.”³²

The *Times* asked contributors their reasons for giving. Forty-two percent said they either do business with the city or need the city’s approval for work they or their clients want to undertake.³³ A review of all contributions received by city council candidates between 1980 and 1985 documents the relative importance of business contributions compared to individual giving in Los Angeles council fundraising prior to adoption of the new law. Over half the funds (56%) received by candidates were contributed by business sources. (See Table 10.4.)

Adoption of Charter Section 312 has forced Los Angeles council candidates to find additional contributors, but it is difficult to tell whether the contributor base is actually broader because of the difficulty in identifying related contributions or “organized giving.” Councilmember Zev Yaroslavsky has said that councilmembers “go to the same contributors as usual,” but that they ask supporters to become fundraisers instead of contributors.³⁴ Significant changes in the demographics of contributors seem unlikely because the reasons for giving or fundraising have not changed—to gain access to and influence with officeholders. “Contributions play the role of making you known,” explained Phil Krakover. “People become aware of who you are. The more you raise the more important you are.”³⁵

Table 10.4

**BUSINESS CONTRIBUTIONS
CITY OF LOS ANGELES**



*Other sources include individual, labor, political and candidate contributors.

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1985)

3. Incumbent Advantage

To Zev Yaroslavsky, the trend toward giving and fundraising for incumbents seems almost inevitable. "If you were a developer or an investment banker, wouldn't you wish to give to an incumbent instead of a speculative challenger?"³⁶ Prior to the charter amendment's passage, incumbents received 82% of all the contributions given, and 85% of all the contributions given to incumbents and challengers. Nearly two-thirds of all incumbent contributions came from business, while challengers accepted the bulk of their contributions from individuals. (See Table 10.5.) In an average race, incumbents also dominated contributions from every source, collecting 67% or more of the funds given by each contribution source. Incumbents received 97% of the business contributions in an average race.

Supplementing their natural advantage, incumbents are still permitted several major benefits under Charter Section 312. They are still able to gain a substantial head start over challengers through non-election year fundraising. They can create incumbent political action committees. And they can significantly outspend their challengers. Mayor Tom Bradley, for example, was still able to raise more than \$1.8 million for his successful 1989 mayoral reelection bid—despite Charter Section 312.

a. War Chests

Prior to enactment of the Los Angeles law, incumbents developed enormous war chests to deter competition. Before the April 1985 campaign reform vote, the following councilmembers had these war chests:³⁷

- Councilmember Zev Yaroslavsky \$924,512
- Councilmember John Ferraro \$754,083
- Councilmember Joel Wachs \$732,452
- Councilmember Joan Milke Flores \$341,703
- Councilmember Gilbert Lindsay \$271,891

The new law prevented candidates from carrying contributions from one election to the next, but it allowed councilmembers running in 1987 to use prior war

chests collected before passage of the ordinance. The use of old war chests in the 1987 elections once again demonstrated their benefits to incumbents. “[Joel] Wachs, who started the [1987] campaign with more than \$600,000 and raised \$170,000 more, said he decided against two last-minute mailers because he thought he didn’t need them.”³⁸ Wachs had been expecting significant opposition because he was running in a new area, but his huge war chest dissuaded serious challengers from opposing him.

Table 10.5

**INCUMBENT/CHALLENGER DATA PROFILE
CITY OF LOS ANGELES**

Percentage of Total Contributions Raised From Each Source

	<u>Incumbents</u>	<u>Challengers</u>
Business	64%	26%
Individual	25%	54%
Labor	5%	5%
Political	5%	7%
Candidate	1%	9%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	97%	87%	94%	90%	67%
Challengers	3%	13%	6%	10%	33%

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1985)

The delay in implementing the “carryover” limits of the new law makes it premature to assess its effectiveness in increasing competition. The success of new councilmembers since 1985 has been largely a result of resignations by incumbents.³⁹

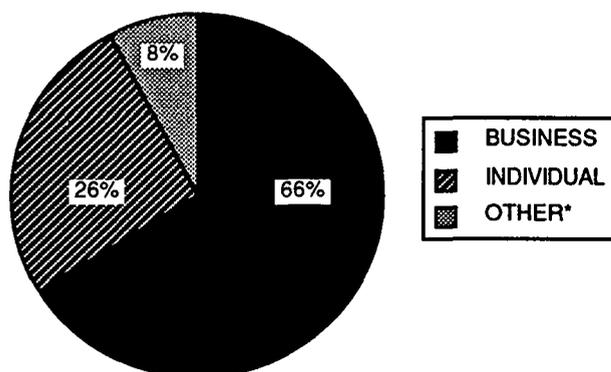
b. Non-Election Year Fundraising

One substantial reason why incumbents have been able to dominate fundraising and elections has been their success in raising funds in non-election years. Challengers raise no money in non-election years. Almost two-thirds—63%—of the funds raised by incumbents are received in non-election years.

In addition, because the Los Angeles campaign finance charter amendment do not specifically limit or ban non-election year financing, this competition-stifling trend will most likely continue. Although the new regulations require candidates to file a declaration of intent before raising money, incumbents can easily make the required declaration. Moreover, much of the non-election year fundraising since the passage of the charter amendment has flowed to incumbent PACs.

The high percentage of non-election year funds has also contributed to the perception of excessive contributor influence. Most of the off year contributions come from business, while just over one-fourth comes from individuals. (See Table 10.6.)

Table 10.6
SOURCES OF CONTRIBUTIONS IN NON-ELECTION YEARS
CITY OF LOS ANGELES



*"Other" contribution sources include labor, political and candidate contributors.

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1985)

c. Incumbent PACs

Until recently, incumbents in Los Angeles city elections have spent generously from their PACs, gaining significant public relations benefits. Raising money for these committees was relatively easy because the new limits were interpreted as not applying to PAC contributions and because restrictions on the kinds of expenditures permitted were unclear. Incumbents could use PAC funds to purchase newspaper ads, produce constituent mailings and make donations to charities. In March 1987, however, the city attorney's office issued guidelines intended to curb pro-incumbent PAC spending.⁴⁰ The city attorney and city clerk's offices have begun to conduct audits of PACs to ensure that expenditures are *not* campaign-related. "I'm not raising money for my PAC," says Councilmember Gloria Molina, "because I'm still not sure how I can use the money."⁴¹ Proposition 73, however, puts an upper limit on donations to these PACs; and the FPPC has advised the San Francisco City Attorney's office that all "Friends" committees must be absorbed into the candidates' campaign committees.

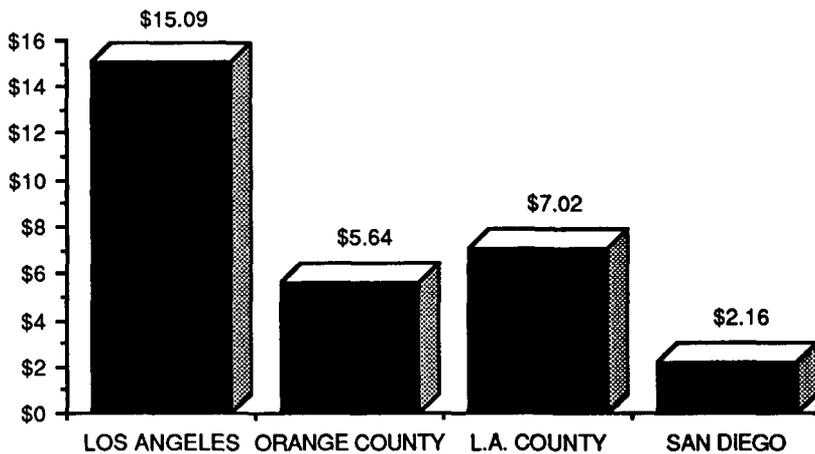
d. Spending Per Vote

The dominance of incumbent fundraising and spending translates into another trend that has not been slowed by the new law—the high spending per vote in Los Angeles city elections. Between 1980 and 1985, the cost per vote in Los Angeles elections ranked second highest among all the jurisdictions studied—the highest being Pasadena. (See Chapter 13, "Pasadena.") It ranked the highest among large jurisdictions studied by the Commission. (See Table 10.7.) Councilmember Gloria Molina suggests that high spending-per-vote averages in Los Angeles are exacerbated by low voter registration, requiring candidates to produce additional mail pieces to increase public education and voter participation.⁴² In any event, high spending and high spending-per-vote ratios disadvantage challengers who have weaker fundraising capabilities.

e. Incumbent Spending Advantage

The ways in which campaign moneys are spent in the City of Los Angeles also reflect the lack of local competition. In races where incumbents lack serious challengers—both before and after the new law—little is spent on direct communications with the voters. Instead, Los Angeles council candidates, during the time period studied, spent three-quarters of their campaign budgets on overhead. (See Table 10.8.)

Table 10.7
SPENDING PER VOTE:
CITY OF LOS ANGELES VERSUS OTHER LARGE JURISDICTIONS



Source: California Commission on Campaign Financing Data Analysis (data for years 1980-1986)

Incumbents have concentrated their resources on fundraising (14% of all money spent) and general administrative expenses (36% of all money spent). Challengers, unable to raise competitive campaign budgets, lacked the resources to make necessary voter contacts or mount serious challenges.

A review of recent campaign statements shows that these incumbent-dominated spending trends have continued since passage of the charter amendment.⁴³ In fact, with average councilmember campaign budgets currently hovering around \$350,000, some maintain that Charter Section 312 may actually have hurt competition because few challengers have the broad fundraising support available to incumbents. "I was the son of a famous politician here in Los Angeles," says City Attorney James Hahn. It gave me immediate access to a wide group of people [not available to other challengers] . . . [The law] has done nothing to level the playing field. If anything, it's slightly tipped the balance toward the incumbent."⁴⁴ When a challenger begins to raise funds, the charter amendment's total contribution limits may prevent "tapped out" donors from giving to him or her.

4. Influence of Special Interests

Supporters of Charter Section 312 hoped that campaign finance limits would improve the appearance of city government by breaking links between money and favorable votes. While it is difficult to assess public perceptions about the cleanliness

of city government, evidence suggests the new law is not achieving this goal. Since enactment of the law, newspaper reports have continued to describe apparent connections between money and favorable city votes:

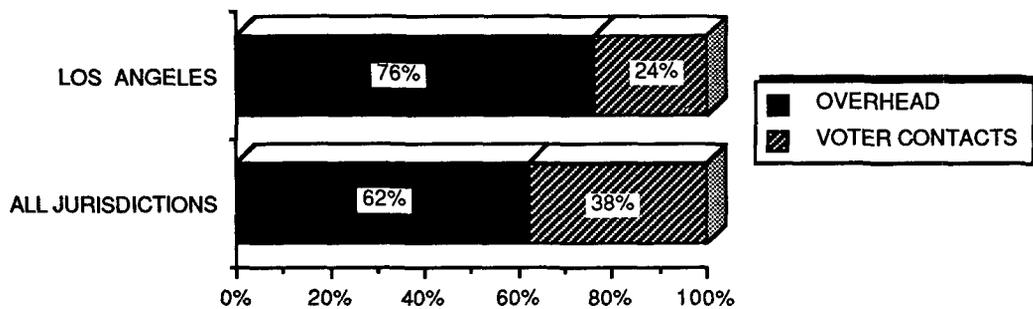
- Nine investment banking companies and their employees contributed \$181,000 to city councilmembers and the mayor from 1984 to mid-1986, reported the *Los Angeles Times*. The largest contributors “were the firms that obtained the city’s bond business to finance the [\$235 million] LANCER trash disposal project,” concluded the *Times*. (See Table 10.9.)
- Boy’s Market contributed a total of \$3,000 to Councilmember Farrell in 1985 and \$1,000 in 1986. According to the *Los Angeles Times*, Farrell subsequently lobbied to have the Community Redevelopment Agency condemn 27 historically significant homes in North University Park near University of Southern California, in order to make way for a shopping center which would be developed by Boys Market in a joint venture with Danny Blackwell, another supporter of Councilmember Farrell.⁴⁵
- In November 1985, the city council approved an ordinance which refunded developer fees that the city uses for the purchase of city park and recreational facilities (“Quimby” fees). Ordinance supporters hoped that refunds to developers would translate into lower rents for apartment dwellers. But the *Los Angeles Times* also reported, “Councilmembers acknowledge that the ordinance was tailored to provide a refund of up to \$403,000 to developer Jona Goldrich, a long-time supporter of Mayor Tom Bradley who has also made generous contributions to several councilmembers in the past.”⁴⁶
- When Councilman Richard Alatorre accepted a \$1,000 honorarium from TELACU and later lobbied his fellow councilmembers for a \$722,500 city contract to TELACU, the Center for Law in the Public Interest filed a complaint with the Fair Political Practices Commission. The state agency confirmed a conflict of interest and fined Alatorre \$2,000 on February 2, 1988.⁴⁷
- Just prior to the April 14, 1987 city council election, the *Los Angeles Times* reported another apparent conflict of interest arising from the dual role played by Curtis Rossiter, lobbyist and campaign consultant to then-Councilmember Pat Russell. Rossiter, a long-term advisor to Russell, was “hired by Summa Corp. and won Russell’s support for its controversial Playa Vista project, a huge hotel, office and residential development.”⁴⁸
- In 1989, the *Los Angeles Herald Examiner* reported that Mayor Tom Bradley had received income from Far East National Bank and that Bradley communicated with the City Treasurer’s office regarding the deposit of city funds in the bank. The city attorney’s office and the Fair Political Practices Commission are currently investigating possible conflict of interest violations.⁴⁹

5. Breadth of Participation in the Political Process

A stated purpose of the Los Angeles charter amendment is to encourage broader participation in the political process and regulate the disposition of unexpended contributions received by or on behalf of candidates. Evidence suggests, however, that Charter Section 312 has been unable so far to meet its ambitious goal of broadening “participation in the political process.” While each contribution now is

limited to \$500, organized giving, bundling and PAC committee contributions allow formerly large contributors to maintain their influence.

Table 10.8
CAMPAIGN OVERHEAD VERSUS VOTER CONTACTS
CITY OF LOS ANGELES



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1985)

Candidate contributions, which were low before passage of Charter Section 312 have been kept low by a unique provision in the charter amendment. Before wealthy candidates in Los Angeles can give the campaigns over \$30,000, they must first put the money in a trust account and give all their opponents 30 days notice, during which period their opponents may raise up to the same amount free of contribution limits. (Due to Proposition 73, however, these opponents may be able to raise contributions only up to the limits allowed by the new law.) This provision does not eliminate contributions only by wealthy candidates, but it makes them cumbersome and less effective, particularly in the closing days of a campaign. However, because wealthy candidate contributions have not occurred either before or after the passage of the Los Angeles law, it is difficult to assess the effectiveness of this provision.

C. Conclusions and Recommendations: Better Enforcement and New Provisions Could Increase the Charter Amendment's Effectiveness

Since the April 1985 adoption of Charter Section 312, some public organizations have increasingly criticized the city clerk and city attorney's office for failing aggressively to enforce the city's campaign finance ordinance. The City Attorney and City Clerk refused to take any action against Councilmember Alatorre's 1985 campaign, for example, until prodded by Common Cause and the press. Ultimately, the proceeding generated the largest penalty ever assessed under the state Political Reform Act⁵⁰.

A year later, when additional allegations surfaced involving Councilman Alatorre's receipt of honoraria and his subsequent involvement in a TELACU city bus service contract, the city attorney's office again refused to file an action. Common Cause wrote to the city attorney's office twice—once on November 26, 1985, and again on March 4, 1986—requesting an investigation. The second letter threatened a lawsuit unless an investigation ensued. Nothing happened. Finally, the California Fair Political Practices Commission was asked to investigate and it

fined Alatorre \$2,000 for participating in the bus service contract decision. The *Los Angeles Herald Examiner* complained, "the city attorney has flat out refused to do anything about Alatorre's alleged violations Thank goodness for the state Fair Political Practices Commission, which has agreed to investigate the matter at the request of California Common Cause."⁵¹

Table 10.9

LANCER BONDS: WHO GAVE, WHO GAINED

Campaign finance statements show that investment banking firms and their employees that contributed the most to the campaigns of Los Angeles City Council members and to Mayor Tom Bradley were the firms that obtained the city's bond business to finance the LANCER trash disposal project.

Company	Political Contributions 1984 to mid-1986		LANCER Project Bond Sales, Earnings and Expenses				Staff Rec.
	Councilmen	Mayor Bradley	Sold	Commissions	Expenses	Fees	
Smith Barney	\$11,800	\$60,000	\$156 Million	\$659,175	\$146,642	\$300,000	No
E.F. Hutton	\$11,300	\$18,350	\$45 Million	\$189,763	\$16,850	\$250,000	No
Salomon Bros.	\$0	\$10,000	\$0	\$0	\$0	\$0	Yes
Merrill Lynch	\$700	\$10,250	\$0	\$0	\$0	\$0	Yes
Goldman Sachs	\$900	\$5,100	\$0	\$0	\$0	\$0	No
Kidder Peabody	\$600	\$16,000	\$0	\$0	\$0	\$0	No
Grigsby Brandford	\$8,000	\$5,800	\$28 Million	\$119,850	\$8,330	\$200,000	Yes
Daniels & Bell	\$7,000	\$11,900	\$6 Million	\$29,963	\$17,447	\$250,000	No
Pryor, Govan	\$3,000	\$1,100	\$0	\$0	\$0	\$0	No

Source: Victor Merina, *Money Is Muscle In Bond Sale Field*, Los Angeles Times, Aug. 11, 1986.

Some feel the lack of enforcement is due to a fundamental conflict of interest in the city attorney's office. The city attorney's office must both represent the city councilmembers in litigation and other matters and, at the same time, enforce the campaign finance reform ordinance against them. Former Deputy Mayor Tom Houston, a past Chairman of the state Fair Political Practices Commission, comments, "Part of the problem in enforcement has been that the city attorney is part of the city's power structure, and [despite being elected independently] he has to get budget approval from the city council."⁵²

1. Recent Amendments

Stung by mounting criticism, the city attorney proposed amendments to Charter Section 312 in early 1987. The amendments were designed, among other things, to give private citizens an independent right to enforce the charter provisions. On June 2, 1987, Los Angeles voters approved the additional charter amendments. The revisions:

- Give Los Angeles residents the right to sue candidates or officeholders for injunctive relief for violations of the ordinance, but only if the complainant first asks the city attorney to institute the action and the latter fails to act;
- Expand the statute of limitations for actions on criminal violations from one year to two;
- Assess civil monetary penalties against anyone intentionally or negligently violating any provision of Charter Section 312;

- Require vendors to disclose their records to the city clerk for audits and provide the city clerk subpoena power to conduct investigations and audits;
- Require campaign organizations to list campaign workers and officers, making candidates more responsible for their subordinate's actions;
- Require all committees controlled by a candidate, not just committees organized for the candidates' run for city office, to disclose all records for inspection;
- Limit the life of a Declaration of Intent to Solicit and Receive Contributions, and prevent candidates from filing more than one declaration at a time; and
- Require candidates to file a new financial report (separate from the semi-annual reports required by the state Political Reform Act) no later than 65 days after the election, allowing the city clerk to conduct and promptly complete final post-election audits.

The city attorney's failure aggressively to enforce the city's campaign finance law has created a credibility gap which new amendments may bridge. Critics await future enforcement actions by the city attorney's office but feel they may have to rely on the amendments allowing citizens to bring private enforcement suits in the courts.

2. Needed Additional Amendments

Future amendments to Charter Section 312 may be required. They could include limits on contributions to PACs, a ban on contributions from city contractors, a ban or limits on non-election year fundraising and expenditure ceilings supported by limited public matching funds. The effectiveness of any such additional measures would depend on consistent and prompt enforcement, as well as a "public will" to encourage compliance—expressed in vigorous press coverage and voter interest.

a. Limits on Contributions to PACs Controlled by Officeholders

In 1982, then-Attorney General George Deukmejian issued a legal opinion on the applicability of San Francisco's contribution limit law to so-called non-campaign PACs or "Friends" committees. The opinion stated that candidates or incumbents should not use "Friends" committee funds for official functions. Moreover, it ruled that contributions to these committees should be categorized either as "political contributions" or "gifts" under the state Political Reform Act.⁵³ If the donations were deemed political contributions, then San Francisco's local contribution limits would apply even though the donations were made to non-campaign committees. If the donations were deemed gifts, then donations to these committees of \$250 or more per year would require the benefiting officeholder to disqualify himself or herself from votes affecting the contributor under state law applying to gifts.⁵⁴ As previously noted, the Los Angeles law has not been similarly interpreted to encompass donations to "PAC" committees, although the FPPC has notified the San Francisco City Attorney's office that such payments are contributions subject to the restrictions of Proposition 73. It is suggested that the Los Angeles law be amended to define such contributions as political contributions, thus subject to the Los Angeles contributions limit.

b. Ban on Contractor Contributions

In Los Angeles, as elsewhere, city contractors and those hoping to enter contracts to supply the city with goods or services are frequent contributors and fundraisers in local campaigns. Bond salesmen and Community Redevelopment

Agency contractors are among the most active. (See Table 10.9.) In the early 1980s, companies bidding on a cable television franchise in the San Fernando Valley made contributions to many Los Angeles city councilmembers who were considering which company would receive the valuable and exclusive franchise. When a potential contractor makes a large contribution and then receives a lucrative city contract, it creates the perception that the awards process is biased. The City of Gardena prohibits those who have contracts or franchises with local government from making any contributions to the city campaigns. The City of Los Angeles should consider a similar amendment to curb the perception of undue contributor influence on government decisionmaking.

c. Ban on Non-Election Year Fundraising

Studies have repeatedly shown that non-election year fundraising adds significantly to the crushing advantage possessed by incumbents.⁵⁵ Few challengers declare their candidacies early enough to raise money outside of election years. Many contributors are unlikely to give challengers off year contributions because they acquire no useful access to existing officeholders. In fact, contributions to challengers in a non-election year may even hurt contributors' access to incumbents. Finally, there is a perception in many quarters that such contributions (in contrast to election year contributions) are likely to have a direct connection with pending legislation.

In the City of Los Angeles, 63% of the contributions raised by incumbents between 1980 and 1985 were raised in the non-election years. The new law has not discouraged non-election year fundraising and may even have made fundraising even more pro-incumbent. The law's "total contribution limits" prohibit contributors who give the maximum amount to all incumbents in the off year from later giving *anything* to challengers. In Los Angeles, non-election year fundraising for PAC committees creates a particular appearance of influence since such contributions come in higher amounts than allowed by the Los Angeles law, are made when there is no competition for office and, under current interpretations, can be used by officeholders for "pet" projects.

A prohibition on non-election year fundraising would encourage contributors to relate their contributions to the electoral process, rather than to government decisions and, in the Commission's view, would improve the public's perception of city government. It would also tend to broaden the political process by removing the immense pro-incumbent bias inherent in non-election year fundraising and war chest building.

d. Expenditure Ceilings

The Commission suggests that the City of Los Angeles, a charter city, seriously consider adopting expenditure ceilings.* The Commission suggests that the city council candidates be limited to spending no more than \$300,000 per election and mayoral candidates to \$1 million per election adjusted by cost-of-living changes. It is very important that the expenditure limitations not be set so high as to be ineffective or so low as to favor incumbents. The Commission believes that the recommended levels would achieve an effective balance.

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voter's adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as Los Angeles) and charter counties. The State Constitution grants to counties the right to conduct their own affairs, and

As long as candidates can spend as much as they can raise, they will find new ways of raising money. Contribution limits alone do not substantially reduce the influence of large contributors. Instead of giving to candidates directly, major contributors find family members, friends and business associates that will also contribute. Often the strongest fundraisers are developers with multiple subsidiaries and subcontractors, lobbyists who have many interested clients and others with a financial stake in the election outcome.

The only effective way to reduce the influence of major fundraisers is to limit the total amount that a candidates can spend. While limited matching funds are constitutionally required to justify expenditure ceilings, they also create an alternative source of revenue for challengers who otherwise have difficulty competing for money against incumbents who are able to move a contributors' projects through the city bureaucracy. Limited matching funds also allow candidates to spend less time raising money and more time discussing relevant local issues. (See Chapter 23, "The Commission's Model Ordinance.")

e. Total Limits

The Los Angeles charter amendment limits total contributions to all candidates by any one contributor. In a year, when no citywide offices are on the ballot, a contributor can give \$500 times the number of council seats up for election. When citywide offices such as Mayor are on the ballot, the contributor can give \$500 times the number of council seats plus \$1,000 times the number of citywide offices. The purpose of this provision is to stop contributors from making maximum donations to all candidates, thus ensuring access no matter who wins. This provision, as written, may well favor incumbents. If a contributor is solicited early in the campaign (or the year before the election) by each incumbent, the challengers may not be able to raise any money from that contribution.

The Commission suggests that Los Angeles consider amending the ordinance to delete this provision.

f. New Enforcement Authority

The City of Los Angeles may wish to establish a new enforcement agency which would administer and enforce the city's local campaign finance ordinance. This enforcement agency could assume many of the functions now being performed by the city clerk and the city attorney. The city clerk's office now reviews campaign statements and audits some reports. The city attorney's office provides advice and interpretations of the city law and its authorized to bring criminal and civil actions against candidates or committees who violate the law.

The Commission has found that enforcement by city attorneys, registrars of voters and city clerks of campaign finance laws has generally been spotty at best. While a few enforcement officials have brought significant cases (e.g., district attorneys in Orange County and San Diego), most are reluctant to file charges against fellow public officials.

recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, "Proposition 73.") If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure ceilings. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, "The Commission's Model Ordinance," for a discussion of this alternative.)

An independent local agency similar to the state Fair Political Practices Commission could be held primarily responsible for the implementation of the Los Angeles campaign finance law. It could be given authority to issue opinions and regulations interpreting the law. It could be given the authority to bring administrative and civil actions against persons who have negligently violated the law. Finally, it could audit campaign finance statements. The city attorney could retain the authority to bring criminal misdemeanor actions against persons who willfully violated the law. The city clerk could retain the authority to receive campaign statements for filing and to review them for mistakes which appear on the face of the documents.

g. Conclusion

Charter Section 312 utilizes many provisions drawn from other city and county ordinances passed before 1985. The drafters of the Los Angeles law hoped that these provisions would greatly change the manner in which city elections and government were conducted—reducing the influence of major contributors, broadening the base of local contributors, increasing competition and improving public perception of local governmental decisionmaking.

The charter amendment's lofty goals have been impaired by weak and spotty enforcement, the development of non-campaign PACs and continued use of war chests raised prior to enactment of the law. Although useful amendments were adopted in June 1987, the city's law needs additional strengthening, in the Commission's opinion, if it is to achieve its original purposes.

NOTES

1. Dan Walters, *The New California: Facing the 21st Century*, p. 23 (1986).
2. Department of City Planning, *City of Los Angeles, Los Angeles City Government, 1781-1981*, p. 5 (1981).
3. *Id.*
4. Charles Lockwood and Christopher B. Leinberger, *Los Angeles Comes of Age*, *The Atlantic Monthly*, Jan. 1988.
5. Frank Clifford, *Contributors to Mayoral Race Seek a Friendly Ear*, *Los Angeles Times*, Mar. 11, 1985.
6. Reference to *Los Angeles Times* study in: Mike Davis, *Chinatown, Part Two? The Internationalization of Downtown Los Angeles*, *New Left Review*, July/August 1987.
7. Text of speech by Councilmember Ernani Bernardi before the Beverly Wilshire Homeowners Association, Dec. 5, 1983.
8. *Id.*
9. Clifford, *supra* note 5.
10. Rich Connell, *Growth-Control Victory Hailed as "Dawn of New Era," Los Angeles Times*, Nov. 6, 1986.
11. According to an article in the *Los Angeles Times*, Galanter's victory meant that "developers of large commercial buildings can generally count on only six [of 14] likely votes for the zoning changes and other city ordinances usually necessary for big projects." Victor Merina, *Growth Issue: Flashpoint in New Struggles for City Power*, *Los Angeles Times*, June 15, 1987.
12. *Id.*
13. Charter Section 312, Charter of the City of Los Angeles (as amended June 2, 1987), Section A.

14. "Broad-based political committee," as defined in Proposition 73 is "a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates." Cal. Gov't Code §85102(d) (West Supp. 1989).
15. "Political committee," as defined in Proposition 73 is "a committee of persons who receive contributions from two or more persons and acting in concert makes contributions to candidates." Cal. Gov't Code §85102(c) (West Supp. 1989). This astonishing provision amounts to a major loophole in the new state law as it purports to allow any two individuals, constituting themselves a "committee" to give \$2,500 to a candidate and each of them, in addition, to give the individual maximum of \$1,000. The city may well wish to eliminate this provision in any amendment of the sort referred to in the text.
16. Cal. Gov't Code §85202 (West Supp. 1989).
17. Cal. Gov't Code §85200 (West Supp. 1989).
18. Richard Alatorre's successful campaign for city council benefited from over \$100,000 spent by his state PAC for "services ranging from the production of a video tape that touted Alatorre's council candidacy to catering services for an Alatorre fundraising picnic at a Beverly Hills mansion . . . [and] for postal costs of political mailings, production of a campaign brochure and the services of a political consulting firm." John Schwada, *Alatorre's Campaign Financing Probed*, Los Angeles Herald Examiner, Feb. 18, 1986. City Attorney James Hahn at first claimed a conflict of interest in investigating this apparent violation of Charter Section 312. When the district attorney referred it back to the city attorney, Hahn authorized an investigation. Alatorre refused to release bank account information, and the investigation was delayed. With pressure from Common Cause and the Center for Law in the Public Interest, City Attorney Hahn completed the investigation and filed criminal charges against Alatorre's close associates and campaign staff members but not Alatorre himself. The city attorney could not find that Alatorre himself had "knowingly or willfully violated the law, because he personally had not signed any of the checks." John Schwada, *3 Alatorre Aides Charged: Decision Not to Prosecute L.A. Councilman Criticized*, Los Angeles Herald Examiner, July 18, 1986. After negotiations, Alatorre agreed personally to pay a \$5,000 fine, to return approximately \$92,000 in campaign contributions and to accept responsibility for the violations. His committee was also fined \$45,000. It was the largest fine ever imposed under the state Political Reform Act.
19. John Schwada, *Audit Foul-Up Blamed on Short Staff*, Los Angeles Herald Examiner, Jan. 18, 1989.
20. Ted Vollmer, *Illegal City Campaign Gifts Slip By Because of Lack of Enforcement Funds*, Los Angeles Times, Jan. 18, 1989.
21. Rick Cziment, *Russell Leads in Contributions*, The Daily Breeze, May 23, 1987.
22. Russell had two committees, the "Committee to Reelect . . ." and "Citizens For . . ." The Committee to Reelect spent \$412,268; the Citizens committee spent \$387,491.
23. John Schwada, *Can New Campaign Reform Law Stop Big-Money Game at City Hall?*, Los Angeles Herald Examiner, June 30, 1985.
24. Russell Baker, *Zev Yaroslavsky*, Los Angeles Weekly, Oct. 9-15, 1987.
25. *Id.*
26. Victor Merina and Richard Simon, *PACs Let Officials Exceed City Law's Donation Ceilings*, Los Angeles Times, Mar. 8, 1987.
27. Janet Clayton, *Three Councilmen Broke Fund Law*, Los Angeles Times, Mar. 6, 1986.
28. Merina and Simon, *supra* note 26.
29. Joyce Peterson, *Campaign Funds Pay Odd Expenses*, Daily News, Feb. 23, 1986.
30. Merina and Simon, *supra* note 26.
31. *Id.*
32. Clifford, *supra* note 5.
33. *Id.*

34. Interview with Zev Yaroslavsky, Councilmember, City of Los Angeles City, Jan. 16, 1987.
35. Interview with Phil Krakover, Dec. 29, 1986.
36. Interview with Yaroslavsky, *supra* note 34.
37. John Schwada, *Historic Campaign Reform Vote*, Los Angeles Herald Examiner, Dec. 12, 1984.
38. David Bank, *Valley Incumbents Winning*, Daily News, Apr. 15, 1987.
39. Councilmember Art Snyder vacated his seat and created the need for a special election on December 10, 1985. Richard Alatorre replaced Snyder and was reelected to his seat on April 14, 1987, without significant opposition. Councilmember Howard Finn died in office requiring the February 3, 1987, special election in Council District 1. Gloria Molina was elected after a runoff. Councilmember David Cunningham resigned his office, leaving an open seat race in the regular 1987 elections. The drastic redrawing of district boundaries left Joel Wachs with a practically new district in the 1987 elections, although Wachs was able to retain his seat. In 1985, before the law went into effect, Michael Woo defeated incumbent Peggy Stevenson and in 1987 Ruth Galanter ousted incumbent Pat Russell. These turnovers stand in contrast to recent history; typically councilmembers have served five or more consecutive terms.
40. Office of the City Attorney, City of Los Angeles, Limitations on Campaign Contributions in Los Angeles Municipal Elections (March 1986).
41. Interview with Gloria Molina, Councilmember, City of Los Angeles, Jan. 8, 1988.
42. *Id.*
43. There are exceptions. Challenger Ruth Galanter defeated incumbent Pat Russell despite a wide spending gap. Although Galanter's own expenditures were somewhat supplemented by such independent organizations as Campaign California and the California League of Conservation Voters, Galanter was still outspent and unable to raise sufficient funds for significant voter contacts.
44. Interview with James Hahn, City Attorney, City of Los Angeles, Jan. 7, 1987.
45. Frank Clifford, *Farrell Seeks CRA Aid for Supporters' Shopping Center Project*, Los Angeles Times, July 8, 1987. Community Redevelopment Agency (CRA) activities were examined in depth in a series in the Los Angeles Herald Examiner in March 1985. Reporters described several apparent connections between projects and campaign contributors. For example, Maguire Partnership of Santa Monica received city CRA contracts for construction (\$2.3 million) and engineering-architectural services (\$2.4 million) for the Crocker Center at 4th and Grand, after giving \$20,000 to Mayor Bradley's campaigns and \$47,500 to current councilmembers. Richard Riordan, owner of the original Pantry Restaurant, made a \$3.4 million profit in a land sale to the CRA after he made a \$300,000 interest-free loan to Bradley's 1982 gubernatorial campaign. Riordan was also later appointed to the City Parks and Recreation Commission. Tony Castro, *How Politics Built Downtown*, Los Angeles Herald Examiner, Mar. 10, 1985. The apparent benefits of contracts with the CRA were emphasized in another Los Angeles Herald Examiner article, which found that "in the last two years, three banks have made more than \$250,000 million profit in the sale of their Bunker Hill headquarters buildings that were developed with CRA financial assistance One of those banks that sold for an \$80 million profit is Union Bank of which Nathan Shappell is an advisory board member and whose directors include top executives of corporations that also are among Bradley's biggest political contributors." Tony Castro, *Critics Claim CRA Bulldozes Over Wishes of Poor and Powerless*, Los Angeles Herald Examiner, Mar. 11, 1985.
46. Cathleen Decker, *Council Action Could Net Builder \$403,000*, Los Angeles Times, Nov. 9, 1985.
47. John Schwada, *State Agency Probes Possible Alatorre Conflict-of-Interest*, Los Angeles Herald Examiner, Dec. 29, 1986; Rich Connell, *Alatorre Fined \$2000 for Conflict-of-Interest in Effort to Steer Pact*, Los Angeles Times, Feb. 3, 1988.
48. Richard Simon and Victor Merina, *Political Consultant on Double Duty*, Los Angeles Times, Apr. 9, 1987.

49. John Schwada, *Mayor Returns "Unusual" \$18,000 Bank Advice Fee*, Los Angeles Herald Examiner, Mar. 25, 1989.
50. See n. 18, *supra*.
51. *Questions for the City Attorney*, Los Angeles Herald Examiner, Dec. 30, 1986.
52. Interview with Tom Houston, then-Deputy Mayor, City of Los Angeles, Jan. 7, 1987.
53. 65 Op. Att'y Gen. 494 (1982).
54. Cal. Gov't Code §87100 (West 1987).
55. Over 99% of all state legislative non-election year contributions are raised by incumbents. See *The New Gold Rush*, pp. 115-25 (citing further authorities and examples).

CHAPTER 11

Los Angeles County: New Extremes in Campaign Fundraising

Los Angeles County supervisorial candidates raise money on a grand scale—the most extreme in the state. During two recent election cycles, candidates raised \$9 million and spent in excess of \$7.6 million. Incumbents raised 90% of these funds, virtually shutting out all challengers. In one election, a candidate spent over 60% of his funds on further fundraising and only 2% on voter contacts. Fundraising and spending of this magnitude has suppressed electoral competition, enhanced the appearance of corruption and left many voters disinterested and apathetic.

Some view political contributions to Los Angeles County supervisors as part of “the cost of doing business in the county.”¹ As one person observed: “If what happens with contributions at the Los Angeles city and county levels happened in any of the smaller communities, it would be considered bribery.”²

The area encompassed by Los Angeles County was first settled shortly after the American Revolution. In 1850, almost 80 years later, the newly-founded State of California officially drew up the boundaries of Los Angeles County. The state legislature placed the new county under the guidance of a three-member court of sessions. In 1852, the state legislature dissolved the court of sessions and replaced it with a five-member board of supervisors. When the county revised its charter in 1913, it retained the structure of the five-member board of supervisors but greatly

expanded the board's powers. At the time of this charter revision, each supervisor represented approximately 100,000 residents.

Today, 76 years after revision of the charter and 137 years after creation of the five-district supervisorial structure, Los Angeles County is still governed by a five-member board of supervisors. Yet the county's population has now swelled to 8.6 million, "more than the population of 42 states,"³ and *each supervisor* represents a sprawling geographical area with *over 1.6 million residents per district*—more than the population of San Francisco. If a candidate for supervisor wanted to walk door-to-door and spend 10 minutes with each constituent it would take him or her over 50 years. Although the county encompasses 85 cities and 285 special districts, for some functions the board of supervisors acts as the legislative and administrative body for the entire county. It also serves as the *only* local government for the one million residents who live in Los Angeles County's unincorporated areas.

Los Angeles County's yearly budget exceeds \$7.6 billion dollars. (See generally Table 11.1, "Los Angeles County Data Profile.") County services include zoning, land use planning, fire and police protection, health (six hospitals and 42 health care centers), recreation (100 parks and 10 beaches), museums, criminal justice and welfare. As the *Los Angeles Times* commented:

*"The question of the quality of county administration touches millions of lives. This huge layer of local government affects anyone who ends up in court, calls the sheriff, uses a county hospital, spends the day at the Los Angeles County Museum of Art, hears the symphony at the county-run Music Center, applies for welfare, complains about the accuracy of a supermarket scale, fights traffic on the way to Sunday brunch at the county-owned Marina del Rey or relies on a county flood control channel for protection from heavy winter rains."*⁴

While the board of supervisors funds and oversees all these services and activities, the board's most important responsibility is unquestionably land use planning. In Los Angeles County, unincorporated areas include remaining open spaces suitable for housing developments, industrial parks, resorts, toxic dump sites and unincorporated cities. County-supervised beaches, mountains and deserts also possess enormous potential property value. Every residential and business development project within the county's unincorporated territory must pass through the county planning hierarchy and ultimately win approval by the board or its surrogates. The economic value of the board's decisions can reach into the billions of dollars. Until the passage of Proposition 73, Los Angeles County had no limits on campaign contributions or spending, and contributors were encouraged to give sizeable sums. The high stakes involved in many county decisions gave contributors an incentive to make large donations.

A. County Supervisors Remain Anonymous Despite Their Tremendous Power

The board's sweeping authority, the county's enormous budget, the supervisors' \$89,851 yearly salary (with chauffeur-driven county automobile) and the incumbents' significant job security have prompted the observation that the post of Los Angeles County supervisor is one of the most desirable political positions in the country, second only to President and U.S. Senator in status and benefits. Supervisors do not aspire to become state legislators or members of Congress, but state and federal legislators often dream of becoming Los Angeles County supervisors.

Despite the influence and prestige enjoyed by the supervisors, many of their constituents remain unaware of their own supervisor's identity or the role he plays

in local government. Most county residents live in incorporated cities and are far more interested in the activities of city officials than those of county supervisors who appear to affect them only peripherally. Since only 13% of the county's population lives in unincorporated areas solely under the supervisors' jurisdiction, comparatively few Los Angeles County residents are directly and immediately affected by most of the board's decisions.

Table 11.1

LOS ANGELES COUNTY DATA PROFILE

Local Government

STRUCTURE: Charter adopted in 1913; five-member board of supervisors elected by district; county executive appointed by board.

COUNTY BUDGET: \$7.6 billion (fiscal year 1987-88)

COUNTY FACTS: Population (1988): 8.65 million; Area: 4,083 square miles; Registered voters: 3.4 million; Voter turnout (June 1988): 46%

Contributions

	<u>Los Angeles County</u>	<u>Large Jurisdictions</u>	<u>All Jurisdictions</u>
Business	66%	60%	52%
Individual	23%	27%	33%
Labor	3%	4%	4%
Political	7%	6%	6%
Candidate	1%	3%	5%
Non-Election Year	67%	49%	42%
Election Year	33%	51%	58%

Expenditures

VOTER CONTACTS	28%	33%	38%
Broadcast	9%	7%	7%
Literature	17%	23%	26%
Newspaper	2%	2%	2%
Outdoor	0%	1%	3%
OVERHEAD	72%	67%	62%
General	21%	25%	22%
Personnel	5%	4%	6%
Fundraising	22%	15%	13%
Survey	2%	3%	4%
Consulting	4%	11%	10%
Travel	1%	1%	1%
Candidate Transfer	17%	8%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

The tremendous size of each supervisorial district also increases the distance between supervisor and constituent. While supervisors may periodically travel to locations within their districts, they are not familiar faces to many of those they represent. Few community groups have formed to routinize constituent contacts with supervisors. For the most part, private citizens do not participate in Los Angeles County government.

Local media reflect this lack of constituent interest in county government by devoting little attention to the board of supervisors. While regular board meetings are routinely attended by reporters from electronic and print media, stories regarding their activities do not regularly appear in the newspaper or on evening television news. The *Los Angeles Times* has eliminated day-to-day coverage of board activities and instead has expanded its coverage of particular cities and regions within the *Times*' circulation area.⁵ In recent years, the most coverage given a supervisor centered on an incident in a softball game in which Supervisor Pete Schabarum bowled over a petite grandmother who was catching for the opposing team.

A 1985 *Los Angeles Times* poll documented the lack of media attention and public interest in the board. It asked, "Generally speaking, do you approve or disapprove of the way Los Angeles County Supervisors are handling their jobs or haven't you heard enough about that yet to respond?" Of those polled, 36% answered that they were "not aware" of the supervisors and could not register a response to the question. Another 8% answered the question with, "I don't know" (a separate response from "not aware"), indicating that a full 44% of Los Angeles County residents were uninformed about their county government.⁶

The combination of power and anonymity benefits the incumbent supervisors in a number of ways. The low level of media attention significantly reduces the level of controversy that might surround the board's decisions. Few constituents know of the board's activities or understand the impact of their actions. Unless a particular interest group has the sophistication or resources to publicize an issue and generate public controversy, board decisions receive little media attention.

The supervisors' anonymity and lack of media attention also reduce public information regarding each supervisor's performance. Constituents instead have to rely upon newsletters periodically mailed from supervisors' offices as a primary source of information—a source more likely to focus upon public relations than serious issues. (Although this form of taxpayer-financed communication was banned by Proposition 73, a Los Angeles Superior Court judge has since ruled the prohibition unconstitutional.⁷)

Lack of information also insulates incumbents from electoral competition. Challengers are less able to dramatize the incumbents' failures. As a result, incumbents have dominated local elections. Three of the five current supervisors have held their offices for at least ten years. The board's "newcomers" are each currently serving their third four-year terms. Kenneth Hahn, the board's senior member, has held his seat for over thirty years; in the 1988 election he won a tenth term. All the current supervisors are white males. In fact, only once has a supervisor been female or black—Yvonne Braithwaite Burke, appointed to fill a vacancy by Governor Edmund Brown, Jr. Because of the lack of minorities on the board, the U.S. Justice Department has filed a lawsuit mandating redistricting of the board so as to ensure the possibility of a minority being elected.⁸

B. Los Angeles County's Elections Are Increasingly Non-Competitive and Dominated by Money

The current lack of competition for supervisorial seats reflects a long history of incumbent dominance, beginning with adoption of the county charter in 1916. A review of supervisorial elections since 1916 reveals that nearly one-third of the supervisors served two terms, an additional 48% served three or more terms, and several served five or more terms before leaving by resignation, death in office or occasional defeat. Only 20% of elected or appointed supervisors served a single term.

The 1989 Los Angeles County supervisors are even more entrenched than their predecessors. They enjoy great security as a result of their constituencies' sheer size. In the past decade, however, the institutional advantages that previously protected incumbents have been somewhat overwhelmed by the growing importance of campaign money.

1. 1980 Upsets and High Spending

In 1980, massive challenger spending led to the surprising and dramatic defeat of two incumbent supervisors, Yvonne Braithwaite Burke and Baxter Ward. Burke, an appointed incumbent, was expected easily to retain her seat in the 1980 election. Yet Burke's lackluster primary campaign failed to deliver the necessary votes to win her seat outright, and she was forced into a runoff. Burke's challenger, Deane Dana, a political unknown but longtime Republican organizer, received tremendous financial and organizational support from local and state Republican groups. He also received nearly \$100,000 from conservative incumbent supervisor Pete Schabarum, who was intent on securing a conservative majority on the board. Dana defeated Burke 53% to 47% in the general election.

The most extreme example of campaign spending in the defeat of a Los Angeles County supervisor involved the upset of two-term incumbent Supervisor Baxter Ward by former state legislator Mike Antonovich. Ward, a former television newscaster, enjoyed a reputation as a "maverick" supervisor and was reported to have had 98% voter identification in his district and throughout the Los Angeles area. In 1980, as in his previous campaigns, Ward refused all contributions for the primary campaign to prove to his constituency that he was untouched by special interests. Instead, Ward relied on his high visibility in the community and opportunities for free media coverage as the backbone of his campaign. He spent less than \$1,500 of his own money in the primary. Even without outside contributions and a large campaign organization, Ward was favored to keep his seat.

In contrast, Antonovich made no secret of his intent to spend all he could in his effort to defeat Ward. For the June primary, Antonovich raised and spent about \$300,000 on a campaign that emphasized targeted direct mail and radio and television commercials. His effort was rewarded as he became the top vote-getter in the primary, receiving over 44% of the votes. Ward finished a close second with 41% of the vote. Because neither contender exceeded 50% of the vote, a November runoff election was required.

Immediately following the primary, Antonovich projected that his expenditures for the runoff election would approach \$500,000, an amount 60% higher than his primary expenditures. Regional business and real estate interests stepped forward to support Antonovich's drive for the half-million dollar mark. The largest contributors to the Antonovich campaign included the In-N-Out Burger food chain (\$20,000), Union Oil (\$5,750), the Board of Realtors PAC (\$5,000) and the Los Angeles County Physicians Committee (\$5,000).⁹

In recognition of Antonovich's powerful fundraising ability, Supervisor Ward reversed his "no contributions" policy and began to accept contributions of \$50 or less. By the end of the runoff campaign, however, it became clear that Ward's low-key approach was no match for the extensive Antonovich organization and the media advertising that his generous budget could provide. Spending about \$60,000, Ward won 45% of the vote in the general election, while Antonovich, who spent over \$500,000, received 55% of the vote. Ironically, Ward and Antonovich faced a rematch in the November 1988 election. Again, Antonovich outspent and out-poled his two-time opponent.

The lessons of the Burke and Ward defeats of 1980 were not lost on the remaining incumbents. The 1980 election marked a dramatic change in Los Angeles County campaigning; fundraising became the *sine qua non* of candidates' success. "With enough money, anyone can be a contender," remarked Assemblymember Mike Roos.¹⁰ Incumbent supervisors saw that their traditional job security was vulnerable to a well-funded challenger. Although previous supervisors (with the exception of Ward) had not been reticent in accepting campaign contributions prior to 1980, all incumbents immediately stepped up their efforts following the Burke and Ward defeats. New supervisors Dana and Antonovich, clearly understanding the key role campaign spending had played in their success, initiated ongoing fundraising efforts soon after they entered office.

2. War Chests and Deterred Competition

A March 1980 California Common Cause study helps to reveal the extent to which campaign fundraising has increased over the past decade and the importance of accumulated war chests to the strategies of the incumbent supervisors' strategies. Between January 1, 1976, and December 31, 1979, a time frame that included two elections, Common Cause found that eight major supervisorial candidates (six incumbents, two challengers) together raised a little over \$1 million.¹¹ In contrast, half as many candidates (four) in the 1980 election alone (two incumbents, two challengers) raised and spent over \$1.5 million, a 50% jump over fundraising in the past two elections.

This trend toward accelerated fundraising continued throughout the early and mid-1980s as incumbents sought to build campaign war chests to deter potential challenges. Prior to his unopposed 1982 reelection campaign, for example, incumbent Supervisor Edmund Edelman commented, "We raised that money [nearly \$400,000] not knowing who would run [as my challenger], and I think that is one reason, among others, that convinced people not to run against me."¹² Supervisor Dana's political advisor, Ron Smith, mirrored Edelman's sentiments in 1983. "We want to show a potential opponent how much support Deane Dana has. A sure way to show that support is with a hefty bank account."¹³

The accumulation of large war chests in non-election years has been extremely effective in virtually eliminating competition for Los Angeles County supervisorial posts. From 1982 to 1986, only one candidate (Alexander Pope, then the County Assessor) mounted a significant challenge to an incumbent county supervisor (Deane Dana). Pope could not compete with the tremendous financial resources available to the incumbent. In 1988, it took several underfunded candidates to force Supervisor Mike Antonovich into a runoff with former Supervisor Baxter Ward. With the race narrowed down to a one-on-one contest, Antonovich's vastly superior fundraising firepower easily defeated Ward.

In 1984, although Pope began his campaign with only \$7,000, he believed that his strong reputation and high visibility would attract the financial resources required to launch a significant challenge.¹⁴ But Democratic party leaders and

potential contributors were slow to back Pope because they were discouraged by Dana's \$600,000 war chest at the start of the 1984 campaign. While Pope raised much of his funds in the months and weeks before the election, even contributing \$100,000 of his own money to his campaign, Dana's fundraising was virtually completed at least two months before the election. During the last month, Dana did not need to raise any money.

Pope devoted a large percentage of his campaign expenditures to voter contacts (expenditures on broadcast, newspaper and outdoor advertising and campaign literature). Dana spent only 45% of his entire war chest on voter contacts, while Pope spent 65%. While these percentages tend to reflect each candidate's spending priorities, the actual dollar amounts tell a more realistic story. Dana spent more than \$800,000 on voter contacts while Pope spent around \$400,000. Pope spent approximately \$314,000 to Dana's \$516,000 on campaign literature, and Pope spent \$120,000 on broadcast advertising to Dana's \$323,000.

Pope ultimately raised and spent more than \$680,000 on his campaign and received 39% of the vote. Dana overshadowed these efforts by spending a then-record \$1.85 million, obtaining a 61% victory margin. After the election, Pope concluded that regardless of how much he might have raised in an effort to defeat Dana, the incumbent had access to sufficient additional financing, if needed, to outspend him at every juncture.¹⁵

Rosemary Woodlock suffered a fate similar to Pope's when she challenged Mike Antonovich in 1984. Woodlock said that she decided to challenge incumbent Antonovich at the request of incumbent Supervisor Kenneth Hahn, who also offered substantial financial support for her campaign. When Hahn's assistance failed to meet Woodlock's expectations (Hahn contributed only about \$40,000 to her campaign), her challenge to Antonovich was doomed to failure. Antonovich, who had stated before the race that he would run a full campaign regardless of the strength of his challengers, spent about \$800,000 on his primary victory. In the end, Woodlock's \$56,000 campaign received just 29% of the vote to Antonovich's 63%.

Despite diminishing competition, the incumbent supervisors have continued to increase their fundraising. By the end of 1987, their financial strength had reached new heights—giving the five incumbent supervisors combined war chests of \$3 million.¹⁶ Conservative Supervisor Deane Dana had the largest individual war chest with a balance totalling nearly \$800,000, much of which was spent in 1988 on his son's unsuccessful bid for a state legislative seat. Liberal Supervisor Kenneth Hahn, the most senior member of the board, had the lowest war chest balance of \$210,000.

Surprisingly, those supervisors facing reelection in 1988 did *not* monopolize fundraising in 1987. Of the \$3 million in cumulative war chests for 1987, the three supervisors facing reelection in 1988 (Antonovich, Dana and Hahn) accounted for just 51% of the total. The remaining 49% belonged to two incumbent supervisors, Ed Edelman and Pete Schabarum, who will not face reelection until 1990. These two supervisors (as well as the others on the board) raise so-called campaign funds continuously throughout their terms of office and use a substantial percentage of those funds to support other candidates and causes throughout California.

3. Candidate Transfers to Like-Minded Candidates

All the current Los Angeles County supervisors have transferred or lent their own campaign contributions to other candidates, ranging from a few thousand dollars (to a small number of candidates and causes), to several hundred thousand dollars (to a multitude of candidates, causes and PACs). Conservative incumbent Pete Schabarum, seemingly playing the role of the Willie Brown of local politicians,

has raised the practice of candidate transfers to highly sophisticated levels, using several political committees to redistribute thousands of dollars yearly to increase his political clout throughout the state.

Central to the maze of campaign transfer activity is Schabarum's own campaign committee and two additional political committees which he controls, Alliance for Representative Government and Citizens to Keep Government Working. Schabarum also plays a significant role in funding and determining the activities of a third committee, the California Lincoln Clubs PAC. He has made relatively few direct transfers or loans to other candidates from his individual campaign committee, preferring instead to "lend" thousands of dollars from his individual committee to his other controlled committees and then disperse contributions from their accounts to candidates and organizations statewide.

The Alliance for Representative Government is Schabarum's most active contributing organization, transferring in excess of \$850,000 to statewide candidates and causes between 1981 and June 1987. The Alliance's largest loan/contribution during that time period—\$100,000—was made in 1986 to Crime Victims for Court Reform, a PAC created to unseat state Supreme Court Chief Justice Rose Bird and other justices viewed as opposing the death penalty. The Alliance committee made its largest contribution to an individual candidate in 1986, a \$65,000 loan to Quentin Kopp, a successful San Francisco candidate for state senate. Alliance loans and contributions have been made to a wide variety of candidates, including candidates for Los Angeles school and community college boards, city council and county supervisor candidates statewide, nearly 50 state assembly and senate campaigns, judges and the national Republican party.

Schabarum has also made significant transfers to candidates for Los Angeles county supervisor as part of his ongoing effort to maintain and expand the board's conservative majority. This was contrary to a longstanding gentleman's agreement whereby incumbent supervisors stayed out of their peers' elections and were assured of no interference in their own races. In 1980, he was instrumental in Deane Dana's upset of Yvonne Burke, giving Dana large contributions in the final weeks of the campaign. He also contributed \$14,000 to Mike O'Donnell, an unsuccessful primary candidate for supervisor in 1980 running against incumbent Baxter Ward, as well as a small contribution of \$1,500 to the eventual winner, Mike Antonovich. Schabarum committees also gave nearly \$25,000 to incumbent Supervisor Deane Dana in 1982 and \$213,000 in 1984.

Supervisor Schabarum has also actively solicited potential candidates to challenge Supervisor Kenneth Hahn. Hahn has reciprocated by putting his financial muscle behind liberal challengers to conservative incumbents, including \$50,000 to Alexander Pope, \$40,000 to Rosemary Woodlock and \$12,000 to an independent committee intent on defeating Dana and Antonovich. "Schabarum changed the rules of the game," said Hahn. "I'm not going to get mad, I'm going to get even."¹⁷

Supervisor Antonovich used his significant political and financial connections acquired as county supervisor to launch a bid, albeit unsuccessful, for U.S. Senate in 1986. Although Antonovich maintains that he lost the race in Los Angeles precincts because "people wanted me to [remain] as supervisor,"¹⁸ he apparently continues to eye higher office as the next step beyond his supervisory post.

Schabarum, Hahn, Edelman and Dana have not directed the tremendous financial resources at their disposal toward achieving higher offices for themselves. Hahn and Dana involved themselves to a significant degree in promoting their sons' political careers. Schabarum seems comfortable with his role as behind-the-scenes power broker—a role that has made him perhaps the most powerful single local

official in California and, through his use of transfers and loans to build influence and cement loyalties, an invisible rival to state political party leaders.

Proposition 73 expressly prohibits transfers from one candidate to another candidate, but it does not ban contributions to ballot measure campaigns or independent expenditures on behalf of or in opposition to candidates. Los Angeles County supervisors have accumulated more than \$2 million in surplus funds as of December 31, 1988. Lawsuits challenging the provisions of Proposition 73 may well decide the fate of these funds. (See Chapter 22, "Proposition 73," for a discussion of the lawsuits attacking the provisions of Proposition 73.)

Table 11.2

**INCUMBENT/CHALLENGER DATA PROFILE
LOS ANGELES COUNTY**

Percentage of Total Contributions Raised From Each Source

	<u><i>Incumbents</i></u>	<u><i>Challengers</i></u>
Business	70%	25%
Individual	23%	18%
Labor	2%	36%
Political	5%	8%
Candidate	1%	14%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbents	95%	90%	65%	46%	9%
Challengers	5%	10%	35%	54%	91%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

C. Incumbents Overwhelmingly Control Most Fundraising and Spending

In recent years, fundraising competition between incumbents and challengers has virtually ceased to exist in Los Angeles County. Incumbent supervisorial candidates received 91% (\$8.2 million out of \$9.1 million) of all campaign money raised from 1981 to 1986. Because Los Angeles County has no contribution limit, incumbents have been able to raise huge war chests through large business and non-election year contributions. The result is one of the most extreme cases of the superiority of incumbent fundraising in the state.

When Alexander Pope undertook his "serious" challenge to incumbent Deane Dana in 1984, Dana raised five times more than Pope in business contributions and four times more in individual contributions. Supervisor Antonovich's 1988

reelection campaign spent even more—\$2.8 million—in its defeat of primary candidates and runoff opponent Baxter Ward.

1. Heavy Reliance on Business Contributions

Contributions from business sources play the most important role in Los Angeles County’s supervisorial races. Two-thirds of all contributions in Los Angeles County supervisorial race come from business. Incumbents alone receive 70% of their total war chests from business sources. (See generally Table 11.2.)

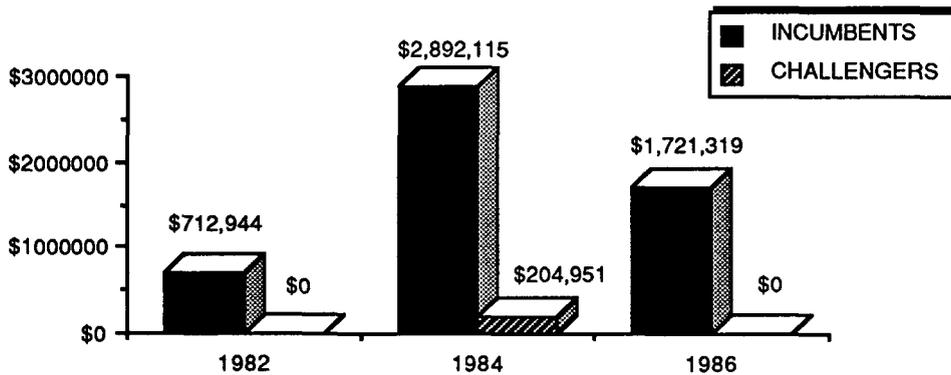
With the exception of Pope running in 1984, businesses gave virtually no contributions to any challenger running since 1980. Businesses contributors gave \$202,000 to Pope who, as County Assessor, had some incumbent clout of his own with business. From 1981 to 1986, business contributors in Los Angeles County gave an average of 95% of their contributions to incumbents. In the 1982 and 1986 races, businesses gave 100% of their contributions to incumbents. (See Table 11.3.) Although challenger Pope received significant contributions from business, he was easily out-matched by incumbent Dana, who raised more than \$1.2 million from businesses.

Individuals play a small part in the overall fundraising picture, contributing just 23% of all contributions given. While individuals donate 90% of their contributions to incumbents on average, their contributions make up a small part of the incumbents’ war chests. Incumbents accept five times more money from business contributors. In 1984, challenger Pope received almost \$128,000 from individuals, while incumbent Dana raised over \$455,000.

Small contributors have become an irrelevant component in Los Angeles County’s fundraising structure. Contributions of \$100 or less make up only 2% of all candidates’ receipts. (See Table 11.4.) At the same time, contributions in amounts of \$1,000 or more make up 71% of all contributions received.

Table 11.3

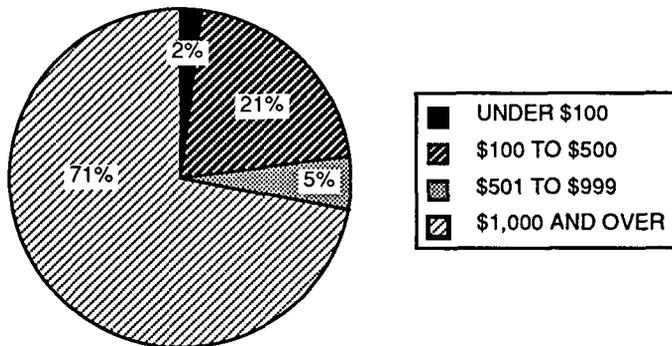
**TOTAL BUSINESS CONTRIBUTIONS
TO INCUMBENTS AND CHALLENGERS
LOS ANGELES COUNTY**



Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

Table 11.4

CONTRIBUTION SIZES IN LOS ANGELES COUNTY



Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

2. Importance of Non-Election Year Fundraising

Supervisory incumbents raise almost three-quarters (74%) of their contributions *in non-election years*. In fact, Los Angeles County supervisors raise a higher percentage of off year money than incumbents in any other jurisdiction in the Commission's entire sample.

Not surprisingly, the largest portion of incumbents' non-election year contributions (69%) come from business sources. (See Table 11.5.) The high proportion of off year contributions fuels public suspicion of excessive contributor influence. Such campaign donations are given at times when supervisory votes—and not elections—are of predominant interest.

3. Spending Profile: Low Voter Communication Efforts and High Overhead Expenditures

Despite the vast numbers of voters in each supervisory district, candidates in Los Angeles County spend small amounts on communicating with the voters in supervisory campaigns. After spending 60% of their money on fundraising, general expenses and loans and transfers to others, candidates spend only 28% of available funds on voters contacts—campaign mail and broadcast, newspaper and outdoor advertising. (See Table 11.6.) This low voter contact spending significantly contributes to the supervisors' relative invisibility in the eyes of constituents.

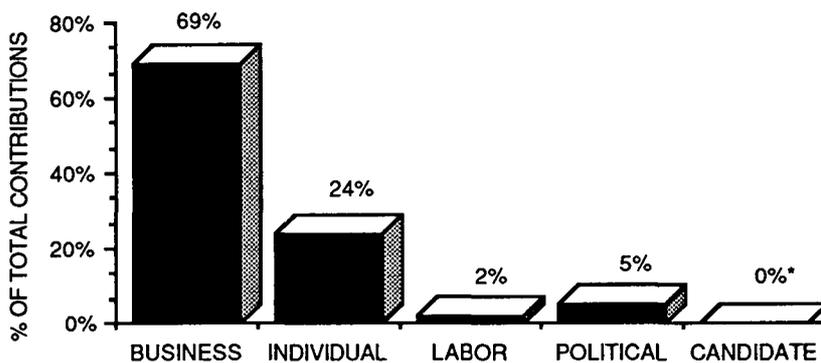
In 1984, during the Pope/Dana race, overall voter contact spending reached a high of 42%. In two other elections studied, however, voter contact expenditures were extremely low. With little or no competition in the 1982 election, candidates spent only 23% of their expenditures on voter contacts. In 1986, little or no electoral competition drove spending on voter contacts down to *under 3% of total expenditures*.

Incumbents often spend more money on fundraising than on most other campaign expenses. In the 1986 election, for example, Supervisor Pete Schabarum, who had no serious opponents, spent only \$35,503 (or just 2% of his total expenditures) on methods to communicate with the voters while spending more than \$480,000 on fundraising. Supervisor Ed Edelman in his 1986 campaign spent a

mere \$15,000 (or 4% of his total expenditures) on voter contacts while spending more than \$130,000 on fundraising. In 1984, Supervisor Dana, while fending off a challenge by Alexander Pope, spent more than \$300,000 on fundraising alone—approximately the same amount Pope spent on campaign literature. By contrast, during the 1982, 1984 and 1986 elections combined, Los Angeles County challengers spent a *total* of \$23,886 on fundraising expenses; after removing Alexander Pope's expenditures, all remaining challengers during that period spent only \$2,100 on fundraising.

Table 11.5

**SOURCES OF CONTRIBUTIONS IN NON-ELECTION YEARS
LOS ANGELES COUNTY**



*Candidate money accounted for less than 1% of all the non-election year funds contributed.

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

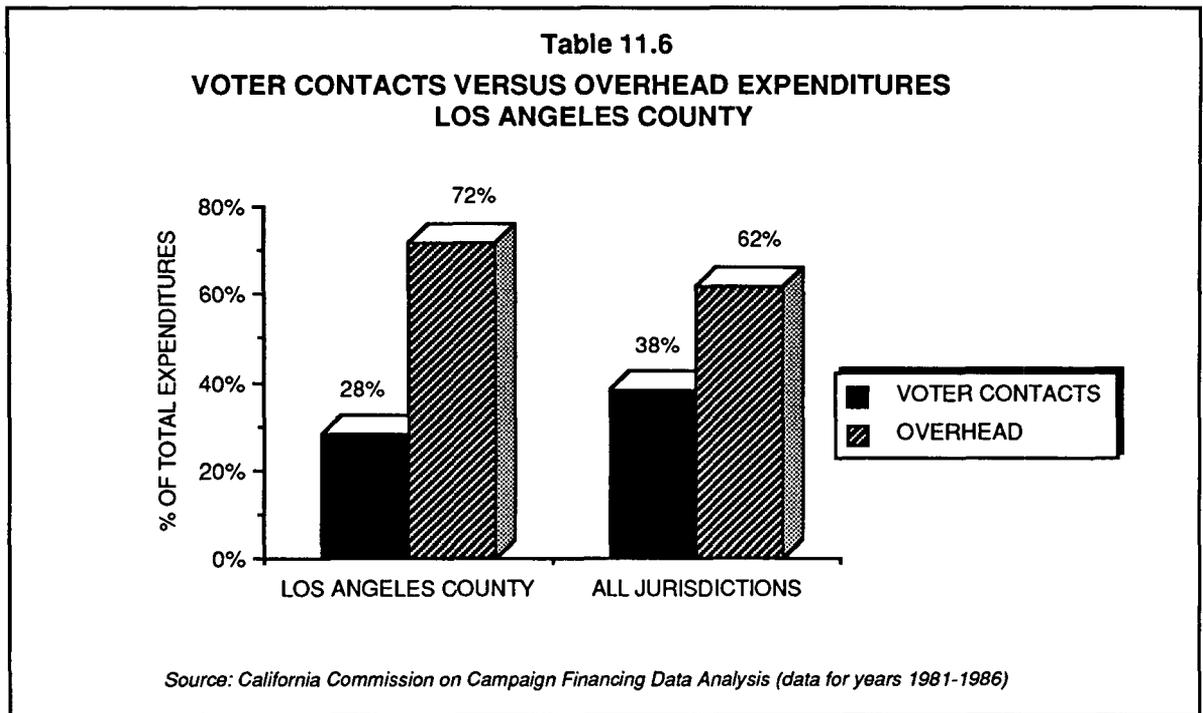
In sum, most Los Angeles County elections have been characterized by massive incumbent fundraising, huge off year war chests, large business contributions, *de minimus* reliance on small contributions and little or no competition. Incumbent dominance of political fundraising has created one of the most extreme cases of electoral imbalance in any California jurisdiction.

D. Charges of Contributor Influence Shadow Incumbent Supervisors

When fundraising and spending achieve a predominant role in the electoral process, as they have in Los Angeles County, questions of undue contributor influence on policymaking usually follow. There has been no shortage of such inferences and accusations respecting Los Angeles County supervisors. The supervisors and their staffs contend that no evidence of improper contributor influence exists and that people and organizations support their campaigns out of philosophical agreement with the candidate. The actual *contributors* to supervisors, however, have a very different perspective on the role of money in supervisory decisions.

1. Pressure to Contribute as "The Cost of Doing Business"

Although contributors interviewed expressed strong opinions about the role of political contributions in Los Angeles County, all requested anonymity. Several feared retribution by supervisors. As one contributor explained, "We have to be careful not to alienate any of the supervisors. They are our bread and butter."¹⁹



In private interviews, most contributors to Los Angeles County supervisors stated that their donations are, in the words of one, “part of the cost of doing business in the county.”²⁰ Contributors fear that they must make contributions if they want approval for ventures that may require clearance by the board of supervisors. Those involved in particularly lucrative projects look on their political contributions as an investment. As one contributor explained, “They [supervisors] can get you through the internal fiefdoms and in-fighting. This can save a developer an incredible amount of money.”²¹

Some contributors also regard contributions as political insurance, allowing their projects to wend their way through the county bureaucracy without complications. “It’s not accurate to say that people torpedo projects if you don’t contribute,” said one observer. “But if you are an active player, people go out of their way to assist you.”²² Some contributors—even though they have no items pending before the board—give to supervisors regularly so that they are protected if issues arise in the future. One past contributor made a large political contribution to an incumbent supervisor because a member of his corporate board of directors was involved with a charitable organization that would eventually need county assistance. “It was important to us that the chairman of the board [of supervisors] at that time was greased. We knew that we would have to go hat in hand to the board, and that we would need a favorable environment.”²³

The desire for a “favorable environment” or access to supervisors is clear in giving by contributors to all supervisors, regardless of political philosophy. “You need three votes, and people get sick,” said one observer.²⁴ One supervisor’s deputy seemed to concur, stating that contributions are made to assure “a fair square hearing when their project comes up.”²⁵ His statement reinforces the suspicions of many who support or oppose issues before the board: without contributions, a “fair square” hearing by the board is not assured.

On some occasions, the pressure to contribute clearly originates with the supervisors themselves. One longtime contributor related an instance in which a

supervisor's aide flatly stated the size of the contribution necessary to ensure the supervisor's attention or support for a particular project. "The staff lets you know right up front that you have to ante up in order to play."²⁶

2. Controversy Over Influence and Major Land Use Decisions

Large real estate development projects consistently attract accusations of improper contributor influence over county-level decisionmaking. County-approved land use and housing development plans in the large open areas of the north county around the communities of Valencia and Saugus, in the northwest San Fernando Valley near Agoura Hills and Calabasas, and in the remaining open space near the Pacific Ocean have been particularly controversial. The strongest allegations of excessive contributor influence have surrounded two coastal development plans: the Playa Vista marina community planned for land south of county-owned Marina del Rey and a proposal to increase hotel, commercial and residential development in and around Malibu.

a. The Playa Vista Marina Plan

In 1984, the board of supervisors unanimously approved a proposal by Howard Hughes' Summa Corporation to develop a \$1 billion marina community on 1,000 acres of coastal property immediately south of Marina del Rey and north of Los Angeles International Airport. The project, named "Playa Vista," called for development of a mixed-use community with nearly 6,000 luxury residences, several major hotels and three million square feet of office and commercial space surrounding a marina able to accommodate a thousand private boats. County projections indicate that the completion of Playa Vista will increase the area's population by 20,000 residents.

From its inception, the plan was opposed by neighboring residents, concerned that the proposal would lead to unacceptable population densities in an already crowded area, without sufficient infrastructure (roads, sewers) to accommodate the increased population. Local environmentalists vigorously opposed the proposal because the development threatened to eliminate 350 acres of endangered and environmentally sensitive "wetlands," scarce natural marshy areas which are home to varied species of wildlife.

Summa presented its original Playa Vista proposal to the county in 1979. The board of supervisors and county planning department officials reached a number of agreements with Summa regarding the size and character of Playa Vista. During early negotiations, the county specified how much Summa had to contribute for expansion of area roads, gave Summa an outright grant of county property to allow access to the county-controlled main channel at Marina del Rey for development of the new marina and waived county operating claims to the marina—although the county had earned a strong source of revenue from marina operations.

The most controversial issue in the Playa Vista plan has been the treatment of the wetlands. Summa originally proposed to preserve only 80 acres, Los Angeles County experts recommended 110 acres, the California Department of Fish and Game proposed 175 acres and the U.S. Fish and Wildlife Service advocated the preservation of 325 acres. Friends of Ballona Wetlands, the most active environmental group, suggested that all 350 acres should be preserved. After negotiations, a compromise plan sets aside 175 acres of wetlands plus 35 acres as a protective buffer zone. Summa has agreed to provide \$10 million dollars for upkeep of the wetlands.

The tenacity of environmental groups seeking to preserve the wetlands has increased pressure on decisionmakers to reevaluate the entire Playa Vista proposal. In March 1988, State Controller Gray Davis acquired 70 acres of the Summa

property for the state in lieu of payment of \$85 million in outstanding taxes owed by Hughes' heirs.

The issues involved in the Playa Vista controversy are further complicated by the overlapping jurisdictions of state and local authorities. Although the land intended for Playa Vista fell under the jurisdiction of the county in 1979, the City of Los Angeles annexed all of it in 1986 (except for land intended for the marina), and consequently gained primary control over the development. The County of Los Angeles has retained control over the marina property and any access to the main channel at Marina del Rey.

Opponents of Playa Vista claim that Summa used contributions to state and local officials at all levels to influence decisions in their favor. The accusations begin in the late 1970s, with a claim that Hughes interests paid a \$30,000 campaign debt on behalf of a state coastal commissioner to gain his support for a plan to exclude the Summa property from a state purchase of undeveloped wetlands. No indictments followed FBI and FPPC investigations, yet claims of improper influence by Summa/Hughes at various levels of California government continued. Summa contributed \$500,000 to state and local officials between 1981 and 1984, including major contributions to Governor George Deukmejian, Senate President Pro Tempore David Roberti and Assembly Speaker Willie Brown, all of whom control appointments to the Coastal Commission.²⁷

On the county level, Summa/Hughes interests contributed \$136,000 to Los Angeles County supervisors between 1980 and 1985, including \$30,000 to Supervisor Deane Dana (\$20,000 to Dana in 1984 alone).²⁸ Since 1985, Los Angeles County supervisors have received nearly \$60,000 in additional contributions from Summa.²⁹ Accusations of improper influence from Summa contributions to the supervisors have been made. Jim Hirsch, an analyst for the Coastal Commission who was long involved in negotiations over Playa Vista, commented in a lengthy report published in *L. A. Weekly*, "Summa invested a lot of campaign money into the supervisors and it paid off. Summa got a favor."³⁰ The supposed favors included an agreement exempting Playa Vista from a Los Angeles County Planning Commission requirement that 15% of the planned residences be set aside for low and moderate income families. The agreement allowed Summa to build such units in a "suitable" location away from the exclusive marina community. Summa, says Hirsch, "is so big and so powerful, the county has treaded very softly . . . [I]t was obvious the County of Los Angeles didn't want to take Summa on."³¹

b. Expanded Development in Malibu

Pressures to expand development in the coastal and mountain areas around Malibu have attracted similar claims of contributor influence on county decisionmaking. The scenic Malibu region has long been viewed as ideal for residential and commercial development, but the extent of that development has been limited largely by Malibu's reliance on septic tanks for waste disposal. Septic tank design and size, along with soil depth and drainage specifications, has limited the character and location of new buildings along the Malibu coastline. Winter rains that routinely cause such tanks to overflow present a hazard to health and wildlife and provide a frequent reminder of the system's limits.

Because real estate development in the Malibu area cannot be significantly expanded without an alternative to septic tanks, county officials and real estate interests have concluded that Malibu needs a sewer system. Malibu activists, however, believe that the sewer system is not only unnecessary but is being used to disguise the county's intentions to promote widespread development in the area. "Where you stand on sewers is just another euphemism for where you stand on growth or no growth," says Malibu developer Roy Crummer.³²

Recent battles over Malibu development began with a 1980 proposal by the Adamson Companies, a major Malibu landholder, to develop a Civic Center area near Pepperdine University with a 300-room hotel and 80,000 square feet of office space. The Adamson plan became part of a Los Angeles County proposal for the Malibu Coastal Zone that was designed to permit construction of over 11,000 new homes, several commercial centers and a major expansion of the area's roadways. Although the supervisors hailed the plan as "balanced," the Coastal Commission rejected it in 1983 as an "embarrassment."³³

A revised proposal based on Coastal Commission recommendations reduced the projected development by half but included a full-scale sewer system for the area. Despite Malibu residents' strong opposition to both the sewer and the development proposal, the county has pressed forward with its revised plan. Adding insult to injury in the view of Malibu homeowners, the board attempted to use a 1913 law concerning hazardous septic tanks to require homeowners to pay for the new sewer system at an estimated cost of up to \$30,000 per household. Older residents and those with moderate incomes fear the added expense may drive them out of their homes, but these concerns have apparently not diminished the county's drive for Malibu expansion. According to the *Los Angeles Times*:

*"Development pressures in Malibu have never been greater. A 300-room hotel and a General Motors Corp. research center got building permits this year [1986] from the county and the state Coastal Commission, on the condition that adequate sewage disposal be arranged. At least three more hotels are in the planning stages in sections of Malibu that the county's staff has recommended for sewers."*³⁴

Opponents of the county's development plan attribute the actions of the supervisors to the influence of large campaign contributions from Malibu developers. Unlike the Playa Vista project, where a single developer will be the primary beneficiary, development of Malibu land will open lucrative opportunities for numerous developers, commercial businesses, hotels and real estate sales firms. Several interested parties have made sizeable contributions to Los Angeles County supervisors.

The Adamson Companies began their contributions to the supervisors just as the board took up consideration of Adamson's proposed development. Between 1981 and 1986, Adamson interests contributed over \$27,000 to Supervisor Deane Dana, nearly \$24,000 to Supervisor Pete Schabarum, \$10,000 to Supervisor Mike Antonovich and \$2,500 to Supervisor Kenneth Hahn. Supervisor Ed Edelman received no contributions from Adamson interests and was the only supervisor to vote against its proposed hotel in May of 1986.³⁵ Once the project was approved by the board and the Coastal Commission, Adamson ceased its contributions.³⁶

Between 1981 and 1986, LAACO, the holding company for the Los Angeles Athletic Club, which was also interested in a major Malibu development, contributed about \$40,000 to the board of supervisors—including almost \$15,000 to Supervisor Dana. In 1985, then-Coastal Commissioner Marshall Grossman remarked:

*". . . I just can't imagine all that campaign money not having an influence. If somebody wants to develop in a mountain flood plain, like LAACO wants to do, then they have to figure out some way of making their case other than on the plan's merits. So they give the supervisors a hell of a lot of money, and the next thing you know the county is singing the praises of LAACO every time they come before us. Same thing with Adamson. But it's terribly short-sighted of the board to foster major developments in unstable areas."*³⁷

Because of the tremendous influence of major contributors on county policy-making, Malibu community groups have all but abandoned hope of influencing the county directly. Instead, they have recently initiated a drive to incorporate Malibu as a separate city and assume local control over planning decisions. Previous attempts at incorporation have failed—the last in 1976 was defeated by only about 100 votes—but it is generally believed that citizen resistance to county planning decisions will cause the incorporation initiative to succeed.

3. Mutiny on the County

Malibu joins a number of other Los Angeles County communities that have chosen to pursue independent cityhood as an escape from county supervisors perceived as more responsive to the interests of political contributors than to those of the community. The most active cityhood drives have occurred in the north and northwest county areas which contain large amounts of open land, notably in the new cities of Agoura Hills (see Chapter 5, "Agoura Hills"), Santa Clarita and Calabasas. Each community has absorbed tremendous residential development over the past decade as developers have constructed massive housing tracts marketed to upscale families wishing to escape the congestion and high real estate prices of metropolitan Los Angeles. Longtime residents of these outlying areas have been alarmed by the seemingly unrestrained development of their neighborhoods. They are disturbed by what they view as the loss of their communities' rural character. Because the board of supervisors has consistently rejected appeals to curb development, local residents have launched cityhood drives to regain control over planning in their communities.

Incorporation, however, is easier said than done, for the supervisors themselves have significant influence over the success or failure of cityhood drives. Communities wishing to incorporate as new cities must submit signature petitions and applications substantiating the proposed city's financial viability to the county-funded Local Agency Formation Commission (LAFCO) for approval before a cityhood measure can be placed on the ballot. Supervisors hold two of the seven LAFCO seats and are said to have great influence over the remaining members. Because of that influence, new cities that do not have the supervisors' blessing may become entangled in county red tape and face LAFCO delays until the board and developer/contributors are ready to relinquish control. Proponents of cityhood for Malibu, for example, have seen their efforts hampered by maximum delays as the supervisors attempt to prevent cityhood. Calabasas and newly-incorporated Santa Clarita also had first-hand experience with such delays.

Even though Calabasas' application for incorporation before LAFCO was opposed by Supervisor Pete Schabarum, it was considered a strong candidate for approval. When LAFCO approval looked imminent in February 1988, a real estate developer and Schabarum contributor went into action. This developer had been lobbying to have his land excluded from the new city's boundaries so his developments would fall under more lenient county jurisdiction instead of the new city's anticipated more stringent rules. First, he questioned part of the new city's budget involving a reduction of fire protection expense (pursuant to a new state law). Subsequently, the developer's sister filed a lawsuit, claiming that the state law instituting the fire expense reduction was an unlawful gift of public funds. A Los Angeles Superior Court judge ruled that until the state law's constitutionality was determined, LAFCO must disregard that reduction and budget the full amount for fire protection.³⁸

Leaders of the Calabasas cityhood movement argued that the city could afford to increase its fire protection budget if LAFCO considered updated tax revenue projections. LAFCO refused and denied incorporation, concluding that the

necessary changes to the previously submitted budget would force the new city into debt at the end of its first year. State Senator Ed Davis, who represents the area, claimed that LAFCO's use of the constitutionality question was a red herring and politically motivated to maintain county control over land use decisions. The LAFCO rejection was particularly painful to cityhood backers because, after a three-year battle, the proposal had come within days of qualifying for the June 1988 ballot. Proponents of cityhood for Calabasas must now resubmit their application.

The new City of Santa Clarita faced similar roadblocks during its LAFCO review but gained approval to place the cityhood measure on the November 1987 ballot. Cityhood proponents expected a vigorous election battle from area developers fighting to remain under more lenient county jurisdiction. They did not anticipate, however, that Supervisor Pete Schabarum would become a significant financial backer of the drive to defeat cityhood for Santa Clarita, contributing thousands of dollars to the pro-development opponents of the measure. Schabarum's activity was particularly surprising because the new city is located outside his own district and in the district of Mike Antonovich, who supported placement of the cityhood question on the ballot. State Senator Ed Davis blasted Schabarum for his role in the cityhood process. "Pete Schabarum is poaching over here. He has no damn right to punish the people of Calabasas and Santa Clarita. I invite him to butt out of my constituency."³⁹ Despite Schabarum's activity, the new city was formed. Shortly after achieving cityhood, Santa Clarita began to discuss a proposed moratorium on 92 development projects that had gained preliminary approval prior to incorporation.

E. Conclusions and Recommendations: Los Angeles County's Campaign Financing Extremes Require Significant Reforms

"Mutinies" by residents exasperated with county decisions that favor developers and adversely affect their communities underline the persistent claims that Los Angeles County supervisors are unresponsive to the needs of constituents as contrasted with the demands of "major players" and campaign contributors. Part of the problem is structural: the supervisors are running a county with over 8 million residents under a representative government structure originally designed to serve a population of 600,000. Supervisorial districts are widely considered to be too large to provide constituents with adequate representation. Residents feel isolated from their supervisors. The enormous size of the districts requires massive fundraising to reach all voters. Incumbents with significant fundraising abilities become entrenched. Business contributors fill campaign war chests and create the appearance of *quid pro quos* for their money.

A number of structural reforms have been proposed to address this problem, including the consolidation of the Los Angeles City Council with the Los Angeles County Board of Supervisors into one governing body, or the creation of a principal Deputy Executive and the conversion of the board of supervisors into a nine-member county legislature,⁴⁰ but none has been adopted.

The county's campaign financing patterns further insulate the supervisors. Los Angeles County has no laws regarding campaign finance practices, no limits on the amounts that any individual or group may give and no rules restricting how much candidates may spend. (With the passage of Proposition 73, however, some limits on contributions and a prohibition on transfers will apply to supervisorial candidates.) Year-round fundraising and enormous campaign war chests have eliminated nearly all serious challenges to incumbents, resulting in incumbent dominance that protects supervisors from criticism and controversy. Supervisors have the resources to spend tremendous sums of money during elections if necessary; when not challenged, they freely use those resources to build their

political power bases, secure in the knowledge that their campaign coffers will be refilled when they next appear on the ballot. Allegations of improper influence of campaign contributions on Los Angeles County policy decisions have escalated beyond the non-specific “perception of influence” that exists in many jurisdictions.

1. Expenditure Ceilings

The Commission suggests that expenditure ceilings be considered as the central component of reform for Los Angeles County. Only caps on spending can reduce the overwhelming emphasis on fundraising and encourage the resumption of more competitive elections at the county level.* (See further detailed discussion in Chapter 23, “The Commission’s Model Ordinance.”)

For expenditure ceilings to be effective, the limits must be high enough to allow challengers to run solid campaigns and compete vigorously with incumbents. In Los Angeles County elections, the primary election limits could be set at somewhere between \$700,000 and \$800,000 per candidate for the primary election, and limits for the general election could be set at \$100,000 more than the primary election limits.

Although these levels may appear startlingly high, significantly lower amounts could be viewed as pro-incumbent given the huge size of present supervisorial districts. The proposed caps allow for the inherently expensive nature of Los Angeles County campaigns, most of which rely on electronic media purchases that are essential to reach the hundreds of thousands of voters in each district.

If charter counties are ultimately found to be exempt from the restrictions of Proposition 73, it is strongly recommended that Los Angeles County consider the expenditure ceilings plus limited matching funds approach. To qualify for matching funds, a supervisorial candidate might first be required to raise a minimum of \$75,000 in contributions of \$500 or less. To prevent an unopposed candidate from receiving matching funds, such funds should be made available only to a “serious candidate” who has an opponent who raises or spends at least \$75,000. (See further detailed discussion in Chapter 23, “The Commission’s Model Ordinance.”)

If Los Angeles County is found not to be exempt from Proposition 73’s restrictions on the expenditure of public funds, then it is suggested that more novel measures to obtain expenditure ceilings be considered. These include variable contribution limits in exchange for expenditure ceilings. (See Chapters 23 and 24, “The Commission’s Model Ordinance” and “Constitutionality,” respectively.)

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 23, “Constitutionality.”) With the voter’s adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities and counties (such as Los Angeles County). The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, “Proposition 73.”) If charter jurisdictions are exempt, the county is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure ceilings. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, “The Commission’s Model Ordinance,” for discussion of these alternatives.)

2. Contribution Limitations

Contribution limits are a second component of effective campaign finance reform in Los Angeles County, particularly if adopted in combination with expenditure ceilings and limited matching funds. Before the passage of Proposition 73, the unrestricted environment of unlimited fundraising invited the huge contributions that became commonplace at the county level and encouraged the perception that large contributions influence policy decisions. With expenditure ceilings and matching funds, a contribution limit of \$1,000 per individual, business or organization would be appropriate for a county of this size.

Loans from persons other than candidates themselves should be subject to the same contribution limits, with a time limit set for repayment or forgiveness of the loan. Gifts and honoraria should also be included as items subject to the county contribution limits. (See Chapter 23, "The Commission's Model Ordinance.")

Unfortunately, contribution limits by themselves will probably exacerbate Los Angeles County's campaign financing problems. Proposition 73 will impose contribution limits of \$1,000 (from individuals) and \$2,500 or \$5,000 (from PACs and other organizations) on all county races. (See Chapter 22, "Proposition 73.") Under such limits, candidates will have to spend more time raising money, contributors will still be able to "buy" influence, and challengers will find it even more difficult to raise funds. Only expenditure ceilings can counter these tendencies.

3. Ban on Contributions From County Contractors

A complete prohibition of contributions from individuals or businesses negotiating or holding contracts or development agreements requiring board of supervisors approval would be important to reduce the possibility of untoward contributor influence on county decisionmaking. (See further discussion in Chapter 7, "Gardena.") Elimination of such contributions is a straightforward way for the supervisors to diminish the widespread perception of contributor influence on their offices.

4. Ban on Non-Election Year Contributions

The Commission believes that a prohibition on non-election year fundraising should be included in any campaign reform law adopted at the county level. Although opponents of off year bans have argued that non-election year contributions benefit challengers who hope to get a running start before the next election, the opposite has proved to be the case. Contribution trends for Los Angeles County clearly show that off year fundraising is conducted exclusively by incumbent supervisors who build war chests to discourage competition. Off year contributions also generate particular suspicion that moneys are given to influence policy decisions in the off year. In Los Angeles County, nearly 70% of all non-election year money comes from businesses. Yearly fundraisers and supervisorial "birthday parties" do not enhance the political process in Los Angeles County.

5. Adequate Enforcement Provisions

The district attorney is the appropriate enforcement authority for a county campaign reform law. A provision allowing citizens to file civil suits against violators would add an excellent safeguard to the enforcement provisions of a campaign reform law. (See discussion in Chapter 23, "The Commission's Model Ordinance.") In the event that the district attorney does not adequately pursue potential violations, civil suits would allow constituents to pursue another enforcement avenue.

6. Conclusion

Nowhere in California does campaign reform appear to be more necessary than in Los Angeles County. There is, however, little likelihood that the members of the board will change a campaign financing system that today gives them political power. Under the circumstances, a constituent-driven ballot initiative could be an alternative means of implementing campaign finance reform. Proponents of such an initiative would have to expect, however, that incumbent supervisors are likely to use their tremendous financial resources to oppose such reform.

NOTES

1. Interview with a campaign contributor who wished to remain anonymous.
2. Interview with a campaign contributor who wished to remain anonymous.
3. Editorial, *Fiefdoms Under Fire*, *Los Angeles Times*, June 12, 1988.
4. Bill Boyarsky, *L.A.: Big County's Big Need to Change*, *Los Angeles Times*, Jan. 4, 1987.
5. Interview with Bill Boyarsky, Los Angeles County Bureau Chief, *Los Angeles Times*, July 2, 1986.
6. Public Interest Poll, *Los Angeles Times*, Mar. 1985.
7. *Watson v. Senate Rules Committee*, Los Angeles Superior Court, No. C691676 (1989).
8. *United States v. County of Los Angeles*, U.S. District Court, CV88-5435 (1988) and *Garza v. County of Los Angeles*, U.S. District Court, CV88-05143 (1988).
9. Victor Merina, *Antonovich Vote Gifts, Spending Outpace Ward's*, *Los Angeles Times*, Oct. 2, 1980.
10. Claudia Luther, *Dana Early in Building a War Chest*, *Los Angeles Times*, Feb. 13, 1983.
11. California Common Cause, *Effects of Differential Contribution Limits on Supervisorial Candidates* (March 1980).
12. Leo C. Wolinsky, *Edelman Planning No Active Campaign for Reelection*, *Los Angeles Times*, May 28, 1982.
13. Luther, *supra* note 10.
14. Interview with Alexander Pope, former Assessor, Los Angeles County, July 23, 1986.
15. *Id.*
16. This figure does not include gifts accepted by the supervisors. Between 1981 and 1987, Los Angeles County supervisors accepted over \$300,000 in gifts that included world travel, tennis club memberships, television sets, hunting trips and rifles. Ted Vollmer, *L.A. County Supervisors Rack Up \$322,996 in Gifts Over Six Years*, *Los Angeles Times*, June 14, 1987.
17. Richard Simon, *Hahn Working to Topple Colleagues*, *Los Angeles Times*, May 18, 1984.
18. Bill Boyarsky, *Ward Seen Wild Card in Effort to Oust Antonovich*, *Los Angeles Times*, Apr. 17, 1988.
19. Interview with a campaign contributor who wished to remain anonymous.
20. Interview with a campaign contributor who wished to remain anonymous.
21. Interview with a campaign contributor who wished to remain anonymous.
22. Interview with a campaign contributor who wished to remain anonymous.
23. Interview with a campaign contributor who wished to remain anonymous.
24. Interview with a campaign contributor who wished to remain anonymous.
25. Interview with a supervisor's deputy who wished to remain anonymous.
26. Interview with a campaign contributor who wished to remain anonymous.

27. Claire Spiegel, *Crucial Vote Due on \$1-Billion Development*, Los Angeles Times, Sept. 12, 1984.
28. *Id.*
29. Daryl Kelley, *Developers Donations Put Antonovich in the Driver's Seat*, Los Angeles Times, Apr. 27, 1987.
30. Ron Curran and Lewis MacAdams, *The Selling of LA County*, L.A. Weekly, Nov. 22-28, 1985.
31. *Id.*
32. Judy Pasternak, *Malibu Again Fights County Effort to Install Sewer Lines*, Los Angeles Times, Nov. 17, 1986.
33. Curran and MacAdams, *supra* note 30.
34. Pasternak, *supra* note 32.
35. Judy Pasternak and Bill Stewart, *Malibu's Lasting Legacy*, Los Angeles Times, Mar. 16, 1986.
36. *Id.*
37. Curran and MacAdams, *supra* note 30.
38. Bob Pool, *Final Blow by LAFCO Ends Bid to Create City*, Los Angeles Times, Feb. 26, 1988.
39. Cynthia Lee, *Davis-Schabarum Feud Over Calabasas Cityhood Heats Up*, Daily News, Nov. 20, 1987.
40. Report of the Public Commission on Los Angeles County Government, To Serve Seven Million (1976).

CHAPTER 12

Orange County: A Unique Disqualification Ordinance

“Start with unbridled growth. Add fragmentation, rootlessness and apathy, a no-holds-barred political power struggle and a vigilant local prosecutor. Top it off with reaction to a national political scandal. You may have a recipe for what was served up in Orange County politics a decade ago, leaving an aftertaste that lingers today.”

— Larry Peterson,
*Orange County Register*¹

“There was something about Orange County, perhaps the laissez faire attitude toward business or the lack of media attention from Los Angeles, that encouraged those in office to grab whatever they could. Maybe it was simply that so much money was floating around Orange County during the period of intense growth that few could resist temptation to cash in.”

— Dan Walters,
*The New California*²

In the mid-1970s, prosecutors indicted 42 Orange County politicians and their aides for corruption on charges ranging from bribery to false voter registration. The former president of the board of supervisors went to prison. Stunned by these developments, local residents proposed an innovative campaign finance reform

measure to clean up county government called "TinCup" ("Time Is Now, Clean Up Politics"). In 1978, confronted by the inevitable, the board of supervisors enacted TinCup into law without waiting for a public vote.

Over a decade later, TinCup remains one of California's most innovative approaches to campaign finance reform. Instead of limiting the size of campaign contributions, it allows local politicians to accept contributions of any size but then *disqualifies* them from voting on any projects affecting contributors who give over a certain amount. TinCup thus allows contributors to give supervisorial candidates large contributions, but it then attempts to sever any possible connection between money and votes. TinCup's disqualification threshold operates as an effective *de facto* contribution limit; because most contributors are unwilling to risk losing a supervisor's vote, they rarely contribute over the disqualification level.

With ten years of experience, TinCup is a moderate success story for Orange County. It is popular, and the public perceives that government is cleaner than before TinCup's enactment, even though county policies are still "pro-development." At the same time, TinCup has failed to arrest several disturbing trends in supervisorial elections. Competition in Orange County supervisorial races is weak. Challengers are scared off by massive incumbent war chests raised in non-election years. And campaign spending has soared when supervisorial competition is vigorous, despite TinCup's limits.

A. Orange County's Distrust of Government Spawns Campaign Finance Reform

The political creation of Orange County preceded its economic independence by nearly a century. In 1899, founding fathers formed Orange County from land within Los Angeles County because Los Angeles County officials were not sufficiently attentive to the agricultural interests of their southern neighbors. Orange County existed primarily as an agricultural backwater until Walt Disney chose an area of orange groves near the sleepy town of Anaheim as the site for his amusement park, which opened in 1955. Five years after Disneyland opened, Anaheim's population had tripled. During the next 25 years, the county's population grew tenfold—to nearly two million.

In the 1960s, Orange County residents primarily commuted to jobs in neighboring Los Angeles County. But by the 1970s, Orange County had developed as an employment center in its own right. In the 1980s, businesses in the county not only employ most local residents but draw workers from adjacent areas such as Riverside County.

Today real estate development and high technology industries drive Orange County's economy. More than 700 high-tech firms have located in Orange County. Over 50% of the 300 firms engaged in biotechnological development in the United States are located in Orange County.³ Cooperation among financiers, developers and a pro-growth county government has created a favorable business climate in which jobs are expected to grow faster than population.

Orange County's economic success, however, tends to overshadow growing political, economic and social problems. Visitors are likely to note the gleaming new glass office towers and yachts moored outside Newport Beach mansions. But many Orange County residents are not affluent, and their numbers are growing. Orange County today has the fourth largest population of illegal immigrants in the nation—following New York, Los Angeles and Chicago. In 1975, Orange County's population was 90% white; but in the last decade, its minority population has doubled. Whites now constitute less than 80% of the county's population, and the figure is probably lower because illegal residents are not recorded in official census reports. In 1985,

Orange County ranked as the seventh most popular destination of legal immigrants to the United States.⁴

The outside world sees Orange County's voting population as primarily conservative and Republican. "Except for a brief post-Watergate period in the mid-1970s, the county has had a solid Republican voter majority . . . Ronald Reagan chose Orange County's Mile-Square Park to launch his 1984 reelection campaign, and 50,000 of the faithful turned out to confirm that it was, as the billboards proclaimed, 'Reagan Country.' On election day, Reagan beat rival Walter Mondale by a 3-to-1 margin."⁵

Table 12.1

ORANGE COUNTY DATA PROFILE

Local Government

STRUCTURE: General law county; five districts; supervisors elected by district to four-year terms; county counsel appointed; registrar of voters elected.

COUNTY BUDGET: \$2.4 billion (fiscal year 1988-89)

COUNTY FACTS: Population (1989): 2.28 million; Area: 786 square miles; Registered voters (Apr. 1989): 1,132,572; Voter turnout (June 1988): 49%

Contributions

	<u>Orange County</u>	<u>Large Jurisdictions</u>	<u>All Jurisdictions</u>
Business	54%	60%	52%
Individual	35%	27%	33%
Labor	2%	4%	4%
Political	3%	6%	6%
Candidate	6%	3%	5%
Non-Election Year	70%	49%	42%
Election Year	30%	51%	58%

Expenditures

	37%	33%	38%
VOTER CONTACTS			
Broadcast	0%	7%	7%
Literature	34%	23%	26%
Newspaper	2%	2%	2%
Outdoor	1%	1%	3%
OVERHEAD	63%	67%	62%
General	22%	25%	22%
Personnel	3%	4%	6%
Fundraising	14%	15%	13%
Survey	4%	3%	4%
Consulting	15%	11%	10%
Travel	4%	1%	1%
Candidate Transfer	1%	8%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

But Orange County voter philosophies do not match squarely with the stereotypically conservative legislative agenda. While a 1984 poll demonstrated that 70% of local residents supported President Reagan, backed military intervention in Central America and opposed gun control, 70% also supported the Equal Rights Amendment and free choice on abortions, while a sizeable majority opposed more offshore oil drilling. Dan Walters noted, "These results and their comparison with national averages reveal Orange County to be more complex politically than the Republican-conservative label it has been given"⁶

Many Orange County residents might best be described as "Libertarians." They favor both the free market and freedom of personal choice. The county's most popular newspaper, the *Orange County Register*, carries an editorial page with a decidedly Libertarian bent.⁷

1. Distrust of Government

When Orange County District Attorney Cecil Hicks stood before a seminar at the University of California, Irvine, in August 1977, he drew laughter when he said, "My topic today was billed as 'Good Government in Orange County.' I'm sorry, but I thought you wanted more than a two-or three-minute speech."⁸ He was making more than a flippant remark. Repeated exposés and criminal prosecutions for political corruption in Orange County in the mid-1970s fueled inherent voter distrust of government and government officials.

Behind the district attorney's comment lay several years of news headlines, grand jury investigations and court hearings on Orange County government corruption. In the 36-month period between December 1974 and December 1977, forty-two local politicians and political aides were indicted.⁹ (See Table 12.7, below, for a summary of the major indictments.) Among the many elected officials indicted or convicted were three current or former county supervisors.

On August 13, 1975, Supervisor Robert Battin was indicted by the Orange County Grand Jury on charges of illegally using his county staff during an unsuccessful bid for the Democratic nomination for lieutenant governor. Battin was convicted and removed from office. On July 1, 1977, Supervisors Ralph Diedrich and Philip Anthony plus four others were indicted by the grand jury on charges of perjury and conspiring to launder campaign funds, primarily for Anthony's 1976 campaign. One defendant pleaded guilty. Diedrich was convicted. Anthony lost his reelection bid in 1980 and was not prosecuted.¹⁰

Also among those indicted and convicted was Dr. Louis Cella, a part owner of two Orange County hospitals and the largest contributor to local races in the mid-1970s. In 1974, Dr. Cella and his political ally, wealthy landowner Richard O'Neill, contributed close to \$500,000 to political campaigns statewide, making them at the time the largest individual political contributors in the entire state. Although much of that money was spent on behalf of Orange County Assemblyman Ken Cory's successful bid for state controller, supervisorial challenger Laurence Schmidt beat incumbent David Baker in 1974 after receiving 80% of his campaign funds from Cella and O'Neill.¹¹

Opponents claimed that the Cella-O'Neill contributions were designed to establish a "shadow" government. Since many of those prosecuted were political allies of Cella and O'Neill, their supporters suggested the prosecutions were politically motivated, but these allegations were never substantiated.¹² An editorial in the *Los Angeles Times* supported the prosecutions. "Orange County residents don't like the stigma attached to recent revelations. But they have served notice that they like even less, and refuse to tolerate, the illegal practices and machine politics that some have tried to introduce here."¹³ The investigations and prosecutions

created the overwhelming perception that county government was corrupt, and they spurred local demand for campaign finance reform.

2. *Origins of TinCup*

Between 1974 and 1977, there were several “false starts” toward campaign finance reform. The board of supervisors considered proposals to curb campaign spending, regulate unfair and inaccurate hit-piece mailers and reduce the influence of campaign contributors. In December 1975, the board came close to adopting a package of laws that would have included contribution limits, expenditure ceilings and a Fair Campaign Practices Commission to monitor unethical campaign tactics. When the United States Supreme Court ruled in 1976 that mandatory expenditure ceilings without matching funds and limits on candidate contributions were unconstitutional,¹⁴ the supervisors halted their efforts.

Following the board’s lack of action, a group of citizens headed by former Planning Commissioner Shirley Grindle sought to develop an initiative that would restrict the influence of campaign contributions on county decisions and policies. The group, called “TinCup—Time Is Now, Clean-Up Politics,” included 19 members, many of whom had sat on opposite sides of the aisle at county hearings. Some had had personal experience with the corrupting pressures to give campaign contributions—such as the developer who was told his project was a “two table” problem, requiring the purchase of two tables at a supervisor’s upcoming fundraising event.¹⁵ Developers and architects, tired of constant pressure to finance campaigns, joined with consumer and environmental activists who felt disenfranchised because they could not compete with developers in contributions. Former county staff members became part of the coalition because they were discouraged that land use decisions and county contracts were not being considered on their merits. All shared a common desire to break the connection between campaign contributions and county decisionmaking.

The proponents of TinCup agreed on a unique concept—a disqualification limit, which would allow contributors to give whatever they wanted, but prevent a supervisor from voting on any matter affecting the contributor once he or she had given more than a specified threshold amount. Ralph Benson, a lawyer for a local developer and former deputy county counsel, was given the task of writing the proposed ordinance. He believed that a disqualification limit would break the link between big contributions and favorable decisions.

The proposed TinCup ordinance qualified for the ballot after 2,000 volunteers collected 100,000 signatures (52,380 signatures were required) in just 165 days. A special election was set for May 1978. Seeing the handwriting on the wall, the board of supervisors voted instead to adopt the proposed ordinance. The board made the ordinance effective in December, following the 1978 election.

3. *Terms of TinCup*

The TinCup Ordinance includes two separate disqualification provisions as well as enforcement remedies.

a. Disqualification on Matters Affecting “Major Campaign Contributors”

TinCup provides that a supervisor cannot vote on, or in any other way influence, decisions which “will have a material financial effect, distinguishable from its effect on the public generally, on a major campaign contributor [MCC] of that member.” Initially, an MCC was “a person who has contributed more than \$1,000 in the aggregate over the past forty-eight (48) months.” Since 1978, the board has adjusted the dollar amount upward by a cost of living factor. By December 1988, it had risen to \$1,808 for a four-year period. Contributions from individuals who serve as owners, officers or directors of corporations are grouped together.

Corporations become MCCs when cumulative contributions exceed the disqualification threshold. Individuals become MCCs when their contributions exceed the disqualification threshold.

TinCup has two exceptions. First, an individual (even if he or she is an owner, officer or director of a corporation) may give a contribution over the limit without causing a disqualification if he or she files an affidavit with the registrar stating, under penalty of perjury, that the contributions were “entirely unrelated to the business or interests of his or her business entity.” Second, contributions by political action committees (PACs) have been excluded by county counsel interpretation from the disqualification measure because he considered it too difficult to determine which votes affected PACs with broad interests.

Whenever a corporation, individual or group of individuals exceeds the disqualification threshold, he or she is listed on an MCC report published by the registrar’s office. Once a contributor is placed on the list, the supervisor who received the contribution must disqualify himself or herself from votes affecting the MCC.

If the MCC is an individual, the individual must provide to the registrar “the corporations of which he is an officer or director and of . . . the partnerships of which he is a member and of the business entities which he owns.” The supervisor is disqualified for a four-year period from voting on all matters related to interests listed on the registrar’s monthly report. Corporations that become MCCs, however, are *not* required to list related interests such as other businesses owned by the corporations.

b. Stricter Disqualification Limits for “County Influence Brokers”

Under TinCup, a “County Influence Broker” is someone who is “employed or contracts for consideration, other than reimbursement for reasonable travel expenses, to communicate with members of the Board of Supervisors, their staff assistants or members of the Planning Commission for the purpose of influencing any action of the Board of Supervisors or of the Planning Commission.” Whenever an individual or entity fits that category *and* contributes a total of over \$250 per year to any or all members of the board of supervisors, the “County Influence Broker” is required to register with the county clerk and to disclose all clients. After filing, a “County Influence Broker” may contribute an additional \$250 per year, for a total of \$500, to any or all supervisors. In recent years, no more than a few county influence brokers have been listed at any one time.¹⁶

c. Violations of the Ordinance

Under TinCup, violations of the ordinance constitute a misdemeanor. In addition, any vote that violates the disqualification provision is void.

B. TinCup Has Improved the Appearance of County Government, Although County Policies Remain Pro-Development

TinCup has gained widespread acceptance in Orange County since it took effect ten years ago. Few have challenged it or sought to find loopholes. Most importantly, county government appears cleaner. The TinCup ordinance has interrupted the direct link between contributions and votes. It has not, however, prevented fundraising among subcontractors or significantly altered pro-development decisions by the board of supervisors.

1. A Popular Ordinance

Since passage of TinCup, contributors and supervisors alike have generally avoided circumventing or challenging its rules, with a few exceptions. (See Table

12.8 for a summary of the challenges to TinCup.) The law has been tested only once in a lawsuit brought by Supervisor Bruce Nestande, who challenged the law's applicability to county elected officials who run for statewide office. Nestande, first running for lieutenant governor and then secretary of state, argued that TinCup prevented him from raising sufficient contributions for statewide office—few local contributors wanted to give to him and risk supervisorial “disqualification”—and treated him unfairly compared to other statewide candidates. On September 25, 1985, Orange County Superior Court Judge Judith Ryan ruled that TinCup “is not unconstitutional on its face or in its application, and that TinCup does in fact apply to supervisors when they run for local or statewide office.”¹⁷

Although amendments to the TinCup ordinance have been suggested, none have been enacted. When the 1984 county grand jury recommended measures to strengthen TinCup, the county counsel ruled that amendments to the ordinance must be accomplished through a ballot measure rather than an ordinance adopted by the supervisors.¹⁸ Larry Peterson, political reporter for the *Orange County Register*, observed, “I believe that people have resigned themselves to TinCup whether or not they like it. It is like Environmental Impact Reports (EIRs) [T]hey may be good, or they may be bad, but if everyone has to jump through the same hoops, it's easier to accept.”¹⁹

Citizen activist Shirley Grindle believes that acceptance of TinCup is widespread because developers enjoy the protection it offers from cash-hungry incumbents.²⁰ *Los Angeles Times* reporter Jeffrey Perlman suggests at least three factors that encourage general acceptance of TinCup. First, the historical experience of corruption in county politics is still relatively fresh, even though it is fading. Second, the Orange County District Attorney is more active in campaign finance matters than district attorneys in other counties. And third, Orange County has two very viable and competitive newspapers—the *Los Angeles Times* and the *Orange County Register*—which increase reporters' interest in investigating newsworthy stories.²¹

2. High Compliance

Violations of TinCup or even the suggestion of wrongdoing are newsworthy in Orange County. As a major contributor to county elections says, “A questionable campaign tactic or practice must undergo and pass the smell test of public opinion. Orange County's interest in campaign cleanliness has less to do with TinCup than with relatively recent experience with supervisors who were accused and convicted of illegal campaign practices.”²² Another major developer-contributor agreed. “We are aware that there are loopholes in TinCup, but we try to follow closely its intent. The intent is clear: no influence on decisions. If you try to play games, [Assistant District Attorney] Capizzi or [TinCup author and watchdog Shirley] Grindle is likely to find out. You don't want to look bad.”²³

Even though TinCup allows contributors to give in excess of the disqualification limit—which was \$1,808 in 1989, for cumulative four-year periods—few actually do. As of March 1989, only 71 of the thousands of contributors to Orange County supervisors had given more than \$1,808 during the preceding 48 months.²⁴ Of those, vote disqualification was required for only 83 contributors; 23 were PACs for which disqualification is not required. Most contributors who could give more than the disqualification threshold decline to do so because they may later need a supervisor's vote.

“In explaining TinCup to potential contributors from outside the county,” said Deputy County Counsel Terry Andrus, “I find that the fact that a supervisor can't vote takes people's breath away. The main reason that people give contributions is

because they have an economic interest before the board of supervisors. TinCup is a very effective deterrent to contribution limit violations."²⁵

Assistant District Attorney Michael Capizzi elaborates, "The difference between a disqualification limit and a contribution limit is in the penalty for noncompliance. When a candidate or contributor violates a contributions limit, the only recourse is to send the contribution back or possibly to impose a fine. Neither of these penalties is onerous. With disqualification, a supervisor is prohibited from voting on matters affecting a contributor who has exceeded the contributions limit for a four-year period. That penalty is more severe. It hits at the root of the reason for the contribution in the first place."²⁶

Los Angeles Times political reporter Jeffrey Perlman believes that disqualification limits are better than contributions limits. "With contribution limits, there are so many ways to get around them. Each company has many divisions which might give separately. Each division has many employees that might give."²⁷ Under TinCup, affiliations are tracked and contributions from related sources are accumulated toward the disqualification limit. Perlman also prefers disqualification limits over contribution limits because they "make it easier for the media to document abuses. If there is a contribution and the supervisor voted when he shouldn't have because of a conflict of interest under TinCup, then it constitutes a *prima facie* violation. Also, it is easier to track votes by supervisors in order to search for violations than it is to track campaign statements."²⁸

Disqualification limits may also be effective because the *contributor*, not the candidate, has the most to lose by violations. The threat of loss of a supervisor's vote spurs contributors to watch their cumulative contributions closely. Under disqualification, the contributors monitor compliance; under contributions limits, candidates bear this responsibility.

3. Few but Rising Disqualifications

Because few contributors are willing to lose a supervisorial vote for four years, the number of required disqualifications has been low. So far, no one has attempted to nullify the votes of unfavorable board members through excessive contributions (candidates can always refuse contributions). Candidates themselves, even those in competitive races, are reluctant to take contributions in excess of the limits because the burden of monitoring votes for disqualification is great and the public relations penalties are high. Frequent abstentions could generate a campaign issue.

Between 1979 and 1985, there were fewer than a dozen TinCup disqualifications. But, in 1986, then-Supervisor Nestande began fundraising for his statewide campaign and received more disqualifying contributions in the first six months of 1986 than any supervisor had in the prior seven years. (Supervisor Nestande resigned from the board in 1987.) In 1986, a new supervisor, Don Roth, was elected in an open seat contest. Locked in a close campaign, Roth and his opponent Jim Beam encouraged supporters to exceed the disqualification limit. Seventy-seven Roth supporters did so. Today, over half of all the MCCs for whom supervisors must disqualify themselves are Roth supporters.²⁹ As yet, however, actual disqualifications by Roth are low, partly because those who became his MCCs rarely have regular business before the board. Each of Roth's MCCs will remain on the list for four years, however, so the number of disqualifications may increase.

4. Dominance of Developer-Related Contributors

Although compliance with the letter of TinCup is high, the law has not substantially altered either the pool of contributors (see Table 12.1, Orange County Data Profile, above) or the substance of board decisions. In Orange County, 54% of *all*

contributions raised came from “business” contributors, a higher percentage than in any other jurisdiction studied except Los Angeles County.

Like contribution limits ordinances, TinCup has increased the number of contributors without significantly diversifying the contributor base. Before TinCup, a single contributor could have a tremendous impact on a supervisorial election. In 1974, Laurence Schmidt won his election as supervisor for the second district with the help of \$140,000 in contributions from one person, Dr. Louis Cella. “During the two years before TinCup, more than 100 local developers and big landowners gave in excess of \$5,000 to at least one member of the board of supervisors, and many of the contributions were in the \$10,000 to \$30,000 range,” concluded a *Los Angeles Times* analysis.³⁰

After TinCup, supervisors have sought contributions from a larger number of sources, but the overall percentage of business contributions, for example, has remained roughly the same. TinCup author Shirley Grindle admits, “The love affair between supervisors and developers has not been entirely broken by TinCup. Developers still contribute between 40% and 50% of total campaign contributions to supervisors. However, supervisors have been forced to seek support from non-developers as well.”³¹ Evidence suggests, however, that the new contributors are similar to pre-TinCup contributors. TinCup lumps together contributors connected as partners or associates in the same company, but subcontractor contributions are separate and exempt in accumulations toward disqualification thresholds. The *Los Angeles Times* studied 1980 campaign statements and found that “one of every 10 contributors to the three leading county supervisorial campaigns are in business with one or more other givers, but—more often than not—their connections can’t be found in the candidates’ financial disclosures.”³²

Some developers who formerly wrote single large checks became fundraisers among their friends and subcontractors after TinCup. A few observers say that the total amounts for which developers are “responsible” have not diminished. More contributors give, but the proportion of developer-related contributions has remained constant. As Larry Peterson, reporter for the *Orange County Register*, observed, “things have not changed that much. ‘Dirty land rapists’ have become ‘shakedown fundraisers’ for supervisors. Politicians will always give priority to their friends no matter what kind of campaign reform laws are in effect.”³³

Developers agree that they have been forced to do more fundraising for supervisors since TinCup. One developer-contributor said, “With TinCup, we do have to spend a certain amount of time fundraising for supervisors.”³⁴ A former supervisor’s aide said, “TinCup was intended to reduce the influence of the big guys, but it has actually strengthened it because the big guys have plenty of subcontractors that they can turn to, to raise funds for supervisors and receive credit. The small guy doesn’t have as many subcontractors.”³⁵

Another developer-contributor feels that the rise in fundraising among subcontractors should be kept in perspective. “Before TinCup, developers had to contribute without limits *and* raise money from others. Today, there are limits on the amount a developer can give personally. And supervisors don’t say outright, ‘go get money from your subcontractors.’ The fundraising that developers do get involved in is centered around fundraising events only. It is not an ongoing problem [like it used to be].”³⁶

Building Industry Association Executive Director John Erskine says that people give money to supervisors when they care about decisions made by the board. “I believe that the base of contributors to supervisors will grow further as anti-growth attitudes continue to increase in the county. No-growth contributions will go

to non-business candidates and competition will increase. We saw this trend in [the 1986] Irvine City Council race, in which two anti-growth candidates, Larry Agran and Ed Dornan, beat pro-growth candidates. The anti-growth candidates were able to raise over \$100,000 for their campaigns."³⁷

5. Consistent Pro-Growth Board Policies

TinCup was designed "to insure that the decisions of the Orange County Board of Supervisors and the Orange County Planning Commission are not unduly influenced by campaign contributors." It is difficult to measure TinCup's effectiveness in this regard, because the overall directions of the board have changed little. The continuing influence of development-related contributions appears to be reflected in pro-growth policies and decisions of the Orange County Board of Supervisors. Although Orange County supervisors today do not appear to have "votes for sale," as some did in the mid-1970s (see Table 12.8), candidates with the most money to win elections happen to have pro-growth philosophies. "If the intent of TinCup was to reduce the influence of developers on government decision-making, then it was misguided," says Steve Malone, aide to former Supervisor Ralph Clark for 12 years. "I don't believe that supervisors approve land-use decisions because they received a contribution. I believe that supervisors supported by developers are those who see development as vital to a county or city's economic growth, and they make land use decisions based on that premise."³⁸

Some agree and some disagree. A former supervisorial aide says, "TinCup has *not* affected the way government works or how decisions are made. Contributors give to candidates that they support philosophically. TinCup was 'ill-conceived' and based on the assumption that through disclosure you can identify undue influence. That is not true."³⁹ A developer-contributor disagrees. "TinCup has absolutely affected the government decisionmaking process. Supervisors now check first to see if they can vote on the project. If they decide to vote for a project, they require staff to justify it well, so that their votes can withstand the scrutiny of the press, homeowner groups and Shirley Grindle."⁴⁰

Even if overall policies have changed little, many involved in watching county government feel the process is cleaner. "There has been a definite change in the appearance of how county politics are conducted," says reporter Larry Peterson.⁴¹

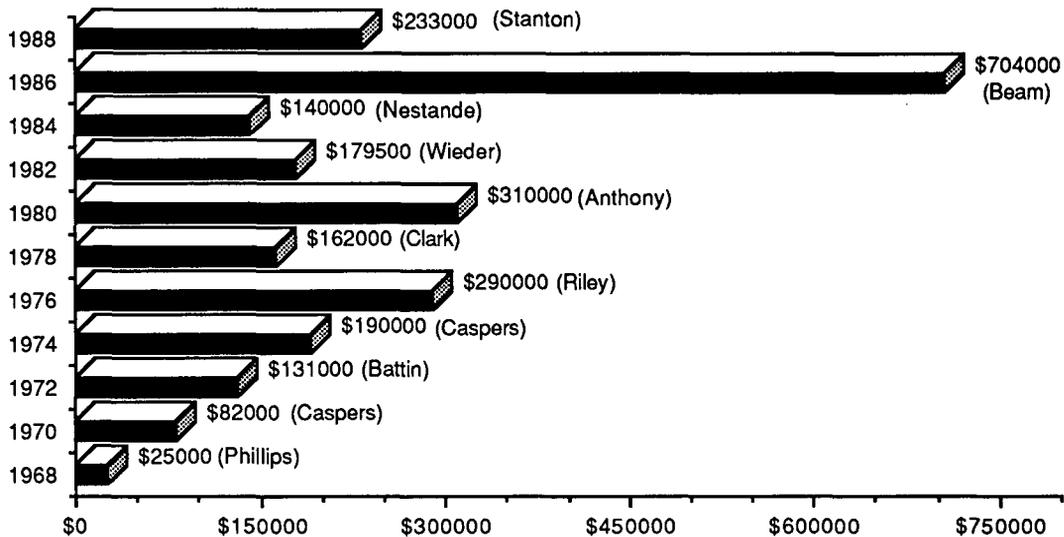
C. Incumbent Advantages Swell Under TinCup

In the 1970s, each new supervisorial election brought a new spending record. Since TinCup, campaign spending has leveled. Unfortunately, this positive feature stems from a negative cause: less competition. Incumbents use TinCup to their advantage and few are ever challenged.

1. Campaign Spending

Between 1968 and 1976, spending in supervisorial campaigns rapidly increased. (See Table 12.2.) At the time of TinCup's passage, there was concern over high spending, but it was not the focus of the new law. Supervisor Thomas Riley observed in January 1979 that "TinCup takes care of concern about gaining influence with campaign contributions but it doesn't do anything about the high cost of campaigning."⁴² Nonetheless, campaign expenditures after TinCup did flatten. Supervisor Bruce Nestande said in 1986, "Campaign costs are not rising in Orange County. TinCup has lowered the cost of campaigns. You can't raise excessive amounts under TinCup."⁴³ Michael Stockstill, Director of Corporate Affairs of the Irvine Company, observed, "TinCup has not brought more people into the process. It has reduced the total amount of money collected by 15% or 20%."⁴⁴

Table 12.2
HIGHEST CANDIDATE SPENDING PER SUPERVISORIAL ELECTION
ORANGE COUNTY



Source: California Commission on Campaign Financing Data Analysis (data for years 1968-1988)

The 1986 open seat contest in the 4th District challenged these assumptions. The election showed that significant sums could be raised despite TinCup's restrictions, and that spending before 1986 had been limited by lack of competition, not TinCup. Larry Peterson, *Orange County Register* reporter, recalled, "In 1978, when TinCup was adopted, incumbency protection was at issue. TinCup was perceived unlikely to protect incumbents. In fact, it was believed to promote challengers. It has, however, served to protect incumbents, because now fundraising is more complicated."⁴⁵

Entrenched incumbents have not spent as much as they might if they had been faced with serious challengers. Incumbents' security, not TinCup limits, have kept campaign spending down in Orange County. Said one anonymous observer, "I call TinCup the 'Incumbents Relief Act of 1978' because it insulates and protects incumbents from challengers. In the old days, even before disclosure, challenges came from city leaders who would have a small base of supporters willing to finance a campaign. With disclosure, and now with limits, city leaders cannot gain the support they need to mount a successful challenge of incumbents."⁴⁶

Since TinCup, only two successful challenges have been mounted against incumbents, both of which involved unusual circumstances. In 1980, Roger Stanton defeated an incumbent who had been indicted by the district attorney. That same year, Assemblyman Bruce Nestande defeated an unpopular incumbent, Supervisor Edison Miller, who had been appointed by Governor Jerry Brown. In the 1982 through 1988 elections, three incumbent supervisors stood for reelection without *any* challengers, while six other incumbents suffered only token opposition. By contrast, during the six years prior to passage of TinCup in 1978, challengers in three districts defeated incumbents who had neither been indicted nor appointed.

Only one open seat contest has taken place since TinCup was adopted. In 1986, incumbent Supervisor Ralph Clark decided not to seek reelection. In this open seat

election, total spending by three major candidates exceeded \$1.6 million—\$656,000 of which was in unpaid bills.⁴⁷ These extremely high spending figures suggest that Orange County candidates are easily capable of raising large sums in competitive races, and that the lack of competition is the principal cause of low spending elections.

2. Incumbent Domination

Incumbents clearly dominate fundraising under TinCup. The Commission's data analysis shows the average incumbent receiving a striking 97% of all the contributions raised by incumbents and challengers. Of that total amount, incumbents raise two-thirds of their contributions from business and less than a third from individual sources. (See Table 12.3.) The few candidates who are challengers raise their contributions almost entirely from individual contributors. In the average race between incumbent and challenger, the incumbent receives a whopping 99% of the business contributions and 90% of the individual contributions.

Table 12.3

INCUMBENT/CHALLENGER DATA PROFILE ORANGE COUNTY

Percentage of Total Contributions Raised From Each Source

	<u>Incumbents</u>	<u>Challengers</u>
Business	66%	3%
Individual	30%	93%
Labor	2%	0%
Political	2%	0%
Candidate	0%	4%
Total	100%	100%

Average Percentage of Total Contributions Given to Incumbents and Challengers

	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	99%	90%	99%	100%	0%
Challengers	1%	10%	1%	0%	100%
Total	100%	100%	100%	100%	100%

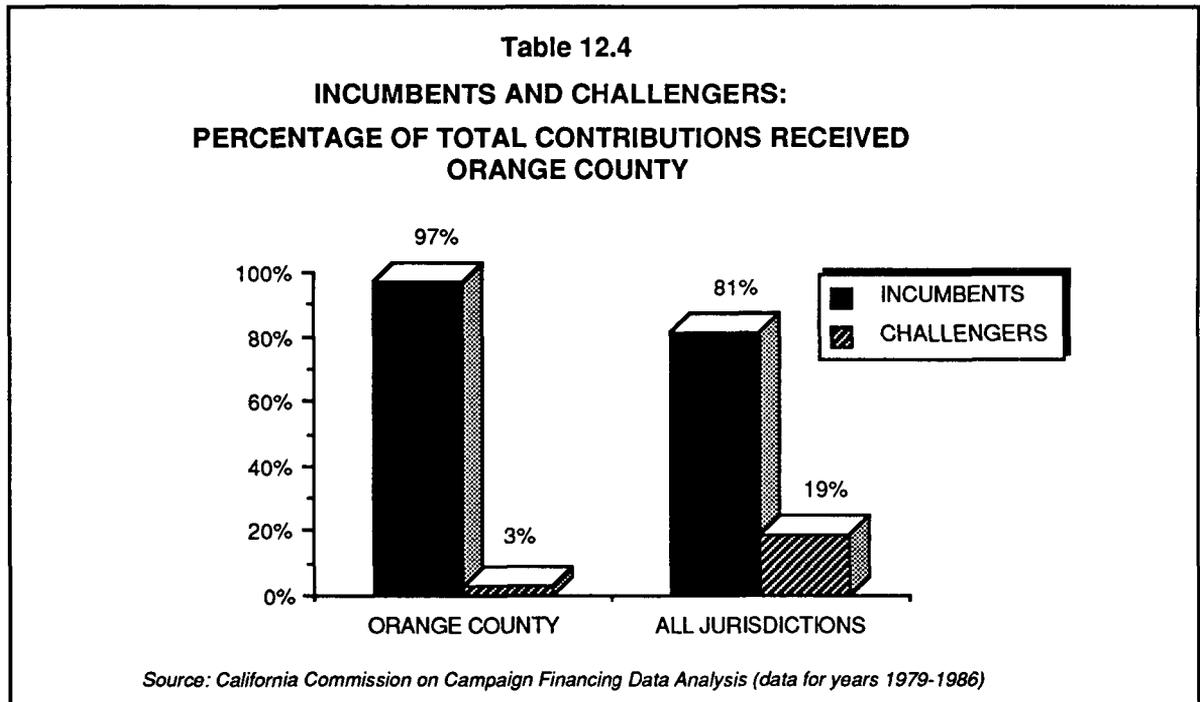
Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

TinCup has not discouraged war chests. Incumbents can build a broad base of supporters willing to contribute up to the disqualification threshold before the campaign begins. In Orange County, challengers raise less funds proportionately than do challengers in all other jurisdictions studied. (See Table 12.4.) These ingrained patterns continue to discourage serious challengers whose sources for campaign contributions are tapped by incumbents.

3. Non-Election Year War Chests

Massive "war chests" developed by Orange County supervisors in non-election years discourage challengers from entering local races. Although incumbents built

war chests prior to TinCup, their size and importance has blossomed under TinCup. Orange County supervisorial candidates now raise more money in non-election years than in any other jurisdiction studied. (See Table 12.5.) Nearly all of the off year fundraising is by incumbents.



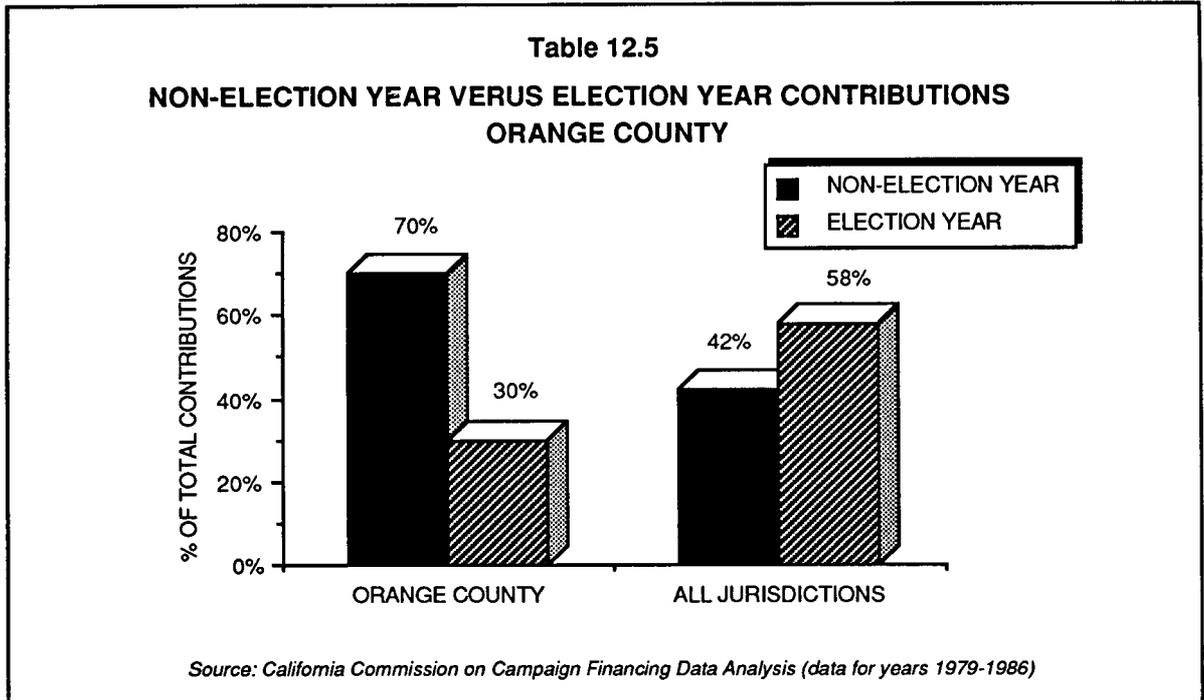
In 1982, each of the three incumbents had war chests around \$150,000. Prior to filing for the 1984 supervisorial elections, Supervisor Stanton had raised more than \$200,000 and Supervisor Nestande had raised over \$150,000. Both won reelection. Stanton lacked a challenger.

In 1986, Supervisor Harriett Wieder perfected the art of war chest campaigning. By January 1 of the election year, Wieder had amassed a war chest of \$248,000. For the campaign, she spent \$312,000 overall, compared to \$710 reported by her opponent David Meslovich. Wieder spent most of her money before the race began. City officials from Huntington Beach, Wieder's home base, considered a challenge but chose not to run after news reports of her sizeable and growing war chest. Incumbent Wieder had contracted with political consultant Harvey Englander to give him a monthly retainer between May 1985 and March 1986 (the filing date) and a \$25,000 bonus if Englander's fundraising and campaign preparation successfully scared off serious challengers. Englander received the bonus.⁴⁸ Fearing slow-growth challenges in the 1988 elections, supervisors Stanton and Vasquez raised off year war chests, each approaching a staggering \$500,000. Stanton received 53% of the vote while Vasquez garnered 58%.

4. Uninformed Electorate

The strength of incumbency among Orange County supervisors is largely caused by non-election year war chests and pro-incumbent fundraising, but it is also a result of a voting public which remains largely uninformed about county government. For thousands of Orange County residents who live in unincorporated areas—mainly in the southern portion of the county—the board of supervisors provides their only local representation. The board of supervisors in Orange County determines what gets built in undeveloped portions of the county and whether or not roads are required to service increasing traffic loads.

The county government also manages an administrative budget of over \$1.5 billion, including county jails, sheriffs, parks, beaches and various lighting, flood control, service and maintenance districts. Supervisor Thomas Riley comments, "There are only three jobs more important than mine: the Governor and the two U.S. Senators from California."⁴⁹

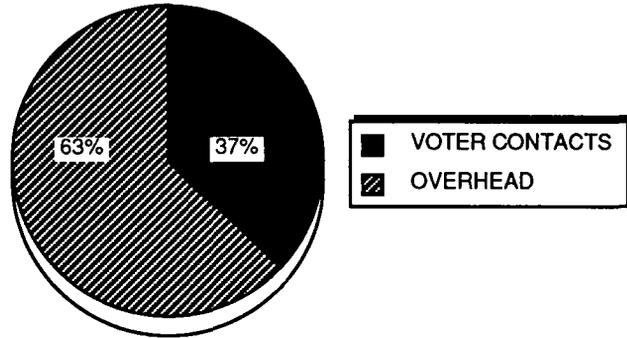


Supervisor Riley's comment stands in stark contrast to findings in public opinion polling, the most recent of which was performed for the *Orange County Register* in 1986. The *Register's* pollsters found that 43% of the voters had "no idea what the Orange County supervisors do." County supervisors are consistently given bad job ratings, and their name recognition is low. "Only seven percent of the voters in the Fourth District could correctly name Ralph Clark as their supervisor," according to the poll.⁵⁰ At the time of the poll, Supervisor Clark had been the 4th District supervisor for 12 years.

Supervisorial activity is well-covered by local papers, but apparently news stories are not widely read. Without public scrutiny, supervisors feel insulated and safe. Until now, they have raised money from developers and other special interests without threat of electoral consequence. In the last eight years, candidates have spent a substantial portion of their money on overhead, such as fundraising and consultants, rather than educating the electorate through direct voter contacts. (See Table 12.6.) In 1984, for example, while incumbent Bruce Nestande spent over \$300,000 on his reelection effort, less than \$3,000 was devoted to direct voter communication.

In sum, Orange County supervisors have generally enjoyed great freedom in decisionmaking and fundraising. Challengers have faced insurmountable tasks—raising large budgets under strict disqualification limits during election years, reaching apathetic voters with insufficient funds and challenging incumbents with sizeable campaign war chests. TinCup subsequently has failed to address these pressing problems.

Table 12.6
VOTER CONTACTS VERSUS OVERHEAD
ORANGE COUNTY



Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

D. TinCup Has Created Compliance Problems

TinCup allows unlimited campaign contributions yet simultaneously seeks to cut the link between excessive contributions and supervisorial votes. Only Modesto and Santa Barbara County have followed suit, but Santa Barbara's ordinance was declared unconstitutional by a federal court.⁵¹ Orange County has been alone in interpreting and enforcing the provisions of this novel approach.

A few county counsel opinions issued since TinCup's passage provide the only guidelines for compliance.⁵² No candidates' manual exists. Responsibility for monitoring contributions and votes for compliance with TinCup has fallen on several parties, including the registrar of voters, citizen watchdog Shirley Grindle, the county counsel, the district attorney, the press and ultimately the voters. Public officials have come to rely on Shirley Grindle for the complicated job of tallying related contributions and keeping the spirit of TinCup alive.

1. Shirley Grindle

The registrar of voters "reviews campaign statements and, if necessary, asks MCCs to fill out the necessary disclosure forms."⁵³ The registrar then compiles the "official list" of MCCs which serves as the final source document to determine vote disqualification. Supervisors and their campaign treasurers often monitor contributions independently, so that they can notify contributors who approach the disqualification threshold. The county counsel offers opinions to supervisors about the intent and interpretation of TinCup, but these opinions are generally unavailable to the public. The district attorney, if requested, helps the registrar enforce statement deadlines, offers interpretations for enforcement and investigates violations.

Despite these procedures, it is Shirley Grindle who plays a vital role in provoking enforcement and coordinating the work of public officials. Shirley Grindle led the initial citizen effort to enact TinCup and has volunteered at least four hours a week since 1978 to ensure proper implementation. "Without Shirley Grindle, TinCup would not be working as well as it does today," says Suzanne Slupsky, the registrar of voters' official who has primary responsibility for monitoring contributions,

compiling the monthly list of MCCs and enforcing other disclosure requirements. "We are not a policing agency. There are loopholes in TinCup and ways to get around it. We're not in the business of pursuing violators. It is really difficult for us to find unreported affiliations among businesses. You have to know who's who and who works for whom. We don't pursue those questions, but Shirley Grindle does."⁵⁴

The registrar's office records contributions from campaign statements onto a card file grouped by both contributors and supervisor. At periodic intervals, the registrar's office meets with Shirley Grindle to compare its entire card file with Grindle's card file. Grindle's file is more accurate and complete than the registrar's because it reveals undisclosed relationships among contributors, which Grindle discovers by research into corporate subsidiaries. If she spots an unfamiliar name, she contacts the secretary of state to elicit other "dba's" (doing business as). If a contributor's occupation or employer is not listed on a campaign statement, she telephones the contributor to determine the true source of the funds.

Grindle also helps contributors and public officials interpret TinCup's provisions. "If anyone in the county has questions about the intent of any part of TinCup, they ask Shirley Grindle," says Michael Stockstill, Director of Corporate Affairs for the Irvine Company, a major landowner in the county. "It's like going back to Howard Jarvis to request clarification on Proposition 13. We go to Shirley Grindle for clarification on TinCup."⁵⁵ Suzanne Slupsky concurs. "If the registrar's office has questions about interpretation of the ordinance or compliance, we won't go to county counsel. We call Shirley."⁵⁶

Grindle also toils doggedly to discourage the use of possible loopholes. To pressure potential violators into compliance, she seeks assistance from the district attorney's office and the press. According to Orange County Assistant District Attorney Michael Capizzi, "Without Shirley Grindle, there would be greater temptation to violate the TinCup ordinance. Our strongest penalty is adverse publicity on campaign law violations. In Orange County, we have good press coverage of violations because of Shirley Grindle."⁵⁷

Larry Peterson, political reporter for the *Orange County Register*, agrees, "Frankly, we would be a lot worse off without Shirley Grindle. She takes the time to monitor campaign filings. Reporters and papers do not have the resources necessary to do the same thing. Without Shirley, I would estimate that over half of the allegations that become the subject of press articles would go unnoticed. Shirley is effective in playing one local paper off of the other."⁵⁸ Grindle admits that if she were not involved it might be easier to ignore TinCup. "I am self-employed. I am independent. No one owns me. That makes me good at what I do."⁵⁹

2. Monitoring Votes

Shirley Grindle's research is used to ensure accurate campaign finance reporting and a full disclosure list of MCCs, but the supervisors make their own decisions whether to vote or not. Supervisor Roger Stanton says his campaign purchased a computer to monitor contributions. "TinCup is complicated and supervisors are responsible for self-policing, which is very difficult. There may be 90 items on a Consent Calendar, and one of them may be an approval for annexation of a lighting tract map in which one of your major contributors is involved. If you vote on the Consent Calendar, you are violating the law. The only way to know if you are violating the law is to follow it yourself. With the computer, my treasurer can keep running TinCup balances for all contributors and check for those over the limit."⁶⁰

Unfortunately, Stanton's computer tracking failed in the summer of 1987. Neither Stanton nor the developer realized that TinCup was violated during Stanton's vote as LAFCO Commissioner on a matter benefitting the Baldwin

Company, until it was raised by the *Los Angeles Times* three months later. Stanton was subsequently forced to abstain from three supervisorial votes involving a Baldwin development.⁶¹

Former Supervisor Bruce Nestande commented in 1986, "It's a bureaucratic nightmare. I've told my staff that I never want to have to abstain from a vote, but TinCup is very hard to monitor. I never know what I'm doing regarding TinCup. I need direction from somewhere."⁶²

Adequate enforcement of TinCup requires tracking of complex relationships among contributors. Yet supervisors are left to monitor their own votes and disqualifications. Innocent mistakes are possible. The penalty for improper votes, whether intended or inadvertent, is high—publicity implying improper influence.

E. Conclusions and Recommendations: Amendments to TinCup and Additional Laws Are Desirable

Orange County is pleased with its TinCup ordinance. It allows contributors the personal freedom of making large contributions to candidates yet prohibits officials from voting on matters affecting large contributors. Orange County observers feel that county government is cleaner since adoption of TinCup. Candidates report fewer instances of "strong-arm" contributions paid to secure favorable votes. Developers feel less pressure to contribute large sums. Press and local activists maintain that the direct link between contributions and favorable decisions has been severed. All feel protected by the presence of Shirley Grindle, who monitors campaign reports and contributor relationships.

But TinCup has also produced some negative consequences. TinCup has failed to encourage—and may have curtailed—competition in supervisorial elections. Before TinCup, competitive campaigns were both possible and common. Since TinCup, few incumbents have faced anything but token challengers. Of the three competitive races since passage of TinCup, two included incumbents with major political liabilities and the third involved an open seat. While TinCup cannot be totally blamed for lack of competition in Orange County supervisorial campaigns, it has done nothing to encourage competition. Despite TinCup limits, incumbents raise war chests in non-election years which approach a half million dollars. Challengers are scared off, and voters remain uninformed and uninvolved in county supervisorial races.

1. Recommendations

More competition in Orange County supervisorial elections could increase public accountability. New faces and ideas could surface. Issues confronting the county might be more enthusiastically debated. Voters might become more interested in county government. New laws to supplement TinCup might increase the competitiveness of supervisorial campaigns.

a. Expenditure Ceilings

Campaign expenditure ceilings supported by partial public matching funds are probably not feasible for Orange County. Proposition 73 bans public financing and Orange County, unlike other counties such as Sacramento, is not a charter county which may be exempt from the prohibition.⁶³ However, the benefits of spending caps appear so great to the Commission that Orange County might well experiment with other ways in which to encourage candidates to accept spending caps—such as variable contribution limits. (See discussion in Chapter 23, "The Commission's Model Ordinance.") Without spending caps, incumbents are free to raise whatever it takes to scare off opponents. Limits on the overall amounts supervisorial incumbents could spend in Orange County might encourage challengers to

participate in local elections, hold down campaign spending in open seat races, reduce the impact of war chests and dilute the influence of development-related contributions with public funds. Candidates should be limited to no more than \$500,000 per election, adjusted by cost of living changes. While this figure may seem high, it is designed to let challengers spend enough to offset an incumbent's advantage. This figure is substantially lower than what was spent in the last competitive election in 1986 when unsuccessful open seat aspirant Jim Beam spent \$704,000.

b. Ban on Non-Election Year Fundraising

Whether or not spending caps are deemed feasible, Orange County should consider a ban on non-election year fundraising. Supervisors are able to raise large sums of money throughout their four-year terms for future elections. Challengers, on the other hand, can rarely raise funds in off-election years. Since TinCup, only challengers who hold another elected office, such as assemblymember or mayor, have been able to raise money in non-election years.

Restrictions on the time allowed for fundraising might tend to reduce the advantage of incumbents over challengers under TinCup. Limiting fundraising to just six months before the election may be unrealistic when candidates for supervisor run in nonpartisan June elections. A more reasonable time limit might be nine months before the election.

2. Possible Amendments to TinCup

With or without these new laws, minor modifications to TinCup could improve its ability to discourage large contributions from "those who do business with Orange County government." These suggested modifications may also help other counties or cities considering a disqualification ordinance.

a. Citizen Civil Actions

To other jurisdictions considering "disqualification," Assistant District Attorney Capizzi comments, "I would simply say, don't change the ordinance, just find another Shirley Grindle."⁶⁴

The Commission believes that a provision allowing private citizens to file enforcement lawsuits would also help ensure proper compliance with the disqualification provisions. This new enforcement mechanism could appropriately be based on the analogous citizen lawsuit provisions in the Political Reform Act.⁶⁵

b. "Affidavit" Loophole

TinCup's drafters worried that disqualification of *all* contributors giving more than a certain amount might interfere with the contributor's or the supervisor's freedom of speech. (This concern apparently persisted despite a United States Supreme Court decision holding that contribution limits were constitutional.⁶⁶) The drafters therefore allowed an individual to give larger contributions than the disqualification limit without losing the supervisor's vote whenever that contributor filed an "affidavit" stating that the campaign contribution was "entirely unrelated to the business or interests of the business entity" owned or directed by the contributor. This does not mean that the contributor could have *no* business interests which would potentially be affected by the supervisor, but merely that the particular contribution was "unrelated" to those business concerns. Needless to say, this provision creates an enormous potential loophole; individuals can make large contributions merely by filing the required affidavit. Because the affidavit merely attests to their personal intent, it is difficult to question.

TinCup has apparently not yet been undermined by this potential loophole because Shirley Grindle and others have actively publicized any attempt to use it.⁶⁷

But as the memory of corruption in the 1970s fades, the temptation to use this loophole could grow. Deputy County Counsel Terry Andrus comments, "The law permits contributors to file an affidavit declaring that their contribution was made independently from their company. There is no way to verify whether or not this is correct. It creates a problem."⁶⁸ Grand Jury reports in 1984 and in 1985 recommended reform of TinCup to clarify that "a majority owner and his company are indeed *one* entity," no matter what kind of affidavit is filed.⁶⁹ TinCup would be far stronger in the long run without the affidavit provision, which the Commission believes to be unnecessary to the constitutionality of the law.

c. Corporate MCCs

Under TinCup, an individual or a corporation contributing in excess of the disqualification limit becomes a major campaign contributor (MCC). When the MCC is an *individual*, all of his or her partnerships, investments and related companies lose access to a supervisor's vote for four years. When the MCC is a *corporation*, however, disqualification is required only for votes affecting that corporation, not for related subsidiaries, parent corporations or other interests. Consequently, corporate contributors are treated more favorably than individual contributors.

"Without the disclosure requirement on companies, supervisors are free to vote on matters affecting related companies because they fail to appear on the major contributors list," explains Steve Malone, an aide to Supervisor Roth.⁷⁰ It is difficult to see why companies, like individuals, should not be required to list related interests when they become MCCs. Consideration should be given to an amendment prohibiting supervisors from voting on matters affecting any of the corporate MCC's related interests.

d. Material Financial Effect

The definition of "material financial effect" should also be clarified by rule, regulation or opinion. Supervisor Nestande gives an example of not knowing when a "material financial effect" would exist, requiring him to disqualify himself. "I recently received a \$2,000 contribution from a guy who would have installed the new telephone system for the county, no matter which of the three telephone providers won the bid. I assumed that I could vote on the county contract for a new phone system because the \$2,000 was not directly related to the decision I was making. It later turned out that it did apply and I was forced to abstain. Overall, it is confusing what is attributable and when you should abstain."⁷¹ It is recommended that the Orange County county counsel make use of the interpretations of the Fair Political Practices Commission which have defined "material financial effect" on a number of occasions.

e. Prompt Reporting of MCCs

TinCup needs an amendment to increase penalties for failing to report MCCs promptly. Without prompt reporting, supervisors can receive large contributions early in a six-month filing period and not be held responsible for vote disqualification until the contribution is actually reported and placed on the official list of MCCs. Deputy County Counsel Andrus notes, "Theoretically a supervisor may receive a \$5,000 contribution from an individual in March and continue to vote on matters affecting that contributor until July 30, when the off year campaign reports are due. This does happen. This is a problem."⁷²

f. New COLA

Under TinCup, increases in the dollar amount of the disqualification limits are tied to annual increases in the budget of the state Fair Political Practices Commission. Unfortunately, this produces awkward disqualification limit

amounts. TinCup could be modified to reflect cost of living increases rounded off to the nearest one hundred. Monitoring of compliance would improve with this minor modification.

g. Contribution Limits for PACs

Under TinCup, political action committees (PACs) that give in excess of the disqualification limits are added to the list of “Major Campaign Contributors,” but supervisors are not disqualified from voting because it was thought to be difficult to discern when a vote has a “material financial effect” on a PAC as distinguished from the public in general. This provision creates a large loophole.

In Orange County, PAC giving is on the rise. For example, “county employee bargaining groups . . . contributed more than \$21,000 to three members of the board of supervisors,” yet not one of the three disqualified himself in votes on pay raises for county employees in 1987.⁷³ To close this loophole, TinCup could be amended to create separate contribution limits for PACs—or to apply the disqualification provision whenever a decision by the board has a “material financial effect” on the sponsor of the PAC.

h. “County Influence Broker” Revisions

TinCup has not been effective in restricting the influence of “County Influence Brokers.” The list of registered “County Influence Brokers” maintained by the registrar of voters generally contains fewer than six names. Orange County lobbyists have not gone away. They simply have changed their practices to avoid registering. They are reluctant to disclose their clients.

Before TinCup, lobbyists frequently gave supervisors \$5,000 to \$10,000 contributions or even larger loans. Large contributions from lobbyists have disappeared since TinCup. To avoid registering, lobbyists give less than \$250 a year to all supervisors combined. They, like many developers, have become fundraisers.⁷⁴ Disclosure of lobbyist activities might be better achieved with a single registration requirement of anyone who lobbies regularly and substantially.

3. Conclusion

The combination of TinCup’s disqualification provisions and Proposition 73’s contribution limitations will reduce the impact of large contributions on the governmental process. Neither of these measures, however, will affect the high costs of running for office nor the overwhelming advantages of incumbents. Since Orange County is not a charter county, it cannot adopt expenditure ceilings along with public matching funds. As an innovator with TinCup, perhaps Orange County will take the lead in adopting expenditure ceilings in exchange for incentives other than public matching funds.

Table 12.7

**CHRONOLOGY OF SIGNIFICANT INDICTMENTS
FOR POLITICAL CORRUPTION BETWEEN 1974 AND 1978**

From December 1974 to the end of 1978, there were over 43 indictments of people involved in politics in Orange County. The indictments were a result of ten separate grand jury investigations. The charges generally fell into two categories: (1) bribery and graft and (2) breaking the law to win elections. Listed below are some of the more significant investigations, indictments and convictions.

December 10, 1974	Nine former Orange County Assessor's Office employees were indicted for illegally working on former Assessor Andrew Hinshaw's 1972 campaign for Congress. The nine subsequently pleaded guilty or were convicted.
December 19, 1974	Eight campaign workers for Rep. Jerry Patterson were indicted on charges of false registration to vote. They later pleaded guilty or no contest to misdemeanor charges.
April 22, 1975	Nine campaign workers for Assemblyman Richard Robinson were indicted on charges of false voter registration involving his 1974 campaign. All pleaded guilty to misdemeanor counts.
May 8, 1975	Rep. Andrew Hinshaw and Orange County Assessor Jack Vallerga were indicted. Both were tried. Hinshaw was convicted of bribery and conspiracy charges, and was defeated in a 1976 reelection bid. Vallerga was convicted of grand theft, conflict of interest and misappropriation, and was removed from office. Hinshaw was sentenced to two 14-year prison terms.
August 13, 1975	Orange County Supervisor Robert Battin was indicted by the County Grand Jury on charges of illegally using his county staff during an unsuccessful bid for the Democratic nomination for lieutenant governor. Battin was convicted and removed from office.
September, 1975	Supervisor Laurence Schmidt was investigated by District Attorney for failing to report an \$8,000 salary he received in 1974 from Dr. Louis Cella for acting as a PR consultant to the hospital. Many assert he did nothing for the money.
January 12, 1976	Dr. Louis J. Cella, Santa Ana physician and three associates, were indicted on 171 state and federal counts of tax evasion, Medicare fraud, theft and conspiracy involving an estimated \$2 million, most of which was allegedly channeled into political campaigns. Cella and two others were convicted in federal and state courts.
June 2, 1976	Architect Leon Hyzen was indicted on charges of offering a bribe to a member of the board of supervisors. Hyzen was convicted, fined, and placed on probation.
April 5, 1977	Loran Norton, former GOP state Senate candidate, was indicted on perjury charges involving contributions to his unsuccessful 1976 campaign.

July 1, 1977	Supervisors Ralph Diedrich and Philip Anthony, plus four other men, were indicted by the County Grand Jury on charges of perjury and conspiring to launder campaign funds, primarily for Anthony's 1976 campaign. Diedrich was convicted of bribery and pleaded no contest to violating state campaign finance laws. Anthony pleaded no contest to state campaign finance reporting violations.
October 14, 1977	Former Democratic Congressman Richard Hanna was indicted on charges of bribery, mail fraud and failure to register as a foreign agent in connection with the investigation of South Korean influence-buying in Congress. He was convicted.
February 21, 1978	Mafia informant and loan broker Gene Conrad, pleaded guilty to felony telephone fraud in a \$1.5 million loan deal, \$50,000 of which went to Supervisor Philip Anthony in the 1976 campaign.

Source: Larry Peterson, *Scandals: 10 Years Ago, Orange County Was State's Corruption Capital*, Orange County Register, Sept. 28, 1986.

Table 12.8

**TINCUP CHALLENGES: 1978 TO PRESENT
ORANGE COUNTY**

June 29, 1983	Supervisor Ralph Clark votes in support of a legislative bill to remove Bolsa Chica wetlands from the jurisdiction of the California Coastal Commission, after receiving a "major contribution" from Signal Landmark, the owner of Bolsa Chica, on 6/2/83. The district attorney investigated the matter but refused to prosecute because there was no criminal intent.
July 12, 1983	Supervisor Bruce Nestande returns \$18,000 in contributions to seven contributors. The source for all seven contributors was J. Patrick Moriarty, but Nestande's campaign manager claimed no knowledge of the source. (These contributions violated state disclosure law, not TinCup.)
Fall, 1985	Supervisor Bruce Nestande sends letter to potential contributors urging them to become "major contributors" without risking disqualification by signing affidavits to testify that the contributions are "entirely unrelated" to their business interests. Twenty contributors respond with contributions in excess of the then-\$1,622 disqualification limit. TinCup allows such contributions. Four of these twenty had projects pending with the county: <ul style="list-style-type: none"> • Robert Lintz, Sterling Homes Corporation. Gave Nestande \$7,000 on 12/30/85. Board considering extension of University Drive through Santa Ana Heights, which would benefit Sterling Homes. • James Peters, J.M. Peters Co. Gave \$2,500 to Nestande on 11/27/85. Several projects pending with the county, including 64-acre Bayview development in Newport Beach.

- George Argyos, Arnel Development. Gave \$5,000 to Nestande on 12/30/85. Zone change pending with board for 654-unit tract in south county.
- William Stewart, Attorney. Gave Nestande \$5,000 on 12/30/85. In 1985, received county contract to represent indigents.

- September 26, 1985 Judge Judith Ryan, Orange County Supervisor Court, rules that TinCup is “not unconstitutional on its face or in its application,” and that TinCup regulations apply to supervisors even when they run for local or statewide offices other than supervisor. Nestande is told that he may accept contributions in excess of the TinCup limit for his statewide race, but that he is prohibited from voting as a supervisor on matters affecting those contributors.
- August 21, 1986 Supervisor Nestande, who is running for Secretary of State, lobbies for and votes to approve Smith, Barney, Harris, Upham and Co. as underwriter for a \$270 million airport bond. Three months later Nestande receives \$13,000 from Smith Barney for his statewide campaign.
- September 25, 1986 Anthony Michael Otting pleaded guilty to one misdemeanor count for violating state law (not TinCup) prohibiting “laundering” of campaign contributions. The source of Otting’s contributions was his employer, GSX, a Massachusetts-based, trash hauling company. GSX contributed \$1,500 to several supervisors through several employees.

Sources: Jeffrey Perlman, *Elections Aid Tied to OC Bond Deal*, Los Angeles Times, Aug. 21, 1986; Donor Charged with Disguising Source of Funds, Los Angeles Times, Sept. 25, 1986

NOTES

1. Larry Peterson, *Scandals: 10 Years Ago, OC Was State’s Corruption Capital*, Orange County Register, Sept. 28, 1986.
2. Dan Walters, *The New California*, p. 36 (1986).
3. Growth in biotechnology has been encouraged in Orange County by local developers and community leaders. In 1985, the Irvine Company donated land and inventor-philanthropist Arnold Beckman donated \$20 million to build a major think-tank near University of California at Irvine to advance research in biotechnology and study the ethics associated with such advancements. “It’s estimated that Orange County received 25 percent of all the venture capital invested in biotechnology in 1983.” Dan Walters, *Giant Lurking in Shadow of LA*, Sacramento Bee, Mar. 18, 1986.
4. “Orange County received more Southeast Asian refugees—an estimated 100,000—than any other urban area in the nation. Hispanics remain the largest minority group in Orange County, with at least 20 percent of the county’s population. Hispanics and other minority populations live primarily in older housing in the cities of northern Orange County.” *Id.*
5. *Id.*
6. *Id.*

7. Until 1979, the Register's news reporting also reflected a libertarian philosophy. Reporters were required to use words like "taxpayer-supported school" instead of "public school." In 1979, the publisher changed this policy and restricted promotion of libertarian ideals to the editorial page alone.
8. Don Smith, *Political Gifts Ban Sought*, Los Angeles Times, Aug. 13, 1977.
9. Peterson, *supra* note 1.
10. *Id.*
11. Editorial, *Big-Money Influence in Elections*, Los Angeles Times, Oct. 18, 1984.
12. "I don't think that the D.A. played favorites," said Jeffrey Perlman, the *Los Angeles Times* political reporter and researcher for a series of exposés on political figures in the 1970s. "In the 1970s, the D.A.'s office was more political than today. Certain people believed that the office 'belonged to them.' Supervisor Diedrich and Dr. Cella wanted to be active in all campaigns, including nonpartisan offices like the D.A.'s office. Cecil Hicks knew that the Diedrich organization wanted to take control of his office. That fact may have made the D.A.'s office investigate with more vengeance. But once the office was active, it went after everyone without prejudice." Interview with Jeffrey Perlman, reporter, Los Angeles Times, June 5, 1986.
13. Editorial, *What's Going On?*, Los Angeles Times, Mar. 10, 1976.
14. *Buckley v. Valeo*, 424 U.S. 1 (1976).
15. Like Shirley Grindle, others in the new group were knowledgeable about how the county worked. One "TinCup" organizer was David Stein, General Manager for AVCO developers in south Orange County. He had testified before the grand jury about being approached by a supervisor for what Mr. Stein believed to be a bribe. He described for the grand jury a conversation with a supervisor in which Stein was told that his proposed development project was a "two-table problem," meaning that AVCO should purchase tickets for two tables at the upcoming fundraising event to be considered favorably in review of its proposed projects. The group also included Scott Ferguson, a former aide to Supervisor Riley; Mary Brooks, president of the League of Women Voters; George Benz, an attorney representing Common Cause; Dale Secord, environmental engineer for the Air Resources Board; Marty Strozier, a land planner; Joseph Woollett, president of the Orange County Association of International Architects; Robert Vasquez, a former Irvine Company planner; and Ralph Benson, an attorney for AVCO and a former County Counsel staff member assigned to the Orange County Planning Commission.
16. TinCup author Ralph Benson reportedly chose to call technical experts and lobbyists "County Influence Brokers" because he wanted to give them a "perjorative connotation in order to discourage their participation in campaigns." Interview with Shirley Grindle, TinCup co-author and citizen watchdog, May 1, 1986.
17. Supervisor Nestande had argued that the TinCup restrictions had disadvantaged him when competing against candidates from other counties that had no similar restraints. The county counsel replied that the law does not prohibit taking the money, only voting on related projects. Deputy County Counsel Terry Andrus was relieved at the court's ruling. "Since there are no restrictions on spending, then all a supervisor would have to do is declare for another office, collect campaign contributions for that office and spend them on his next supervisorial race." Maria LaGanga, *Nestande Bound by Local Law, Judge Says*, Los Angeles Times, Sept. 27, 1985. A Los Angeles Times editorial supported the application of TinCup to statewide races by supervisors: "[T]he real issue is whose interests are to be served, those of Nestande or those of the public?" Editorial, *Whose Interests Are No. 1?*, Los Angeles Times, Sept. 26, 1985.
18. According to California Elections Code Section 3710, an initiative that qualifies for the ballot but is instead adopted by a legislative board should be treated as if it was approved by the people and can only be amended by a further initiative. Kim Murphy, *County Cannot Amend Voter-Backed Campaign Law, Staff Says*, Los Angeles Times, Apr. 24, 1984.
19. Interview with Larry Peterson, reporter, Orange County Register, May 12, 1986.
20. Interview with Grindle, *supra* note 16. Grindle states that Richard O'Neill called a meeting of developer friends soon after passage of TinCup. At the meeting, O'Neill suggested that the group

of about 50 developers band together and create a PAC in order to get more money to their "friends" on the board. (PAC contributions are not subject to disqualification.) Grindle heard second-hand reports that O'Neill's proposal fell flat. "The developers in attendance *liked* TinCup," she said. "They were not interested in finding ways to give the supervisors more money."

21. Interview with Perlman, *supra* note 12.
22. Interview with a major Orange County contributor who wished to remain anonymous, May 12, 1986.
23. Interview with a major Orange County contributor who wished to remain anonymous, June 11, 1986.
24. Report from Orange County Registrar of Voters, "Major Campaign Contributors Listed by the Registrar of Voters pursuant to Section 1-6-6 of the Orange County Campaign Reform Ordinance," as of March 2, 1989.
25. Interview with Terry Andrus, Deputy County Counsel, Orange County, May 20, 1986.
26. Interview with Michael Capizzi, Assistant District Attorney, Orange County, May 12, 1986.
27. Interview with Perlman, *supra* note 12.
28. *Id.*
29. Orange County Registrar of Voters Report, *supra* note 24.
30. Jeffrey Perlman and Kim Murphy, *Campaign Law Activist Polices the Politicians*, Los Angeles Times, Dec. 4, 1983.
31. Interview with Grindle, *supra* note 16.
32. Doris Byron, *Many Pieces Missing in Campaign Donor Puzzle*, Los Angeles Times, May 22, 1980.
33. Interview with Peterson, *supra* note 19.
34. Interview with a contributor who wished to remain anonymous, May 12, 1986.
35. Interview with a former supervisor's aide who wished to remain anonymous, June 5, 1986.
36. Interview with a developer-contributor who wished to remain anonymous, May 12, 1986.
37. Interview with John Erskine, Executive Director, Orange County Building Industry Association, June 10, 1986.
38. Interview with Steve Malone, aide to Supervisor Roth and to former Supervisor Ralph Clark, Orange County, May 21, 1986.
39. Interview with a former supervisorial aide who wished to remain anonymous, June 5, 1986.
40. Interview with a developer-contributor who wished to remain anonymous, May 12, 1986.
41. Interview with Peterson, *supra* note 19; *see also* Larry Peterson, *Reform Measures: Aim of Cleaner Politics Achieved*, Orange County Register, Sept. 28, 1986.
42. *Quoted in* Doris Byron, *County Starts to Dismantle Its Campaign Reform Law*, Los Angeles Times, Jan. 24, 1979.
43. Interview with Bruce Nestande, then-Supervisor, Orange County, June 5, 1986.
44. Interview with Michael Stockstill, Director of Corporate Affairs, The Irvine Company, May 12, 1986.
45. Interview with Peterson, *supra* note 19.
46. Interview with a political observer who wished to remain anonymous, June 5, 1986.
47. Larry Peterson, *Race for Supervisor Most Expensive in OC Board's History*, Orange County Register, Feb. 6, 1987.
48. Interview with a political observer who wished to remain anonymous, Nov. 18, 1986.
49. Interview with Thomas Riley, Supervisor, Orange County Board of Supervisors, May 21, 1986.
50. Ramon McLeod, *What Do OC's Supervisors Do? 40% Aren't Sure*, Orange County Register, June 1, 1986.

51. *Beaver v. County of Santa Barbara*, U.S. District Court, CV88-0038-IH, July 13, 1988.
52. County Counsel opinions have concluded:
- The board of supervisors should adjust the TinCup disqualification limit to provide for cost of living adjustments tied to annual increases in the budget of the Fair Political Practices Commission. This strange adjustment factor contributes to the uneven TinCup limits, such as the current \$1,808 threshold for any four-year period. *Opinion*, April 18, 1980.
 - Loans, cash and in-kind contributions accumulate toward the disqualification limit in the same manner as cash contributions. *Opinion*, March 30, 1982.
 - Once a contribution is cashed, negotiated or deposited, it accumulates toward the disqualification limit, even if the candidate later refunds the contribution. *Opinion*, July 22, 1982.
 - Disqualification is required when a vote would have a “material financial effect” on a contributor, which county counsel has defined as: “Direct and indirect investments in business entities worth more than \$1,000; direct and indirect interests in real property worth more than \$1,000; sources of income of \$250 or more, and any business entity in which the major campaign contributor is a director, officer, partner, trustee, employee, or holds any position of management.” (Language from state Political Reform Act.) *Opinion*, Oct. 4, 1982.
 - When a supervisor runs for statewide office, contributions to that campaign also accumulate toward the disqualification limits, which can affect the supervisor’s votes as a member of the board of supervisors. *Opinion*, August 12, 1985.
53. Interview with Suzanne Slupsky, Elections Officer, Registrar of Voters, Orange County, June 12, 1986.
54. *Id.*
55. Interview with Stockstill, *supra* note 44.
56. Interview with Slupsky, *supra* note 53.
57. Interview with Capizzi, *supra* note 26.
58. Interview with Peterson, *supra* note 19.
59. Interview with Grindle, *supra* note 16.
60. Interview with Roger Stanton, Supervisor, Orange County, June 5, 1986.
61. Dave Leshner, *Stanton Runs Afoul of TinCup Limits*, Los Angeles Times, Sept. 24, 1987.
62. Interview with Nestande, *supra* note 43.
63. The United State Supreme Court, in *Buckley v. Valeo*, has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings when candidates accepted them voluntarily in exchange for limited public matching funds. (See Chapter 24, “Constitutionality.”)
64. Interview with Capizzi, *supra* note 26.
65. Cal. Gov’t Code §§91003 *et seq.* (West 1987).
66. *Buckley*, 424 U.S. 1 (1976).
67. The first supervisor to suggest that contributors consider using this loophole was Supervisor Bruce Nestande, who was then running for statewide office. Twenty contributors responded with contributions over the disqualification amount to Nestande’s statewide campaign, accompanied by waivers stating that their contributions were personal and unconnected to their business.
68. Interview with Andrus, *supra* note 25.
69. Editorial, *Law’s Loophole Needs Closing*, Los Angeles Times, Mar. 17, 1985.
70. Interview with Malone, *supra* note 38.
71. Interview with Nestande, *supra* note 43. The problem of determining “material financial effect” also exists for supervisors who serve on other boards and commissions, because of a 1983 amendment to the Political Reform Act. Under this state law, any board or commission member who receives a contribution of over \$250 in a year must disqualify himself or herself from votes

affecting the contributor. Orange County supervisors have had to abstain from several votes because of this restriction, even when the “material financial effect” is unclear. For example, Supervisor Vasquez, who serves on a committee of the Foothill/Eastern Transportation Corridor Agency, abstained from a vote on one company because he had received a contribution from a competitor. Jeffrey Perlman, *Fear of State Law Makes Supervisors Withhold Votes*, Los Angeles Times, Nov. 15, 1987.

72. Interview with Andrus, *supra* note 25.
73. Chris Knap, *Supes Say They Won't Curtail Voting Because of Union Gifts*, Orange County Register, Aug. 7, 1987.
74. “The lobbyists provision of TinCup did not eliminate lobbyists or their participation in campaigns,” according to Steve Malone, aide to then-Supervisor Clark. “Lobbyists are careful to avoid violating TinCup restrictions on them because they do not want to disclose every client that they have. Much of their work involves representation of clients who do not want to be identified. If they got on the ‘influence brokers’ list maintained by the registrar’s office, the lobbyists would lose the advantage of working for a client without identifying him. Lobbyists are now more active organizationally in campaigns and less active in making contributions.” Interview with Malone, *supra* note 38.

CHAPTER 13

Pasadena: Roses, Redevelopment and Rejected Reform

Candidates for city office in Pasadena pay a premium for a chance to be elected to a \$200 per month position. In one election, an unsuccessful challenger spent almost \$56 per vote; in another race, an incumbent spent \$78 per vote. One newspaper headline aptly commented, "Surefire Formula: Raise the Money, Lose an Election."¹

These skyrocketing campaign costs occurred despite Pasadena's restructured election process—from partially "at-large" to a completely "in-district" structure. Between the partially at-large election of 1979 and the completely in-district election of 1983, campaign expenditures climbed 300%. In response, the city council (known as the city "board of directors") considered a campaign finance reform. After extensive debate, the plan missed board approval by one vote.

The City of Pasadena lies at the west end of the San Gabriel Valley, just northeast of downtown Los Angeles. Although former state Attorney General and now state Supreme Court Justice Stanley Mosk once characterized Pasadena as a place for "little old ladies in tennis shoes," that characterization was questionable when made many decades ago and is even more inapt today.² More than a century old, Pasadena has grown from a Los Angeles satellite to a city of independent interests. Among other things, the city is known worldwide for its traditional New Year's Day events, the "Tournament of Roses Parade" and the Rose Bowl game.

Pasadena's neighborhoods currently reflect widely diverse areas of class and culture. As of 1986, Pasadena's population was 50% white while Latino and black populations each hovered around 20%. In recent years, a significant Armenian population has moved to Pasadena, now accounting for approximately 10% of the city's total population.³

Pasadena's city directors are elected to seven district seats. The board has recently reflected a moderate-to-liberal tendency. *Los Angeles Magazine* in 1986 labeled the board's composition as the "most dynamic" in the state as Pasadena's political leadership has begun to reflect the city's growing socioeconomic diversity.⁴ In 1977, Loretta Thompson-Glickman became the first black candidate elected to the city's board of directors. In 1980, Jo Heckman became Pasadena's first woman mayor. In 1982, Thompson-Glickman became the city's first black mayor.⁵

A. Pasadena Politics Turn From Traditional Citywide Pro-Development Emphases to Neighborhood Issues

Largely as a consequence of earlier pro-growth decisions by city leaders, issues of crime and neighborhood preservation have risen to dominate Pasadena's political agenda. During the late 1960s through the early 1980s, massive development and redevelopment literally transformed major parts of the city. By 1979, at least 1,000 homes had been displaced by redevelopment projects. An additional 3,500 households were uprooted to make way for construction of the 210 Freeway, an east/west commuter route, in the mid-1970s.⁶

As the city promoted aggressive growth policies, many Pasadenans felt left behind. "[In 1984], as many families were earning less than \$10,000 as were earning more than \$35,000."⁷ Crime has risen as well. Pasadena has suffered far more instances of murder, armed robbery and burglary than its neighboring cities of Glendale and Burbank.⁸

Many Pasadena residents were disturbed by the city's growth policies. They felt their neighborhoods were being disregarded in the development push (as evidenced by household displacements and increases in poverty and crime). They also deplored the destruction of Pasadena's historical landmarks. The 1974 demolition for a redevelopment project of one of the city's oldest buildings, the Neighborhood Church, served to highlight their concern.⁹

A counter-reaction developed, reflecting the shift of residents' concern toward "neighborhood issues." High levels of frustration by neighborhood leaders and historic preservationists found a channel into city politics with the coincidental adoption of district-by-district local elections.

B. Pasadena's Conversion to District Elections Increases Competition and Campaign Spending

In 1980, after voters narrowly passed a ballot initiative amending the city charter, the board of directors changed the structure of local elections from individual district primaries and citywide runoffs to a system of district-by-district elections. Previously, candidates had to receive 50% of the in-district vote to avoid a citywide runoff election, but many perceived this system as restricting minority participation and representation. A group of Pasadena ministers—the Ministerial Alliance—filed suit against the city in 1979 on these grounds, and a compromise settlement resulted in the 1980 ballot initiative.¹⁰

Together with the shift in emphasis to neighborhood issues, the new voting structure produced significant changes in Pasadena's elections. The principal and most immediate change was increased competition between candidates, breaking

the city's long tradition of incumbent dominance. In the last four elections, three incumbents have been upset. While fostering increased competition, the district election change has also drawn up the cost of Pasadena campaigns. (See Table 13.1, "Pasadena Data Profile.")

Table 13.1
PASADENA DATA PROFILE
Local Government

STRUCTURE: Charter drafted in 1886; weak mayor system; seven city directors elected by district (as of 1981); mayor appointed; city attorney and city clerk appointed by board of directors.

CITY BUDGET: \$206 million (1989)

CITY FACTS: Population (1989): 132,200; Area: 23.16 square miles; Registered voters (Apr. 1989): 66,308; Voter turnout (May 1987): 20%

Contributions

	<u><i>Pasadena</i></u>	<u><i>Small Jurisdictions</i></u>	<u><i>All Jurisdictions</i></u>
Business	37%	40%	52%
Individual	39%	45%	33%
Labor	2%	2%	4%
Political	2%	5%	6%
Candidate	19%	8%	5%
Non-Election Year	0%	6%	42%
Election Year	100%	94%	58%

Expenditures

	56%	57%	38%
VOTER CONTACTS			
Broadcast	0%	0%	7%
Literature	50%	48%	26%
Newspaper	3%	6%	2%
Outdoor	3%	3%	3%
OVERHEAD	44%	43%	62%
General	18%	17%	22%
Personnel	8%	5%	6%
Fundraising	4%	6%	13%
Survey	4%	5%	4%
Consulting	9%	8%	10%
Travel	0%	0%	1%
Candidate Transfer	0%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

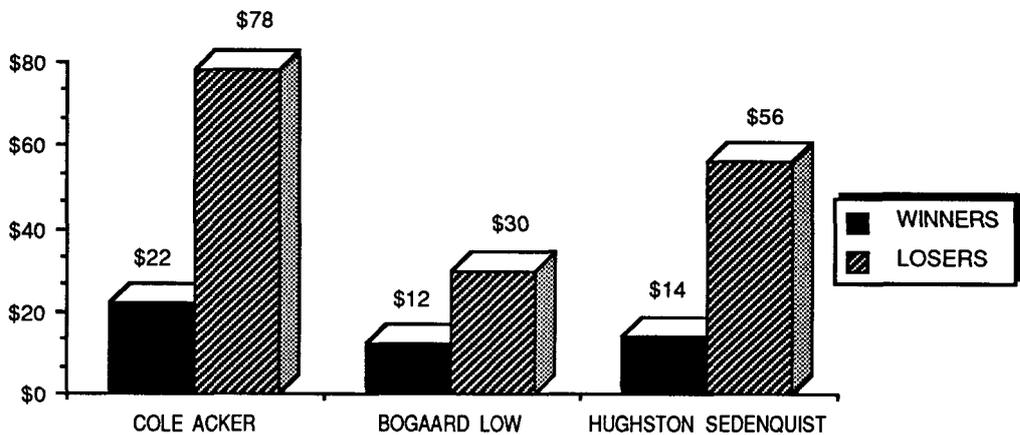
1. The Escalation of Election Costs

With the electorate drastically reshaped from a single citywide constituency of 133,000 voters to seven district constituencies of 19,000 each, election costs were expected to diminish. Yet exactly the opposite occurred. In 1979, under the citywide runoff format, ten candidates combined spent a total of approximately \$62,000. In 1983, with elections conducted completely inside each of seven districts, ten candidates together spent almost \$196,609—a threefold increase in only four years.¹¹ Instead of reducing overall campaign costs by giving candidates fewer voters to reach, intense competition sent election spending skyrocketing.

In 1979, Steve Acker raised and spent approximately \$8,000 to win his District 2 seat. In the election of 1983, Acker’s unsuccessful reelection campaign raised and spent approximately \$50,000—a sixfold increase. In 1979, William Bogaard raised \$2,244 to hold his District 6 seat; in 1983, Bogaard raised and spent approximately \$22,000—almost 10 times the amount he raised and spent in his 1979 campaign.¹²

These escalating costs are also reflected in “spending per vote” ratios.¹³ Between 1983 and 1985, Pasadena candidates spent the highest amount per vote (\$21.55) of any jurisdiction in the Commission’s 17 sample jurisdictions which averaged \$3.90 per vote. Ironically, the more Pasadena candidates spent per vote, the less successful they were politically: losers paid much more to lose than winners did to win. Three races in particular during the 1983 and 1985 elections illustrated this phenomenon. (See Table 13.2.) Steve Acker, Maria Low and Margaret Sedenquist had the highest cost per vote figures in Pasadena, and each of them lost.

Table 13.2
SPENDING PER VOTE
PASADENA



Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

2. The Effect on Contribution Patterns

The 1980 change to district-by-district elections may have been expected to encourage smaller, in-district and individual contributions. Here again, increased competition between candidates and the escalating debate on growth produced the opposite effect. In the 1983 and 1985 elections, 54% of total contributions received by Pasadena candidates were in amounts of \$250 or more; \$1,000 and over contributions accounted for almost a third of all the contributions received. Business contributions

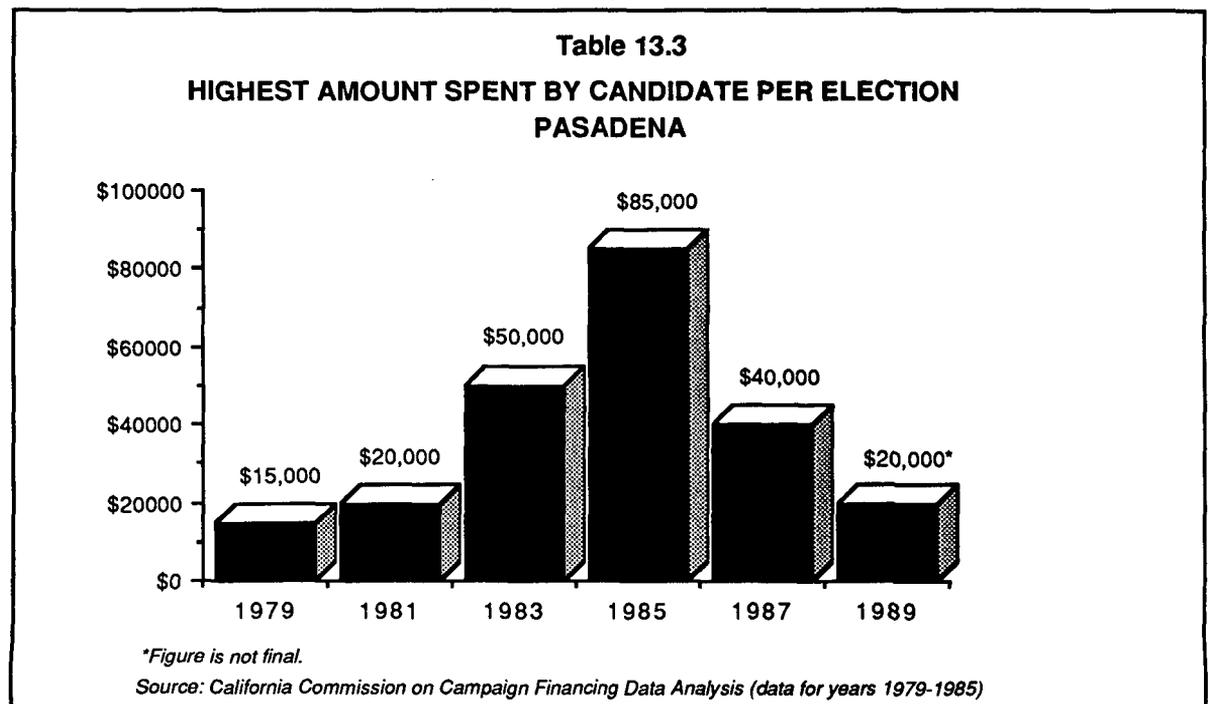
largely accounted for this surge of large contributions, constituting approximately 43% of all contributions of \$1,000 and over. Candidates accepted equal percentages of contributions of \$100 to \$1,000 from business and individual sources—these amounts were comparable to the Commission's average for small jurisdictions.

In sharp contrast with overall contribution patterns in the Commission's entire sample, Pasadena incumbents do not dominate fundraising sources. Incumbents and challengers, on average, receive nearly equal amounts from business. Challengers obtain higher average amounts of contributions from individual, labor and candidate sources.¹⁴ (See Table 13.5.) This apparent illustration of an appropriate fundraising equilibrium is largely a measure of Pasadena's competitive electoral system. Business contributors heavily back incumbents, while challengers accept the largest portion of their contributions from individuals. The flexibility in the fundraising system indicates more issue-based, rather than image-based, politics and a strong sense that sitting incumbents can be defeated.

Candidate money was a significant factor in only one race studied. In her 1985 bid to defeat incumbent Jess Hughston, challenger Margaret Sedenquist lent her campaign \$35,000. (Hughston had raised only \$24,000 in total contributions.) While this eleventh-hour loan was critical in the production of last-minute campaign literature "hit pieces," it proved ineffective and Hughston won the race. Without Sedenquist's candidate money included in the data, the overall percentage of candidate money has been small in Pasadena elections to date.

3. The Effects of District Elections

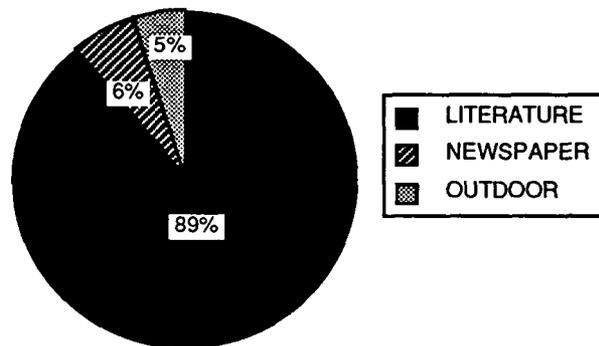
Pasadena's recent campaign finance patterns reflect the wide-ranging influences of district-by-district elections. District elections have engendered both high-cost competitive election battles, as well as low-cost community grassroots campaigns, generating dramatic swings in campaign finance patterns. While spending records were successively shattered between 1979 and 1985, election costs declined somewhat in 1987 and significantly in 1989. (See Table 13.3.)



Initially, Pasadena's election costs rose dramatically due to both the pressure of competition and an accompanying debate on the city's future growth. District-by-district elections lowered the cost and thus increased the frequency of sophisticated targeted mail techniques. Jim Tranquada, former reporter for the *Pasadena Star-News*, says of Pasadena's rising expenditures, "Campaign costs went up, in part due to a much clearer definition of campaign strategies."¹⁵ Candidates, while speaking to much smaller constituencies, knew much more about the individual voter. The use of sophisticated "targeted voter" techniques to focus on the interests of Pasadena voters drove up campaign costs.

Illustrating this shift, candidates in the 1983 and 1985 races spent 89% of their voter contact moneys on campaign literature. Traditional small town campaign methods took a back seat to targeted literature expenditures. (See Table 13.4.)

Table 13.4
VOTER CONTACTS EXPENDITURES
PASADENA*



*Pasadena recorded no broadcast advertising expenditures

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

In 1989, however, candidates for an open seat waged a low-cost grassroots campaign. According to most recent campaign reports, none of the candidates spent more than \$20,000. Candidate Chris Holden narrowly defeated two other opponents. Costs fell because the campaign was conducted in a district with traditionally low spending and because the campaign lacked a polarizing issue, such as "no growth."

Many cities have debated the relative merits of district-by-district versus at-large elections. These debates have usually centered on whether a particular structure would enhance representation or lower campaign costs. Pasadena's experience indicates the answers are complex. Although district-by-district campaigns can frequently increase campaign spending, because competition can be more fierce and targeted mailings more accessible, costs can also drop when the campaign lacks a galvanizing issue to attract voter interest.

C. District Elections and Growth Debate Spark Shifts in City Power

In the early 1980s, the growing debate over the rate of development hit a turning point when a plan to convert downtown Pasadena into a center for high-rise development was divulged. This, together with the explosion in development and re-

development in the 1970s, infuriated those concerned about neighborhood preservation. The effects on Pasadena's elections were immediate.

In 1981, real estate and development interests were blindsided when neighborhood candidate and former school teacher Jess Hughston pulled an upset victory in the primary over a pro-development incumbent. According to Hughston, the pro-development incumbent in the race was so sure of victory she did not even run a campaign.¹⁶

Table 13.5

**INCUMBENT/CHALLENGER DATA PROFILE
PASADENA**

Percentage of Total Contributions Raised From Each Source

	<u>Incumbents</u>	<u>Challengers</u>
Business	52%	29%
Individual	41%	39%
Labor	1%	1%
Political	4%	0%
Candidate	2%	30%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	49%	36%	37%	100%	3%
Challengers	51%	64%	63%	0%	97%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

Unwilling to be surprised again, real estate and development interests formed the Pasadena Political Action Committee (PasPAC) for the 1983 elections and, together with other pro-development forces, contributed over \$40,000 to candidates favoring their positions. The *Pasadena Star-News* characterized the election as a "contest between downtown development and neighborhood improvement and preservation."¹⁷

In one race, PasPAC contributed almost \$25,000 to challenger Maria Low in her effort to defeat then-incumbent William Bogaard, a Pasadena historic preservationist and neighborhood issues advocate. PasPAC's contribution alone was more than Bogaard spent in the entire election. Approximately 68% of Low's contributions came in over \$250 sums. Bogaard reported no contributions over this amount.¹⁸

In the week prior to the election, Bogaard charged Pasadena business and real estate interests with "kidnapping the election." Stating that real estate and business PACs were "making their sinister influence felt," Bogaard angrily called PasPAC "a

small group of Pasadena business interests attempting to invade District 6 with their corporate billfolds open"¹⁹

John Grech, then-Chairman of PasPAC, answered these charges, stating, "There is no *quid pro quo*. There is no deal. No candidate made any promises." PasPAC contributed to candidates, he said, who would "knowledgeably exercise the powers of local government for the best interests of the entire community."²⁰ Bogaard overcame PasPAC's challenge and held his seat with a narrow victory.

Another 1983 race reinforced the clear message that political power was shifting to neighborhood candidates opposing business, development and real estate interests. Challenger Rick Cole defeated PasPAC-backed incumbent Steve Acker. Acker received more than \$12,500 from PasPAC and other real estate and business interests combined; he spent nearly \$50,000—approximately \$70 per vote. In contrast, Cole raised and spent under \$22,000, or \$22 per vote.

D. The Board of Directors Considers and Rejects Campaign Reform

"The question is whether Pasadena's tradition of grassroots politics, founded on a personal relationship between the city director and the citizens, will continue without some new electoral procedure in our city."

— William Bogaard,
City Director²¹

"We are in danger . . . if money becomes the most important ingredient in the election process. The specter of a half-million dollar election hangs over our city hall."

— Muriel Arnold,
League of Women Voters²²

The quantum leap in Pasadena candidates' campaign spending, combined with the growth in PAC activity, led to calls for campaign finance reform from the Pasadena chapters of the League of Women Voters and Common Cause. Members of these two groups joined other community leaders in 1983 to form the "Coalition for Equitable Campaign Financing" which advocated a campaign reform package containing contribution limits.

Leading the reform movement were two directors who had previously been targets of increased campaign spending—Rick Cole and William Bogaard. In a column published in the *Pasadena Star-News* months after the 1983 election, Bogaard cited his concern that the long-standing Pasadena tradition of "door-to-door walking, community forums and simple mailing pieces" had ended.²³ Bogaard argued for a strict set of contribution limits together with stricter disclosure on PACs, requiring them to "disclose the names of their contributors prior to each election."²⁴

1. Reform Proposal

In September of 1983, the board of directors instructed a three-member subcommittee consisting of Directors Cole, Bogaard and Heckman to consider and draft a campaign finance reform ordinance. In mid-1984, the subcommittee produced a plan designed to:

- Limit total campaign contributions from individuals and PACs (the limits were not specified);
- Prohibit contributions from anyone other than individuals and PACs;
- Limit cash and anonymous contributions to \$50;
- Establish a seed money exemption, allowing candidates to raise their first \$42,000 free of contribution limits;

- Mandate stricter reporting requirements for PACs; and
- Provide candidates the opportunity to sign a voluntary fair campaign practices agreement involving a pledge of “fairness” in campaigning and the exchange of campaign literature between candidates.²⁵

Within days of the proposal’s introduction, vigorous opposition was voiced from the Board of Realtors, the Pasadena Chamber of Commerce, PasPAC and the *Pasadena Star-News* editorial board. The *Star-News* suggested that the proposal was constructed only to protect the incumbents who favored it. “[M]aking [contribution] limits the major focus of such reforms cheats the public and ensures a degree of permanency to incumbents,” the newspaper said. The *Star-News* charged that passage of the proposal would be a “denial of the democratic process” and urged that it be “quickly toss[ed] . . . in the trash can.”²⁶ PasPAC chairman John Grech charged the proposal “could be captioned the ‘incumbency guarantee ordinance.’”²⁷

In support of the proposal, League of Women Voters representative Muriel Arnold testified, “Other cities are protecting their electoral process. Voters are best served by candidates debating issues, not raising money.”²⁸ Other supporters maintained the ordinance would significantly curtail contributor influence.

The proposal was met with a mixed reception by the board of directors. Director Jo Heckman feared that the proposal would simply make candidates and contributors “look for ways to cheat” by contributing and receiving donations just under the enforceable limits.²⁹ Directors William Thompson and John Crowley also expressed their doubts about the proposal. Directors Cole and Bogaard maintained unwavering support for the measure, with Director Jess Hughston eventually joining their fight.

Then-Director Loretta Thompson-Glickman’s undecided swing vote made the outcome of the board’s decision unknown until the actual vote occurred on May 29, 1984. When she eventually voted “no” along with Heckman, Thompson and Crowley, the ordinance was defeated. Thompson-Glickman said she feared the proposal would “restrict the very people we are trying to aid.” She concluded, “[The proposed ordinance] is not going to tie the hands of PACs or wealthy donors, but of smaller organizations [that women and minorities depend on for contributions].”³⁰

Rick Cole angrily reacted to the ordinance’s demise. “I want to send a message very loud and clear that the failure to enact this reform package today will require Pasadenans to exercise extra vigilance . . . and fight very hard so that local government is not corrupted, as state and national politics have been.”³¹

The board’s rejection of the ordinance, however, drew lavish praise from its opponents. The *Star-News* applauded the board for “showing class.” Its decision, the newspaper said, “augers well for the city’s future.”³² Supporters, however, felt “let down.” Some complained that the directors had failed to exert a vigorous effort on behalf of the proposal in the days leading up to the board’s vote.

2. Passage of a Weaker Ordinance

A few months after defeat of the campaign finance reform measure, the board of directors passed a much less ambitious campaign ordinance. This measure contained two pieces of the original proposal—stiffer reporting requirements for PACs and a voluntary Fair Campaign Practices Agreement.

Under the voluntary agreement, candidates pledge to abide by a code of fairness in their campaigns. All campaign mailers produced within 14 days of the election must be turned over to the candidate’s opponent(s) 48 hours before distribution. All candidates in a particular race must sign the agreement for it to apply. Any time one of the signed candidates breaks the agreement, none of the other candidates in the race has to abide by its provisions.

So far, the Voluntary Fair Campaign Practices Agreement has not been successfully implemented. In 1987, for the first time all candidates in a race pledged to follow its "fairness" provisions. When one candidate in the 1987 election apparently inadvertently violated the campaign mail provision, however, the agreement was abrogated for all candidates.

City Clerk Pam Swift believes the voluntary Fair Campaign Practices Agreement does not work because it is completely unenforceable except through the ballot box. She believes that substantial changes must be made before it can fulfill its intended purpose—to encourage campaigns to take the "high road."³³

E. The 1985 Election Witnesses the Most Expensive Campaign in Pasadena History

Margaret Sedenquist must not have foreseen her own destiny in the 1985 election when she spoke against the proposed campaign reform ordinance in 1984. She maintained then that the proposed measure would "greatly harm our city" and that it was an incumbency guarantee—officeholders would have the ability to raise large campaign war chests.³⁴

Trying to defeat incumbent Jess Hughston in the 1985 election, however, Sedenquist raised and spent the largest campaign war chest in Pasadena election history. Raising slightly more than \$80,000 and spending over \$85,000, she lost by only 175 votes. Her spending topped the record set in 1983 when unsuccessful incumbent Steve Acker raised and spent approximately \$50,000.

Sedenquist was primarily financed by PasPAC and numerous realtor PACs throughout California. She raised only 4% of her contributions in sums of under \$100 and personally contributed more than \$35,000 to her own campaign. Sedenquist raised 40% of her donations from business sources and 12% from individual donors contributing \$100 or more.

Incumbent Hughston, on the other hand, raised and spent approximately \$24,000. Fifty-five percent of his contributions came in sums under \$100. Of the contributions received in amounts of \$100 or more, businesses contributed just under 10% and individuals gave 17%. Hughston, in addition, took out a \$4,000 loan.

While Hughston ran a grassroots campaign relying on door-to-door canvassing and neighborhood organizing, much of Sedenquist's money was spent on professional mailings, phone banks and campaign staff. Sedenquist's literature budget alone was twice the amount Hughston spent on his entire campaign.³⁵

Pasadenans felt the amount of money Sedenquist raised and spent hurt her campaign. Voters were disturbed that Sedenquist had raised so much "out-of-town money." The amount of money spent on negative campaign mailers—in some cases even attacking the way Hughston dressed—also had a detrimental effect.

F. Pasadena Politics and Campaign Financing Enter New Phase

Increased competition fostered by district-only elections and the resulting decline in pro-development influence over city leadership have facilitated a distinct change in Pasadena's campaign spending and revenue patterns.

Many Pasadena candidates now take for granted their need for expensive campaign techniques—sophisticated phone bank techniques, slick mailing strategies and consultants. Candidates raise large campaign war chests not in response to their opponents' fundraising but to pay for "targeted voter strategies" and sophisticated campaigns.

Kathryn Nack, who in the 1987 election scored an upset victory over incumbent William Cathey, said she knew at the outset that her campaign would have to spend

\$40,000. Her estimate was not a response to Cathey's monetary situation but rather an accurate estimate of the cost of running an effective Pasadena campaign which would include an abundance of campaign literature and a professional consultant. "Had we not spent the money, we would not have won," Nack maintains.³⁶ Nack just missed being forced into a runoff by 0.3% of the vote.

The importance of a large campaign war chest has already diminished the potency of the typical lesser-funded candidate who engages in small town grassroots campaigning. Nina Cash, for example, was ignored as a candidate against Nack and Cathey in 1987. Cash sent out modest mailers, engaged in grassroots campaign activities and participated in candidate forums, spending less than \$3,000. Although, according to Cash, voters watching the candidate forums supported her views with enthusiasm, she was unable to reach other voters effectively in the district with the same level of sophistication as her opponents. She gained only 4% of the total vote.³⁷

Jess Hughston and Rick Cole won their campaigns using grassroots strategies. They both stated, however, that if their opponents' large war chests had been used more efficiently, the results of their two elections could have been quite different. Cole's concern is not that his opponents spent so much money and lost but that they spent so much money and "almost won."³⁸

In 1989, pro-development and slow-growth forces focused their attention away from the board of directors campaigns and waged an expensive battle over two slow-growth ballot measures, one backed by a citizens group known as "PRIDE" (Pasadena Residents In Defense of their Environment) and the other proposed by the board of directors. Pro-development forces spent approximately \$85,000 in their campaign to defeat both measures, while the PRIDE forces spent no more than \$12,000. Pasadenans, continuing a trend of anti-development sentiments, easily passed the sweeping PRIDE measure, despite the expensive campaign against it. The less stringent board of directors measure, with less than \$500 spent on its behalf, went down to defeat.

The only competitive city director race to have taken place in 1989 occurred in District 3, where Chris Holden narrowly defeated Michael Zinzun and Gretchen Sterling in the primary. Costs in this race were not a factor, as each candidate spent under \$20,000 in grassroots campaigns. Most of the city's contributor base was drawn, instead, to the slow-growth ballot measure controversy.

The elections of 1983 and 1985 may have constituted a traumatic transition from the small town electoral techniques of Pasadena's past to the sophisticated high-tech campaigns of Pasadena's future. These campaigns broke new ground for high spending and sophisticated campaign strategies and established new norms for future elections. In 1987 and 1989, although overall campaign spending diminished slightly,³⁹ Pasadena's new expensive campaign trends suggest that campaigns run solely at grassroots funding levels and with neighborhood canvassing strategies may become obsolete without a ceiling on campaign spending.

G. Conclusions and Recommendations: Comprehensive Reforms May Be Needed

Higher campaign costs in Pasadena have begun to deter promising candidates who simply do not have the financial means to run expensive campaigns. To reduce the escalation in Pasadena's campaign spending, the Commission suggests that the city consider comprehensive campaign finance reforms that address the specific problems of large campaign contributions and unlimited spending.

1. Expenditure Ceilings

The Commission believes that Pasadena, a charter city, ought to consider expenditure ceilings as the most important reform for its city elections. A reasonable cap on spending—allowing for adequate challenger spending—would encourage candidates to pursue more efficient grassroots campaign strategies and help to foster “a personal relationship between the city director and the citizens.”⁴⁰ Expenditure ceilings would also cause Pasadena’s election costs to be less drastically affected by the ongoing debate over city growth.*

In consideration of Pasadena’s past spending trends, the Commission suggests an expenditure ceiling of \$35,000 per candidate, per election. Winners (challengers and incumbents) in the hotly contested 1983 and 1985 elections spent no more than \$24,000. Their campaigns were grassroots and community based. In 1987, winning candidate expenditures nearly doubled, with candidates spending an average of \$40,000 on targeted mail-based campaigns. A cap on spending would halt this escalation and help to ensure that the political process be kept open to community-based and grassroots campaigns.

If Proposition 73’s provisions are found not to apply to charter cities such as Pasadena, the Commission recommends the use of partial public matching funds as the best encouragement for expenditure ceilings. If, however, Pasadena and other charter cities are found to be subject to Proposition 73’s provisions, city officials are encouraged to examine an alternative incentive for acceptance of expenditure limits: higher contribution limits for candidates accepting expenditure limits. (For a more detailed discussion, see Chapter 23, “The Commission’s Model Ordinance.”)

2. Contribution Limitations

As part of comprehensive reforms which include expenditure ceilings, the Commission recommends that Pasadena adopt a \$250 contribution limit per candidate per election. Such limits would immediately curtail large PAC contributions, and the public’s perception of a board of directors unaffected by very large campaign contributions would be greatly enhanced. (For further discussion, see Chapter 23, “The Commission’s Model Ordinance.”)

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, “Constitutionality.”) With the voter’s adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as Pasadena) and charter counties. The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, “Proposition 73.”) If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure ceilings. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, “The Commission’s Model Ordinance,” for discussion of this alternative.)

3. Conclusion

Pasadena's change to district-by-district elections prior to the 1981 campaign was intended to encourage more competition and minority participation in the political process. The change has indeed generated more competition. This increased competition, however, has been accompanied by a major increase in spending and more sophisticated and expensive campaign techniques. The Commission understands that the city has formed a task force to examine anew the desirability of campaign finance reforms. This task force will look at the impact of Proposition 73 to see if its contribution limits can have an effect on Pasadena's elections. If it does not have a major impact, then the task force will consider the further reforms that may be essential to ensure both competitive and grassroots campaigns.

NOTES

1. Larry Wilson, *Surefire Formula: Raise the Cash, Lose an Election*, Pasadena Weekly, Mar. 21, 1985.
2. David Chagall, *Pasadena City Council: Most Dynamic*, Los Angeles Magazine, July, 1986.
3. William Trombley, *Pasadena: Feeling Its Oats at 100*, Los Angeles Times, June 8, 1986.
4. *Id.*
5. Ann Schied, *Pasadena: Crown of the Valley*, p. 182 (1st ed. 1986)
6. *Id.*
7. Trombley, *supra* note 3.
8. *Id.*
9. Schied, *supra* note 5.
10. Pasadena's 1980 shift to a system of district-by-district elections capped an 11-year evolution in the city's electoral system. Before 1969, board members were elected in at-large primary and general elections. In 1969, however, the city changed its election format, mandating a hybrid district primary and citywide runoff. Under this formula, a candidate had to receive 60% of the vote in the district to avoid a citywide runoff. Because it was nearly impossible for a minority candidate to receive this margin, especially if more than three or four candidates were running, the new system tended to ensure the same results that had occurred before the district primaries were instituted—a board dominated by candidates who had diminished interest in the needs of their individual district and minority constituents.
John Turner Alexander, a popular black candidate in the 1969 election, fell victim to this election format. After receiving over 50% of the vote in his district, Alexander was still forced into a citywide runoff where he was trounced. In 1972, the 60% rule was changed to 50%. (Schied, *supra* note 5.)
11. Dick Lloyd, *Campaign Reform Faces Opposition*, Pasadena Weekly, May 24, 1984.
12. Dick Lloyd, *City Board Election Nears Record Campaign Costs*, Pasadena Star-News, Feb. 12, 1983.
13. The "spending per vote" was derived from dividing a candidate's vote total into the amount he or she spent on a given election.
14. In the elections studied by the Commission, there was only one "political" contribution. Friends of Supervisor Mike Antonovich contributed \$2,000 to the 1983 reelection campaign of Steve Acker.
15. Telephone interview with Jim Tranquada, former reporter, Pasadena Star-News, Mar. 7, 1987.
16. Interview with Jess Hughston, City Director, City of Pasadena, Mar. 12, 1987.
17. Dick Lloyd, *Cole Takes Race; Incumbents Win*, Pasadena Star-News, Mar. 9, 1983.

18. Jim Tranquada, *Law's Long Arm May Reach Into Campaigns*, Pasadena Star-News, May 22, 1984.
19. Dick Lloyd, *Big Election Contributions Spur Claim of Vote "Kidnap,"* Pasadena Star-News, Mar. 3, 1983.
20. *Id.*
21. William Bogaard, *Will Pasadena's Grass Roots Tradition Survive?*, Pasadena Star-News, Oct. 9, 1983.
22. Jim Tranquada, *Campaign Control Foes Speak*, Pasadena Star-News, May 23, 1984.
23. Bogaard, *supra* note 21.
24. *Id.*
25. Tranquada, *supra* note 22.
26. Editorial, *Incumbents Ready to Quell Challengers*, Pasadena Star-News, May 13, 1984.
27. Tranquada, *supra* note 22.
28. *Id.*
29. *Id.*
30. Jim Tranquada, *Pasadena Won't Limit Campaigns*, Pasadena Star-News, May 30, 1984.
31. *Id.*
32. Editorial, *Campaign Lid Rejection Shows City Board Class*, Pasadena Star-News, June 1, 1984.
33. Telephone interview with Pam Swift, City Clerk, City of Pasadena, Apr. 2, 1987.
34. Lloyd, *supra* note 11.
35. Although Sedenquist's mailing pieces were blistering in their attacks, they were at least answerable with printed retorts. Director Cole, who worked on the Hughston campaign, says the most damaging attacks were waged over the phone. While the tone of the Sedenquist campaign's "phone rhetoric" was similar to its campaign's literature, its effect proved to be more potent. "We would contact voters to try and enlist their support and find that they were believing something that was completely untrue, and something we had never heard before," Cole explained. "When we asked these voters where they got their information from, they said, 'from the phone.'" Since this strategy allowed the message to be delivered one-to-one, there was no way for the Hughston campaign to know what was being said, and to whom it was being said. Unlike the "public" nature of mailings and newspaper ads, phone bank charges were more clandestine, and thus harder to rebut. (Interview with Rick Cole, City Director, City of Pasadena, Mar. 17, 1987.)
36. Interview with Kathryn Nack, City Director, City of Pasadena, Mar. 11, 1987.
37. Interview with Nina Cash, candidate for Pasadena Board of Directors, Mar. 13, 1987.
38. Interview with Cole, *supra* note 35.
39. Election spending in 1987 may have diminished due to a relative calming of the redevelopment issue. In the 1983 and 1985 races, pro- and anti-growth candidates took heated and defensive positions relating to redevelopment which resulted in the astronomically high amounts spent by Margaret Sedenquist, Maria Low and others.
40. Bogaard, *supra* note 21.

CHAPTER 14

The City of Sacramento: Developing Into a Major League City

Formed over a century ago, when Los Angeles was “just a dusty village surrounded by farms and ranches,”¹ the City of Sacramento languished for over a century while cities up and down the West Coast—Los Angeles, San Francisco and Seattle—flourished.

In the early 1980s, Sacramento suddenly became a viable alternative to congested and expensive coastal enclaves. Developers filled the gap in civic leadership, bringing in a National Basketball Association franchise (the Sacramento Kings), building a new sports arena and backing a political novice for mayor who nearly upset a 12-year city council veteran. In the midst of this political upheaval, the city council sought to reduce the influence of real estate developers over local elections by passing Sacramento’s first campaign finance ordinance.

The City of Sacramento is almost as old as the State of California. The discovery of gold in 1849 spurred the city’s early growth. Approval of its charter in 1850 was one of the state legislature’s first acts—and Sacramento’s second try at cityhood.² But natural disasters eroded Sacramento’s early economic strides. The “Great Flood of 1850” forced the entire city’s removal and reconstruction. Soon after, cholera broke out and 80% of the city’s population left town. Sacramento recovered slowly.

In 1854, Sacramento made a short comeback when it was chosen as the permanent location for the state capital³ and again when it became the Western terminus for the transcontinental railroad. But for most of the 20th century, Sacramento “dozed along the Sacramento River, a slightly seedy, overgrown farm town, hot in the summer, cold and clammy in the winter, best known as the seat of a small, mostly part-time government that came alive for a few months each year when the legislature was in session.”⁴ During this 100-year lull, Sacramento relied primarily on jobs created by state government and nearby military bases. Then, following World War II, Sacramento began to experience its second major boom.

A. Uneasiness Over Rapid Growth Creates Climate for Reform

Sacramento’s population spurted after World War II. Nearby military bases grew, defense contractors burgeoned and California’s first suburban shopping center opened in 1945, just beyond the city limits. But despite these initial changes, Sacramento remained a nice place “to be *from*—90 minutes from the Bay Area, 90 minutes from the wine country, 90 minutes from Lake Tahoe. Nobody went *to* Sacramento . . .”⁵ But by the mid-1980s, an observer noted, “The burg that refers to itself as the ‘Camelia City’ and the ‘River City’ is on the verge of becoming a ‘Big League City’ with all the attendant joys and frustrations.”⁶ A 1987 Wharton Econometrics study predicted that Sacramento would be the “fastest-growing urban area in America within three years.”⁷ Relatively sudden and dramatic changes in the demographics, economics and growth of Sacramento presented unprecedented challenges to local government. How much development should be allowed, and where should it go? What regional transportation solutions should be pursued? How much agricultural land, if any, should be preserved?

1. *Developers and Sacramento’s Economic Boom*

Prior to 1983, local politicians aligned themselves primarily with the “civic gentry”—Sacramentans who opposed rapid growth and sought to preserve agricultural land and the city’s small town atmosphere. When developers Gregg Lukenbill and Joe Benvenuti first approached the city council to develop North Natomas, a large piece of agricultural property between the city center and the airport, they received little encouragement. Previous city councils had set aside the area for agricultural preservation.

Developers Lukenbill and Benvenuti then unleashed a novel public relations strategy. They bought the Kansas City Kings basketball franchise and promised to bring the team to Sacramento. They acquired county approval to build a temporary stadium just outside the city limits and placed a measure on the city ballot to fund a new stadium. They backed political newcomer Ross Relles in the 1983 mayoral race. Relles’ campaign emphasized his support for a new stadium within the city limits and for new growth in the city. His candidacy crystallized the pro- versus anti-growth question in Sacramento politics. When Relles came within 1,000 votes of defeating 12-year council veteran Anne Rudin, elected officials were forced to take note. “In the bitter mayor’s race, it became abundantly clear to all camps . . . that the premier issue was the sports stadium.”⁸ Councilman David Shore was among those caught off guard; Relles actually won the most mayoral votes in Shore’s District 1. Shore polled his district and found that support for the stadium and development around it was about 65%.⁹ Other polls confirmed this trend.

Council policies quickly became less supportive of the “civic gentry that want[ed] to shield its ‘River City’ from the joys and trials of big city status.”¹⁰ The city council approved the building of a new sports arena. In May 1986 the council also voted to allow development in North Natomas near the new stadium, including housing for 60,000 new residents, “jobs for at least that many,”¹¹ a sports park and a

200-acre park with a bicycle velodrome. In early 1988, developers, including Lukenbill, announced another multimillion dollar deal with Atlantic Richfield Co. to finance construction of a \$40 million baseball stadium adjacent to the new basketball arena.¹²

Table 14.1

SACRAMENTO DATA PROFILE**Local Government**

STRUCTURE: Charter adopted in 1920; weak mayor system; eight city councilmembers elected by district; mayor elected citywide; city manager appointed by council.

CITY BUDGET: \$286.2 million (fiscal year 1988-89)

CITY FACTS: Population (1989): 339,900; Area: 95 square miles; Registered voters (Apr. 1989): 188,800; Voter turnout (Sept. 1987): 33%

Contributions

	<u>Sacramento</u>	<u>Medium Jurisdictions</u>	<u>All Jurisdictions</u>
Business	34%	37%	52%
Individual	51%	46%	33%
Labor	3%	3%	4%
Political	8%	5%	6%
Candidate	3%	9%	5%
Non-Election Year	3%	30%	42%
Election Year	97%	70%	58%

Expenditures

	58%	49%	38%
VOTER CONTACTS			
Broadcast	19%	8%	7%
Literature	33%	30%	26%
Newspaper	1%	3%	2%
Outdoor	5%	8%	3%
OVERHEAD	42%	51%	62%
General	9%	16%	22%
Personnel	10%	10%	6%
Fundraising	10%	11%	13%
Survey	5%	3%	4%
Consulting	7%	8%	10%
Travel	0%	1%	1%
Candidate Transfer	1%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

Developers have helped shape Sacramento's future and the city's pro-growth policies. Their ability to tie a popular issue (the new sports stadium) to development themes, their participation in city council races and their capacity to raise large

sums of cash for local campaigns have all contributed to the perception of a weakened city council, unable to lead and susceptible to outside influence. These factors led to the city council's adoption of its 1983 contributions limit ordinance.

2. A Weakened City Council

Civic leaders in Sacramento must cope with a public that is divided on growth and with a governmental structure that limits the authority of elected officials. Some problems lie outside city control. Because the city councils of the 1950s and 1960s opposed annexations of undeveloped land adjacent to city boundaries, current councilmembers have little say over the development of this unincorporated land.

In the mid-1970s, city voters turned down a proposal to combine Sacramento's city and county governments. As a result, "city and county governments continue to go their separate and often contradictory ways, and special-purpose governments such as the Regional Transit District and the Sacramento Municipal Utility District wield powers in their own fields that only occasionally coincide with city and county policies."¹³

The mayor's responsibilities in Sacramento are primarily ceremonial. Elected at-large for a four-year term, the mayor presides at council meetings and represents the city for ceremonial purposes. The mayor votes with the city council and is paid about the same salary as a councilmember but has no veto and few administrative powers. Sacramento was one of the first California cities to adopt a council-manager form of government, which entrusts most administrative responsibilities to a city manager appointed by the city council. The public expects leadership from the mayor, but the structure of city government limits the mayor's ability to implement promises. Only through the mayor's ability to persuade other councilmembers or city staff can he or she influence city policy.

Sacramento councilmembers are elected in eight separate districts for staggered four-year terms. While district races may increase competition, they also may make concerted leadership in citywide problems more difficult. Consensus can be unattainable if councilmembers place district concerns above regional concerns.

B. Sacramento Adopts Contribution Limitations to Reduce Developer Influence

Sacramento chose not to adopt campaign finance reforms in the 1970s when many other California cities (*e.g.*, San Diego and San Francisco) were experimenting with new laws. In 1978, Councilmember Lloyd Connelly's proposed campaign finance reforms were rejected. On June 1, 1982, another campaign contributions limit proposal failed to survive a city council vote. Low campaign spending in prior years and general security about Sacramento's future discouraged interest in contribution limitations or expenditure ceilings. In 1983, however, the prediction of an unusually competitive mayoral race and heightened developer interest in city elections led to passage of Sacramento's campaign finance ordinance.

1. The Threats of High Spending and Developer Influence

Sacramento's mayor is the only city official elected by a citywide vote, but historically spending in mayoral elections has generally been low. In 1971, incumbent Richard Marriot raised eyebrows when he spent a little more than \$40,000 on his reelection. In 1975, Phil Isenberg spent just \$23,000 to get elected after Mayor Marriot dropped out of the race. In 1979, Isenberg ran unopposed and spent about \$31,000.¹⁴

By early 1983, however, the predicted cost of an average mayoral campaign had jumped eightfold from \$31,000 to \$250,000. With the June 1983 primary still several months away, several candidates hired expensive consultants and publicly discussed their anticipated budgets.¹⁵ Councilman Joe Serna vowed to spend at least \$250,000 in his quest. Councilwoman Anne Rudin, seeking election to the position, responded, "If your opponent is going to do it, you have to do it too."¹⁶

The candidates, however, had few options in raising huge amounts of money. Only developers appeared to have the inclination and resources to underwrite rapidly increasing campaign budgets. Pre-ordinance contribution analyses and newspaper accounts documented growing developer support for candidates and apparent conflicts between elected officials and developers:

- A 1981 study by the state Fair Political Practices Commission (FPPC) found that 33% of contributions over \$1,000 to Sacramento County supervisors came from "development interests" (including real estate developers and brokers, engineers, construction workers, contractors and suppliers of building materials), and that city council candidates also "relied heavily on contributions from land-use interests."¹⁷
- A *Sacramento Bee* analysis of the 1981 city elections revealed that both city council candidates in District 7 received over 45% of their contributions from development interests.¹⁸
- A 1981 *Sacramento Bee* article reported substantial campaign contributions made or arranged by local developer Angelo Tsakopoulos to then-Mayor Isenberg as well as a real estate transaction which forced Isenberg to disqualify himself on development matters affecting Tsakopoulos.¹⁹

By early 1983, the president of the local Common Cause chapter concluded, "[A]t a time when Sacramento is facing an awful lot of development decisions about land use, the people who have the biggest economic interest in those decisions are becoming the dominant source of campaign contributions. That is something the public should be worried about."²⁰

Faced with spending projections of \$250,000 per mayoral candidate and fearing massive involvement and election influence by developers, the Sacramento City Council adopted a contribution limits ordinance to take effect before the 1983 elections. Councilmembers hoped thereby to ameliorate growing media criticism that developer contributions were influencing both election results and resulting city council policies.

2. Sacramento's Ordinance—Innovations and Potential Problems

Sacramento's 1983 campaign finance ordinance states two purposes: (1) "to regulate contributions to candidates for municipal office, so that the public interest is served"; and (2) "to prohibit contributions that may improperly influence the conduct of the candidate once elected."²¹ The ordinance concedes the inability of contribution limits to control campaign spending by stating specifically that the ordinance is not designed to lower overall campaign spending.

Sacramento's ordinance contains only contribution limits. The limits vary by type of contributor—individuals, corporations or PACs—and also for primary and runoff campaigns. Sacramento's ordinance contains a number of unique elements although some provisions could well be clarified or brought into compliance with Proposition 73.

a. Contribution Limits

Sacramento's contribution restrictions in city council elections comply with the newly passed Proposition 73 which allows cities and counties to enact stricter limitations. In city council elections, Sacramento's ordinance limits individual and corporate contributions to \$500 per election and PAC contributions to \$1,500 per election. If there is a runoff, each contributor may give an additional \$250.

Sacramento's mayoral contribution limitations, however, may have to be amended to comply with the provisions in Proposition 73. The ordinance allows PACs to give up to \$3,000 per election to mayoral candidates and an additional \$500 if there is a runoff. For these amounts to comply with Proposition 73, the ordinance's definition of a "PAC" must meet that of a "broad-based political committee" as defined in the new state law, which requires 100 members as opposed to the city ordinance's ten members.²² Under this definition, a PAC could give up to \$5,000 per fiscal year. If the city does not wish to increase the number of members a PAC must have, the PAC contribution limitation amounts need to be adjusted to coincide with Proposition 73's "political committee"²³ amounts of no more than \$2,500 per fiscal year. This could easily be done by lowering the PAC contribution limitation in the primary to \$2,000, allowing for an additional \$500 to be contributed in the runoff, and leaving the number of members required to be in the PAC alone.

For individual contributors to mayoral candidates, the Sacramento ordinance includes a \$1,000 contribution limitation. If there is a runoff, individuals and corporations are allowed to give an additional \$500. As both the primary and runoff elections would occur in the same fiscal year, the total contribution limitation amount of \$1,500 for primary and runoff elections combined conflicts with Proposition 73's restrictions; it is \$500 over the new state limit. To comply with the new law, Sacramento may have to amend its ordinance, perhaps lowering the contribution limitation in the primary to \$750 per individual and corporation, and allow contributors to give an additional \$250 if there is a runoff.

b. Seed Money

Sacramento's ordinance contains a "seed money" provision under which both council and mayoral candidates may raise their initial \$10,000 free of the city's contribution limits. This provision, unique in California, was designed to allow candidates to jump start their campaigns with larger contributions.

Sacramento could retain much of the value of its "seed money" provision by allowing candidates to raise their first \$10,000 under the maximum contribution amounts of Proposition 73 over two fiscal years. For example, candidates could raise the \$1,000 maximum from persons in the fiscal year ending on June 30 of the election year. In the fiscal year beginning on July 1 of the election year, the candidate could again raise the maximum contribution amount of \$1,000 from the same contributor. Candidates could follow this formula for contributions from all fundraising categories defined in Proposition 73; thus they could, in total, raise \$2,000 per contributor, \$5,000 per political committee, or the entire \$10,000 from a broad-based political committee. Once the initial \$10,000 has been raised, contribution amounts would be subject to the basic limits prescribed by the ordinance. These modifications would still give prospective candidates a significant lift in the initial fundraising phases of the campaign.

c. Wealthy Candidates

This provision, also relatively rare in California, guards against wealthy candidates making significant contributions to their own campaigns. When a candidate intends to make a personal contribution or loan in excess of the contribution limitations, he or she must give all opponents 48-hour prior notice.

After this notice, opponents have the opportunity to raise an equal amount without observing the contribution limits. The intent was to equalize competition for candidates facing wealthy opponents.

The ordinance's provision allowing candidates to raise money free of the contribution limitations is clearly in conflict with Proposition 73. Thus, the wealthy candidate provision may need alteration so that candidates who face wealthy opponents are free to raise contributions up to the less stringent Proposition 73 requirements which allow contributions ranging from \$1,000 to \$5,000.

d. Code of Fair Campaign Practices

The Sacramento Code of Fair Campaign Practices, adopted at the same time as Sacramento's contribution limits law, offers each local candidate a voluntary opportunity to sign a code of nine pledges for "decency, honesty and fair play" in campaign conduct. In August 1987, the city council eliminated a provision of the code which rewarded signers with a favorable notation on both the sample and official ballots. State Attorney General John Van de Kamp had opined that a "state law or county ordinance which requires ballots to indicate whether the candidates ... have signed or refused to sign the Code of Fair Campaign Practices" would violate the constitutional guarantee of freedom of speech.²⁴ Despite the absence of a "reward" or favorable ballot designation in 1987, all candidates signed the code.²⁵

e. Enforcement

If a candidate knowingly violates the ordinance, he or she is subject to prosecution for a misdemeanor and either six months in jail or a \$500 fine. If the candidate is convicted of a knowing violation, he or she loses office immediately and is ineligible to run for municipal office for another five years.

C. Sacramento's Ordinance Has Neither Cut Campaign Spending nor Eliminated the Perception of Undue Contributor Influence

Sacramento's ordinance was designed to reduce the appearance of corruption caused by contributions from developers. But in the two elections since adoption of the ordinance, campaign spending levels have continued to increase unabated. The appearance of undue contributor influence has not diminished.

1. Campaign Spending Increases

The new contribution limits law had no restraining effect on 1983 election spending. The candidates for mayor and four city council district offices combined spent more than \$1.1 million. Anne Rudin spent \$227,000; Ross Relles and Joe Serna spent \$383,000 and \$240,000, respectively. Serna raised and spent all of his nearly quarter million dollars on his losing effort in the primary. His total contributions represented a 1,300% increase over the money spent by the winning candidate four years earlier. In the 1987 mayoral race, spending was again high. Rudin won reelection after she spent over \$275,000; her opponent Brian Van Camp spent a record amount of over \$490,000.

Races for city council also saw substantial increases. In the 1981 pre-ordinance council elections, three of the four winning candidates spent more than \$40,000 each, a new record. In 1983, with contribution limits in place, winners Tom Chinn and Grantland Johnson spent \$87,000 and \$63,000, respectively. In 1985, council election spending by incumbent Doug Pope exceeded \$100,000—a 250% increase between 1981 and 1985 among winning candidates. Pope's challenger, Karolyn Simon, spent more than \$95,000. In 1987, challenger Kim Mueller spent over \$75,000 to defeat incumbent William Smallman who spent over \$58,000. Mueller's success was based largely on an effective grassroots effort aided by Tom Hayden's Campaign

California group. The Hayden organization also spent more than \$6,000 in independent expenditures on Mueller's behalf.

Significantly, the 1984-1985 Sacramento County Public Finance Reform Commission, which studied the experience of Sacramento City, unanimously concluded that contribution limits, standing alone, do not operate to slow campaign spending increases and recommended against them. (See Chapter 15, "Sacramento County.")

"Contribution limits have not held down spending" explains attorney Lance Olsen, whose law firm advises clients about compliance with local and state campaign finance regulations. The new limit "established a threshold for giving [so that fundraising actually increased]. The maximum amount became the minimum contribution. The contribution limit established what people would give or be expected to give. People who before might have given \$100 were now expected to give to the limit."²⁶ Since Sacramento's contribution limit amounts are relatively high, neither individual contributions nor cumulative contributions appear hindered by the ordinance.

Consultant David Townsend comments, "The drive by candidates to get elected is so strong that they will spend what it takes."²⁷ Instead, Townsend explains, candidates and their consultants spend more time and more money raising campaign funds. To compensate for the contributions limits, they find new contributors.

Since passage of the ordinance, "fundraising has become more circuitous and campaign fundraising more sophisticated" says Councilmember Joe Serna. "Disclosure is obscured. Candidates really need professional campaign treasurers now to monitor their reporting, because candidates and contributors need to always be aware of who has given what and when."²⁸ Competition drives spending. Contribution limitations have been ineffective in limiting overall Sacramento campaign spending.

2. Developer Influence

The Sacramento ordinance anticipated that as the number of contributors increased, the influence of any one contributor would dissipate. This assumption has proved wrong on two counts. First, contribution limit amounts are high, allowing individuals to give \$1,000 and PACs \$3,000 in mayoral elections. Candidates can raise large campaign funds without dramatically increasing their number of contributors. Second, even when the number of contributors increases, connections among contributors can cause the appearance of influence to remain. Local observers reinforce these conclusions:

"To some extent, the ordinance has broadened the sources of campaign contributions. But it is still the same kind of people giving. I'm not sure we are all better off. Disclosure is obscured because many of the contributors are related, but it is difficult to tell by disclosure reports. For example, Crystal Ice is a frequent contributor to local campaigns. Crystal Ice is owned by a big developer in town, but you have to know that."

— Councilmember David Shore²⁹

"The irony of all this is that the aim of the ordinance is to get developers out of influencing elections. But, in fact, they are the ones with all the corporations and subcontractors, so their influence is greater under contribution limits than without them."

— David Townsend, campaign consultant³⁰

“Developer influence is a major problem here. If there were more people willing to give \$25 to a council candidate, developer contributions would have less importance.”

— Lynn Robie, Councilmember³¹

“The number one problem is too much developer money in local elections. As a limitation on political activities, the ordinance is not much. But it is a start. It’s a symbolic thing. Still, there is too much developer influence at City Hall. No one knows how much is being contributed by developers overall, or how much is being laundered. This is a developer-interested council—now more than ever. It used to be that merchants would donate about half of a council candidate’s campaign finances, but no longer.”

— Tim Holt, Editor, Suttertown News³²

“One Sacramento developer, speaking on the condition that he not be identified, said he routinely asks his subcontractors to give to politicians. The catch, however, is that he tells the subcontractors to increase the amount of their bills to him to cover the contributions: ‘I call our guys, subcontractors, and say, you raise your price by \$25 and I’ll send you a ticket. Everybody does it,’ he said. Another developer said his firm allows its employees to put political contributions on their expense accounts: ‘I . . . charge it off to the expense account,’ he said. ‘Other people in the company will do the same thing. We budget for it. That’s the way we get around the law.’”

— Ricardo Pimentel and Jim Lewis,
Sacramento Bee³³

In competitive races, campaign budgets escalate and money-hungry candidates value supporters who can both give maximum contributions and find other contributors. Business contributors with subsidiaries and subcontractors can provide multiple maximum contributions. Whether or not these contributions actually translate into influence is incidental. They create the public perception of influence.

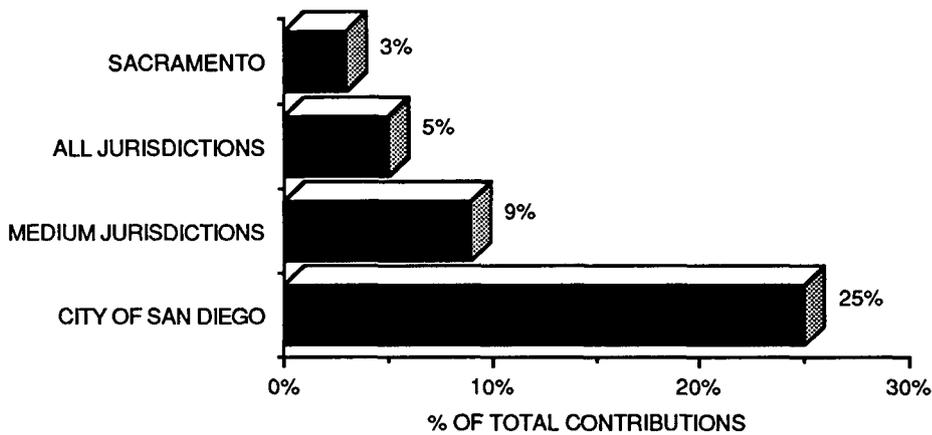
In 1985, the *Sacramento Bee* published a series of articles linking cumulative developer campaign contributions to pro-development votes. The *Bee* observed, “In 1975, Phil Isenberg spent about \$23,000 to become mayor of Sacramento. In 1983 Anne Rudin spent \$226,821 to win the same office.”³⁴ The *Bee* also noted that local developer Enlow Ose bought 177 acres of South Natomas land in 1978 for \$2.8 million, according to a city planning report, but said he sold it in 1984 for a reported \$35 million and a 1,150% profit.

The *Bee* concluded, “These seemingly unrelated events illustrate three fundamental points: elections cost local candidates far more than a few years ago; developers have the most money to give; and they also have the most to gain or lose from decisions the politicians make.”³⁵ The *Sacramento Bee* series also juxtaposed several pro-development city council votes with aggregate developer campaign contributions. Examples of “apparently influenced” pro-development votes were cited from periods both before and after Sacramento’s contribution limits ordinance.³⁶

Candidates vehemently reject implications of an actual connection between contributions and pro-development votes. They assert that developers do not purchase specific votes but instead put their money behind political philosophies, supporting those who encourage development. In Sacramento today, developers and popular opinion support pro-development policies. For many Sacramento city candidates, this is a win-win situation.

“The criticism that developers have influence on the council is not related to their contributions,” says Councilmember Joe Serna. “They support candidates that are already pro-development. Before serving on the council, I was a Redevelopment Commissioner [with a history of pro-development votes] for eight years. Developers found that I was in agreement with them. The current council is very pro-development, and so am I.”³⁷ Councilman David Shore added: “There is a public perception of undue influence by special interests on the council. We do have an honest council. There are no deals *per se* for campaign contributions. Still, there is a perception of influence.”³⁸

Table 14.2
COMPARISON OF CANDIDATE CONTRIBUTIONS
SACRAMENTO



Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

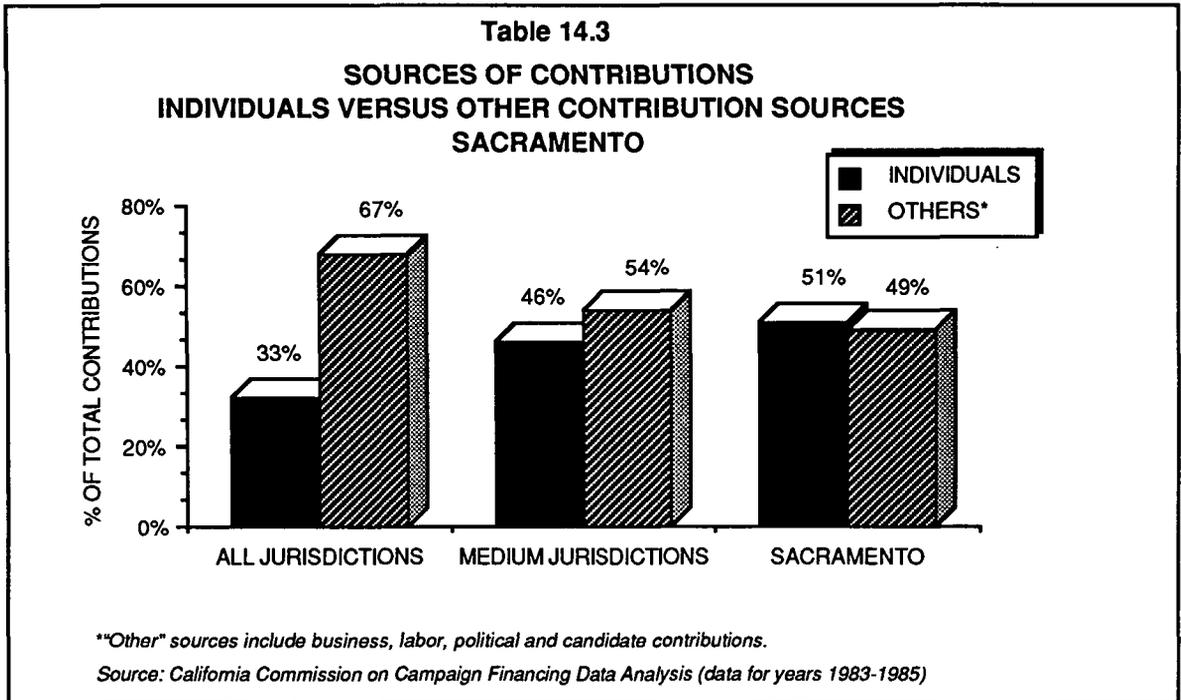
Sacramento’s ordinance has not accomplished its lofty goal of preventing the appearance of corruption. Many Sacramentans believe that developers greatly influence city hall policies, and that developer influence stems, in part, from their contributions to council campaigns despite existing contribution limits. The ordinance’s ineffectiveness is especially noteworthy in light of its primary stated focus—to prevent the appearance of corruption.

D. Sacramento’s High Contribution Limits Reduce Attempts to Circumvent the Ordinance

In many cities, (e.g., San Diego or San Francisco), low contribution limits have led candidates to devise varied and often ingenious techniques to circumvent their ordinances. Sacramento’s relatively high contribution limits have apparently mitigated most of these pressures. Candidates seem to be able to raise and spend all they need without significant difficulty.

1. Minimal Candidate Contributions

In *Buckley v. Valeo*, the U.S. Supreme Court determined that contributions made by an individual to his or her own campaign cannot be limited; such limits violate a person’s freedom of speech.³⁹ In many cities with strict contribution limits, unrestricted contributions from “wealthy candidates” can be a decisive factor in electoral success.



In Sacramento, however, candidates give relatively little to their own campaigns—only 3% compared to 10% in other medium-sized jurisdictions. (See Table 14.2. Also, see generally Table 14.1, “Sacramento Data Profile.”) In contrast, City of San Diego candidates have a difficult time raising the funds they need. San Diego candidates with personal wealth use their own contributions to fill the gap—their contributions accounting for 25% of funds raised, contrasted with Sacramento’s 3%. One difference between the two cities is that San Diego candidates cannot accept contributions from businesses, PACs or labor organizations, and their individual contributors are limited to \$250 per election.

Sacramento’s generous, permissive contribution limits allow candidates to raise almost any campaign budget they wish without having to resort to their own personal funds. Partial credit may also go to the unique Sacramento provision which temporarily lifts all contribution limits whenever one candidate makes a personal contribution or loan in excess of the limits.⁴⁰

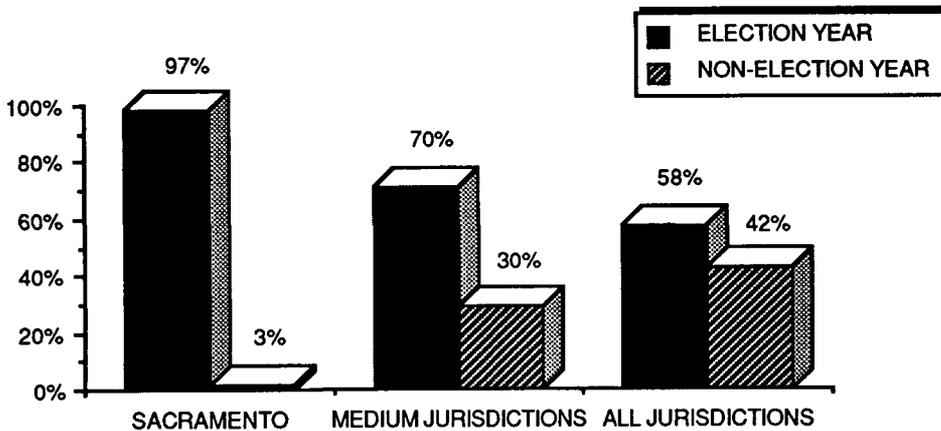
2. Sources of Contributions

In Sacramento elections, contributions from individuals are greater than in other medium-sized jurisdictions. Individuals give 51% of candidates’ money, compared to 46% given by individuals in other medium-sized jurisdictions and 32% for all jurisdictions studied. (See Table 14.3.) Transfers and contributions from political groups account for 8% of all funds received, a somewhat higher percentage than in other medium-sized jurisdictions.

3. The Lack of Non-Election Year Contributions and Expenditures

During the last two election cycles, candidates for Sacramento city council have raised and spent nearly all of their money during election years. This distinguishes Sacramento from most other jurisdictions studied. (See Table 14.4.) As a general rule, challengers fare better against incumbents when off year fundraising and spending is low. The turnover in Sacramento councilmembers confirms the competitiveness of city elections.

Table 14.4
ELECTION YEAR VERSUS NON-ELECTION YEAR FUNDRAISING
SACRAMENTO



Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

4. Generous Spending on Voter Contacts

Sacramento campaigns are also distinguishable from other jurisdictions by the high percentage of money that candidates spend on direct voter contacts compared to money spent on general overhead. In Sacramento elections, candidates spent an average of 58% of all campaign money on direct contacts with the voters. In other medium-sized jurisdictions studied, the percentage of campaign money spent on direct voter contacts was just 49%. In Sacramento County, spending on "overhead" actually exceeds spending on "voter contacts." (See Table 14.5.)

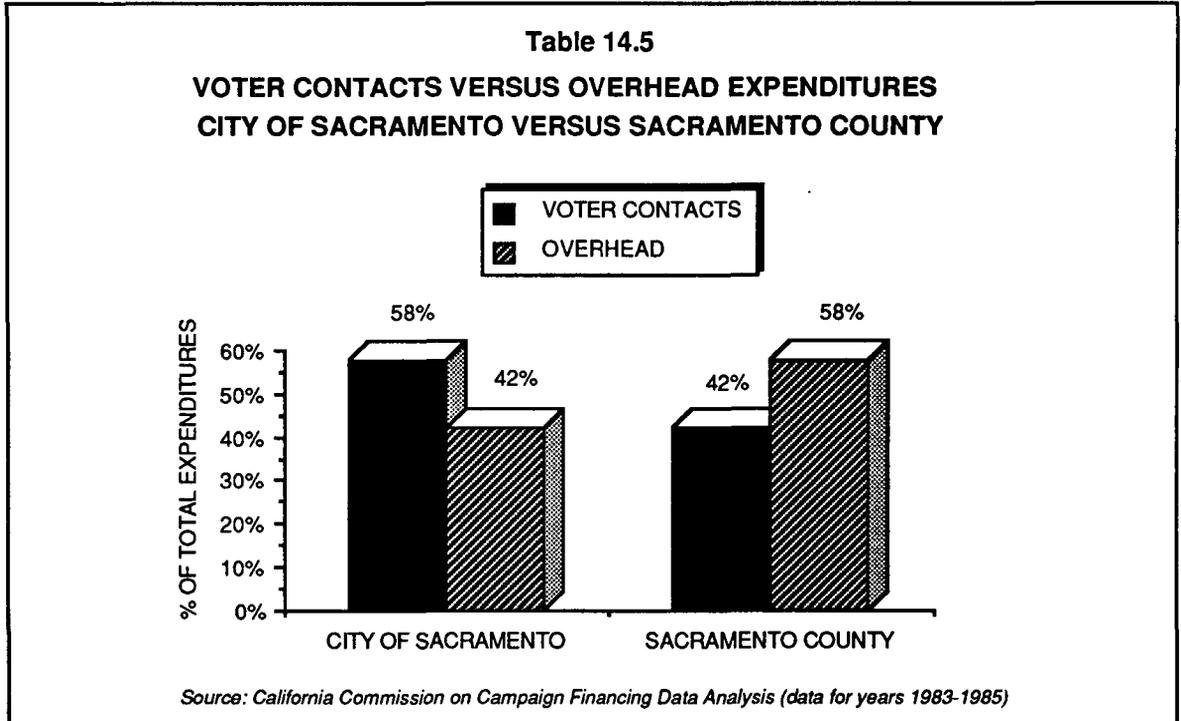
5. Incumbent Fundraising Advantage

Despite the passage of Sacramento's contribution limitations ordinance, the fundraising disparity between incumbents and challengers has widened. Incumbents raise 61% of the total contributions raised by incumbents and challengers. Individually, contribution sources heavily favor incumbents. (See Table 14.6.) Business contributors on average give 85% of their contributions to incumbents over challengers; individuals favor incumbents over challengers with 76% of their contributions. The only areas where challengers receive heavy support is from political organizations, other candidates or political organizations and themselves (through candidate contributions).

While incumbents hold a significant lead in fundraising over challengers, both incumbents and challengers receive equal percentages of their contributions from individuals; in each case, more than 50% of all contributions. Incumbents receive the next highest share of their contributions from business sources, while challengers receive nearly equal percentages of contributions from business and political organizations.

Incumbent fundraising advantage has not discouraged serious challenges. In 1985, though she was thoroughly outraised, Karolyn Simon came within 550 votes of defeating incumbent City Councilmember Doug Pope in a runoff election. Pope raised and spent over \$145,000, while Simon received \$92,000. Simon received

significant help from political organizations and donated \$2,000 to her own campaign.



Pope's overwhelming fundraising lead in the primary alone appeared to spell defeat for Simon. Pope raised over \$107,000 in the primary race while Simon received around \$45,000. From business, Pope accepted more than \$28,000 to Simon's less than \$10,000; from individual sources, Pope's primary campaign outraised Simon's by three times. Simon, however, diminished the importance of Pope's fundraising lead through a strong grassroots, community based campaign and almost was able to upset Pope.

In 1987, challenger Kim Mueller actually outraised and defeated incumbent councilmember Bill Smallman. Mueller was aided by a sophisticated grassroots campaign organization and independent expenditures by Campaign California.

E. Conclusions and Recommendations: New Provisions Might Limit Campaign Spending and Reduce the Perception of Developer Influence

Sacramento's ordinance has not interfered with many positive aspects of its campaigns. Personal contributions from candidates are relatively unimportant in city elections. PAC contributions do not dominate elections, despite higher PAC contribution limits than for individuals or businesses. Candidates raise and spend nearly all their campaign budgets during election years rather than in off years when incumbents are most likely to dominate such activities. And Sacramento candidates spend a relatively high percentage of their campaign budgets on direct communications with voters rather than on general overhead.

The Sacramento ordinance has not, however, solved the two major problems that plague nearly every jurisdiction studied: escalating campaign spending and the perception of excessive special interest influence. In addition, the ordinance has suffered from several lesser problems including an ambiguous "seed money"

exemption from contribution limits, an ineffective "Fair Campaign Practices" provision and overly strict criminal penalties without civil remedies.

1. *Expenditure Ceilings*

To alleviate the stress caused by the recent surges in Sacramento campaign spending, the Commission suggests that Sacramento, a charter city, consider expenditure ceilings for mayoral and city council campaigns. It is suggested that mayoral candidates be limited to spending no more than \$150,000 per election, and that city council candidates be limited to spending no more than \$60,000 per election adjusted by cost of living changes.*

In November 1986, Sacramento County voters overwhelmingly approved—with a 61% vote—a ballot measure requiring the board of supervisors to adopt campaign finance reforms which included expenditure ceilings and partial public financing. (See Chapter 15, "Sacramento County.") Subsequently adopted by the board, the reform stands as one of the most sophisticated and comprehensive local campaign financing ordinances in the nation.

Tim Holt, editor of the *Suttertown News*, reflected the views of many when he said, "The number one problem is too much developer money in local elections. Also, there is too much money being spent. When large amounts of money are being raised and spent, good people are discouraged from running."⁴¹

Councilwoman Lynn Robie comments, for example, "I believe in a cap on campaign spending. I'm not sure why it passed in the county, except I think that people were just sick about the nature of local campaigns."⁴²

Sacramento Bee reporter Chris Cage feels that spending ceilings for city races have not been pushed because "there is no public outrage about the amounts of money being spent on campaigns. The public concern is more on how it is spent and where the money comes from."⁴³ The election of two new councilmembers in 1987 who favor spending limits has renewed interest in spending limits for city elections. Mayor Anne Rudin has reportedly asked the city attorney's office to prepare a draft ordinance.⁴⁴

A spending cap accompanied by limited public matching funds could not only reduce the overall amounts spent in campaigns, but perhaps more significantly could reduce the apparent influence of certain contributor groups over local elections. With partial matching funds added to the overall "pot" of campaign funds, the importance of specific private sources would be diluted.

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voters' adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as Sacramento) and charter counties. Recent court cases have upheld the right of charter cities to conduct their own elections and the application of the ballot measure is being challenged in court. If charter cities are indeed exempt, Sacramento is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions the city could consider other possible incentives for candidates accepting expenditure caps. Such incentives include higher contribution limits for candidates accepting the spending ceilings. (See Chapter 23, "The Commission's Model Ordinance," for discussion of this alternative.)

Table 14.6
INCUMBENT/CHALLENGER DATA PROFILE
SACRAMENTO

Percentage of Total Contributions Raised From Each Source

	<u><i>Incumbents</i></u>	<u><i>Challengers</i></u>
Business	41%	22%
Individual	53%	52%
Labor	3%	4%
Political	3%	18%
Candidate	0%	4%
Total	100%	100%

Average Percentage of Contributions Given to Incumbents and Challengers

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbent	85%	76%	70%	31%	12%
Challenger	15%	24%	30%	69%	88%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

2. Other Potential Amendments

In addition to amending current provisions in Sacramento's ordinance to draw them into compliance with Proposition 73, amendments to eliminate certain ambiguities and improve the ordinance's effectiveness are suggested. These amendments merit adoption even if a spending cap is not considered.

a. "Seed Money" Provision

The Sacramento ordinance states that its contribution limits do not apply to a city council candidate until he or she has raised \$10,000; a candidate for mayor can raise up to \$20,000 in unlimited amounts. This so-called "seed money" exemption is designed to allow candidates to begin their campaign with larger contributions—often a necessity for challengers. But Sacramento city candidates are apparently confused over the use of the seed money exemption and therefore use it sparingly.

Sacramento City Clerk Lorraine Magana states, "We begin at the beginning of the disclosure report and add each contribution until we reach \$10,000 and then apply the limits."⁴⁵ But the ordinance as written seems to contradict her interpretation. The ordinance states that Sacramento's contribution limits first apply at "the time" when the candidate "has received" the maximum seed money funds. The clerk's interpretation, however, implies no chronological priority among contributors, allowing a clever candidate to list all the large contributions first. In effect, under her interpretation, candidates could receive large contributions in excess of Sacramento's contributions limits after having raised \$10,000, list these contributions first on their disclosure forms and avoid the ordinance's restrictions.

In the 1985 council race, incumbent Councilman Terry Kastanis inadvertently accepted contributions which exceeded the contribution limit amounts. According to Kastanis, he reached the \$10,000 threshold "in the middle of [his] December 6th fund-raiser. The checks all came in at once—that's why the confusion," Kastanis said. "They paid as they came to the party or they put their checks in the mail. I don't like the ordinance. I think it's confusing."⁴⁶ In 1987, mayoral candidate Pat Melarkey drew attention because his first campaign finance statement listed \$14,585 in contributions, including an \$1,800 contribution from a relative and \$8,000 in loans from two consultants to the state legislature.

Because of this confusion, Sacramento candidates are reluctant to use the "seed money" exemption. Rather, they often assume that the contribution limits are in place from the first contribution because it is "safer" that way.

The objectives of Sacramento's "seed money" provision remain desirable, but its interpretation should be clarified to make the provision more workable and bring it into compliance with the provisions of Proposition 73. The "seed money" provision could be changed so that contributions up to the limits imposed by Proposition 73 (which range from \$1,000 to \$5,000) could be permitted before the more stringent limits of the city ordinance are in effect. Properly spelled out and enforced, the "seed money" provision can provide challengers with an opportunity to start campaigns relatively quickly. Challengers are likely to have fewer but perhaps more committed supporters than incumbents. The "seed money" allowance also recognizes that many incumbents begin campaigns with at least \$10,000 in the bank.

It is recommended that Sacramento also consider requiring an additional campaign disclosure statement to be filed when candidates reach the \$10,000 threshold. After the initial report is filed, subsequent reports would follow according to state prescribed schedules. Sacramento officials might also consider adopting different seed money amounts for council races than for mayoral races.

b. Ban on Contributions From Contractors

In the early 1980s, a city and county cable commission jointly awarded a cable contract after an intense bidding war by several applicants. Sacramento may wish to amend its ordinance to ban contributions from persons who contract with the city or are bidding on city contracts. The City of Gardena has had success with its city contractor provision. (See Chapter 7, "Gardena.")

c. Enforcement Provisions

The Sacramento ordinance provides that violations can result in conviction of a misdemeanor carrying a \$500 fine and/or six months in jail. The ordinance also provides that if a candidate is convicted of a violation of any provision, the candidate's election to office is void, the office becomes immediately vacant and the discharged official is prohibited from holding city office for a period of five years.

One omission in the ordinance is a failure to specify enforcement powers and authorities. Responsibility for enforcement of the Sacramento law has thus fallen primarily to the city clerk's office, which receives some interpretative help from the city attorney's office. In Sacramento, both the city clerk and the city attorney are appointees of the city council. Because these offices lack independence from the council, they clearly experience conflicts in enforcement.

"It is very difficult to turn over incumbents [for enforcement actions] because they appoint me to this office," comments City Clerk Magana. "We have turned candidates over to the district attorney to enforce compliance just twice. We try to take care of incumbents." Magana continued, "We check their entire report to see that it is correct and that columns add up. We rarely make complaints. Complaints generally come from opponents and the press; they are the main monitoring

mechanism. If violations occur, we talk with the candidate and the campaign treasurer. Usually we work it out."⁴⁷

Appointed city officials may also balk at enforcement actions because the potential penalties can be onerous. If a candidate knowingly violates the law, he or she can be fined, convicted of a crime and required to forfeit the office. In addition, it is often difficult to prove that a violation was committed knowingly.

Enforcement authorities should be provided with alternative sanctions, such as injunctive relief and civil remedies. A negligent acceptance of an excessive contribution or a misreported source, for example, should require forfeiture of the contribution and a civil fine rather than more severe criminal prosecution and loss of office. Finally, amendments ought to be considered that would allow private citizens to bring compliance actions. This power might also spur appointed officials to take action on their own.⁴⁸ (See Chapter 23, "The Commission's Model Ordinance.")

3. Conclusion

Sacramento's ordinance has not resolved the city's major campaign finance issues. Campaign spending continues to escalate and developers appear to have increasing influence over who is elected and what policies they adopt. Limits on campaign spending, if feasible, would attack both high spending and the appearance of undue developer influence. Additional amendments which have been suggested could make Sacramento's ordinance more effective.

NOTES

1. Dan Walters, *Who's In Charge Here?*, Sacramento Bee, Mar. 29, 1987.
2. The first charter was defeated in 1849, when gambling interests organized to oppose the threat of regulation posed by cityhood. Thor Severson, *Sacramento: An Illustrated History 1839-1874*, p. 66 (1973).
3. "It would not be faithful to suggest Sacramento was the overwhelming choice from the beginning. It was not. Some of the legislators were certain that when gold petered out in the mountain diggings, Sacramento would disappear from the earth." Joseph McGowan and Terry Willis, *Heart of the Golden State*, p. 185 (1983).
4. Walters, *supra* note 1.
5. Steve Wiegand, *How the River City Is Becoming Big Time*, San Francisco Chronicle, Feb. 25, 1988 (emphasis added).
6. *Id.*
7. Stephen Magagnini, *Is Sacramento Ready for the Big Time? Yup.*, California Magazine, July, 1987.
8. Ricardo Pimentel, *Rudin Victory Assured: Political "Miracle" Fails*, Sacramento Bee, Oct. 10, 1983.
9. Bruce Pierini, *Bigtime Sacramento, as David Shore Sees It*, Sacramento Bee, June 14, 1987.
10. Dan Walters, *The New California: Facing the 21st Century*, p. 108 (1986).
11. Magagnini, *supra* note 7.
12. Wiegand, *supra* note 5.
13. Doug Dempster, *Joint City-County Commission Urged to Help Attack Planning Problems*, Sacramento Bee, Dec. 11, 1984.
14. Ricardo Pimentel, *Serna Dominates Campaign Fund Raising*, Sacramento Bee, Aug. 30, 1983.

15. Councilman Joe Serna enlisted the help of campaign consultant Ritchie Ross. Councilwoman Anne Rudin hired consultant David Townsend. A third challenger, Ross Relles, hired consultant Winston Hickox. Jaime Diaz, *Candidates' Aides Split on Campaign Law's Impact*, Sacramento Bee, Mar. 18, 1983.
16. Jaime Diaz, *Mayoral Candidate Serna Lists Support of Builders, Labor*, Sacramento Bee, Feb. 11, 1983.
17. Pam Slater, *Developers Hope Dollars Ensure Their Side Will Be Heard*, Sacramento Bee, Oct. 30, 1981.
18. Robin Witt, *Council Winners Get Top Funds; Race Costly*, Sacramento Bee, Jan. 12, 1982.
19. Jeff Rabin, *Mayor Concedes Potential Conflict*, Sacramento Bee, Oct. 20, 1981.
20. Jaime Diaz, *Council Likely to Adopt Campaign Limits*, Sacramento Bee, Mar. 14, 1983.
21. Sacramento City Ord. 83-035, §62.100. The ordinance's "primary interest" is to prevent corruption and the appearance of corruption spawned by the real or imagined influence of large contributions on an elected official's positions and actions. The ordinance's "primary effect" is to broaden the base of contributors and to encourage contributors to spend their money on "direct political expression" rather than on campaigns.
22. "Broad-based political committee" as defined in Proposition 73 is "a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates." Cal. Gov't Code §85102(d) (West Supp. 1989).
23. "Political committee" as defined in Proposition 73 is "a committee of persons who receive contributions from two or more persons and acting in concert makes contributions to candidates." Cal. Gov't Code §85102(c) (West Supp. 1989).
24. 69 Op. Att'y Gen. 278 (1986). The opinion relies heavily on *Vancuso v. Schwartz*, 401 F. Supp. 87, which discusses a New York Fair Campaign Code. The New York code denounced, among other things, "attacks on a candidate based on race, sex, religion or ethnic background", "misrepresentation of any candidate's qualifications" and "misrepresentation of any candidate's position." The courts found the New York code unconstitutional for being overly broad in its prohibitions and presenting an "inhibitory" chilling effect on political free speech. The California Attorney General's office concluded that the California state law, intended for all public offices in the state, was similarly overbroad and chilling.
25. The mayor, Anne Rudin, received some publicity because she crossed out one of the nine vows before signing, indicating that the one section was unenforceable.
26. Interview with Lance Olson, attorney, May 7, 1987.
27. Interview with David Townsend, consultant, May 7, 1987.
28. Interview with Joe Serna, Councilmember, City of Sacramento, May 8, 1987.
29. Interview with David Shore, Councilmember, City of Sacramento, May 8, 1987.
30. Interview with Townsend, *supra* note 27.
31. Interview with Lynn Robie, Councilmember, City of Sacramento, May 8, 1987.
32. Interview with Tim Holt, editor, Suttertown News, May 7, 1987.
33. Ricardo Pimentel and Jim Lewis, *Money, Growth and Politics: The Ties That Bind Builders, Politicians*, Sacramento Bee, Oct. 13, 1985.
34. *Id.*
35. Ricardo Pimentel and Jim Lewis, *Money, Growth and Politics: Developer Contributions Create the Climate for Zoning Changes*, Sacramento Bee, Oct. 14, 1985.
36. See Pimentel and Lewis, *supra* note 35, and Ricardo Pimentel and Jim Lewis, *Money, Growth and Politics: Planners, Residents Said No, But Developer Won—Twice*, Sacramento Bee, Oct. 14, 1985.
37. Interview with Serna, *supra* note 28.
38. Interview with Shore, *supra* note 29.

39. *Buckley v. Valeo*, 424 U.S. 1, 53 (1976).
40. Before making a personal contribution or loan, a candidate must give his or her opponent 48-hour notice. In the first years of the ordinance, Sacramento candidates ignored the 48-hour notice requirement. Opponents complained to the press, and compliance has been good ever since. Generally, personal contributions and loans have been matched by opponents—often with their own personal contributions and occasionally by large contributions from a few outside supporters.
41. Interview with Holt, *supra* note 32.
42. Interview with Robie, *supra* note 31.
43. Telephone interview with Chris Cage, reporter, *Sacramento Bee*, June 23, 1987.
44. Tim Holt, *Council to Consider Campaign Finance Reform*, *Suttertown News*, Nov. 26-Dec. 3, 1987.
45. Interview with Lorraine Magana, City Clerk, City of Sacramento, May 8, 1987.
46. Amy Chance, *Kastanis Allies Too Generous*, *Sacramento Bee*, Feb. 8, 1985.
47. Interview with Magana, *supra* note 45.
48. Sacramento city officials raise additional concerns beyond the issue of campaign financing. For one, Sacramento city councilmembers have not had a pay increase in 38 years. The voters turned down seven ballot measures between 1956 and 1973 to increase the pay of councilmembers from the current rate of no more than \$8,100 per year, which includes pay for meetings of such non-council agencies as the redevelopment agency. Councilman David Shore believes that “increasing council salaries would be the best kind of campaign finance reform. The council should be paid a salary because voters would get a better council that way. The public gets a better council than it pays for today, but we’re starting to lose good candidates.” Interview with Shore, *supra* note 29.

CHAPTER 15

Sacramento County: A Landmark Campaign Financing Initiative

On November 4, 1986, Sacramento County voters authorized their board of supervisors to enact the first campaign finance reform in California history which included expenditure ceilings and limited public matching funds. Yet the 1986 election itself illustrated the pressing need for serious campaign finance reforms: campaign expenditures reached all-time highs; contributors appeared to exercise significant influence over supervisors and candidates; and a "dirty" campaign for a Sacramento area state Senate seat paraded "visibly offensive" campaign material and tactics before area voters. As one Sacramentan later observed, "The time was right for reform."

Sacramento County loosely combines both wide open spaces and densely packed urban areas. Just over 980,000 people populate the county's 971 square mile radius. Within that radius, a massive development and redevelopment boom has taken place. This strong increase in building and development has affected every aspect of Sacramento County's political life in both positive and negative ways.

A. A Local Building Boom Strongly Affects County Politics

Sacramento County has been rated the tenth fastest growing region in the nation,¹ and its growth boom has facilitated much economic prosperity. A Bank of America economic analysis has indicated that the Sacramento metropolitan area grew "faster in 1986 than the state as a whole in almost every category: employment,

personal and household income, housing starts and sales, taxable sales and population."²

One consequence of this growth is that Sacramento County's development patterns have started to emulate the "suburban sprawl" that characterizes the Los Angeles area. The county's outward expansion into unincorporated territories has created one of the highest "urbanized but unincorporated" areas in the state. Sixty percent of the county's population now exists in unincorporated territories.³

The negative aspects of this sprawling growth have illuminated deficiencies in the county's infrastructure of services and benefits. Traffic problems are now an everyday occurrence, and increased air pollution has propelled the area onto the EPA's hazardous air quality list, along with Los Angeles, Denver and other cities. Sacramento County residents are uncertain whether the benefits of the economic boom outweigh the increases in traffic and pollution.

Some residents believe the massive shift toward development and redevelopment is beneficial to the county. In their view, the area is finally accumulating the desirable characteristics of a "major" metropolitan area. Other residents are increasingly alarmed over the more visible instances of infrastructure stress—such as congestion and pollution. In the last decade alone, supervisors have rezoned so much land that it will not all be developed until far into the 21st century.

In direct response to this growth, some Sacramento County communities have started to incorporate their areas as separate cities. The leaders of these movements feel the county has failed to plan adequately for growth and they want to take over those responsibilities themselves.⁴ Because these communities contain massive shopping center complexes that generate enormous retail tax revenues, leaders of incorporation want the sales tax revenues to remain in the communities, rather than go to the county. For this same reason, however, their drives for incorporation could prove financially damaging to the county.

B. Developer Contributions Create the Appearance of Undue Influence

The zeal with which the board of supervisors has thrust the county into development in the 1980s has led many to question whether developers have wielded excessive influence over supervisory decisions. While county planners in the early to mid-1980s persistently warned of potential harm to air and water quality and overload of county infrastructure mechanisms (roads, freeways and schools), the supervisors approved many significant development projects and land rezonings. According to the *Sacramento Bee*, for example, in one afternoon the supervisors rezoned 896 acres in the unincorporated Laguna area for more profitable high-density industrial use, a decision which overruled opposition "by planning staffs, planning commissions, residents and neighborhood associations" who warned of traffic congestion, damaged air quality and overcrowded schools.⁵

For many land developers, a profitable strategy has been to purchase inexpensive land zoned for low density, ask the supervisors to upgrade the parcel for high density use and then sell it at a higher price. To obtain rezoning permits, a developer can work with the planning commission, obtain its blessing and then approach the board of supervisors. The *Sacramento Bee*, however, has described a more direct route. "A person seeking rezoning for a project [according to an unnamed developer] could either spend a couple of hours with the planning staff working out the differences or skip that step and write checks for contributions to the officials [the supervisors] who overrule the planners."⁶ During the 1985 period in which the *Bee* conducted an analysis of land use planning, the supervisors approved three major land rezonings over the objections of county planners. Commented one

observer, "Whether or not the development industry is actually buying anything with their contributions, the public, right or wrong, has got to be suspicious of the land development decisionmaking in this county."⁷

Table 15.1

SACRAMENTO COUNTY DATA PROFILE**Local Government**

STRUCTURE:	Charter adopted in 1933; five-member board of supervisors elected by district; county executive appointed by board.
COUNTY BUDGET:	\$786 million (fiscal year 1988-89)
COUNTY FACTS:	Population (1989): 988,300; Area: 971 square miles; Registered voters (Mar. 1989): 529,336; Voter turnout (June 1988): 55%

Contributions

	<u>Sacramento County</u>	<u>Medium Jurisdictions</u>	<u>All Jurisdictions</u>
Business	34%	37%	52%
Individual	40%	46%	33%
Labor	1%	3%	4%
Political	4%	5%	6%
Candidate	21%	9%	5%
Non-Election Year	18%	30%	42%
Election Year	82%	70%	58%

Expenditures

VOTER CONTACTS	42%	49%	38%
Broadcast	13%	8%	7%
Literature	24%	30%	26%
Newspaper	2%	3%	2%
Outdoor	3%	8%	3%
OVERHEAD	58%	51%	62%
General	17%	16%	22%
Personnel	20%	10%	6%
Fundraising	8%	11%	13%
Survey	3%	3%	4%
Consulting	5%	8%	10%
Travel	2%	1%	1%
Candidate Transfer	3%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

Between 1976 and 1985, the *Sacramento Bee* estimated that "development and real estate interests had contributed about \$1.4 million [or 44%] of the \$3.2 million raised by candidates for [Sacramento County] supervisor and city council."⁸ The *Sutters News* reported in mid-1986 that as much as 35% of the total contributions

received by candidates running in the 1986 supervisorial elections were donated by "real estate interests."⁹ And five days prior to the November 1986 election, California Common Cause released a well publicized report showing "real estate and developer contributions" making up 49% of the total donations "given to Sacramento County supervisors for each of their most recent elections."¹⁰

1. Developer Influence?

To Supervisor Jim Streng, whose 1986 campaign accepted almost 51% of its contributions from developer interests, the source of campaign contributions presents a dilemma: "I feel guilty when I vote for the interests of my contributors, and I feel guilty when I vote against their interests."¹¹ But former Supervisor Ted Sheedy argues that factors other than contributions swayed his decisions on the merits of given proposals. "You have to look at how involved [the contributors] are in the community, and what they have done to help," Sheedy says. "That is what I looked at when voting in the interests of a contributor or anyone."¹²

Sacramento area developer Phil Angelides has been both a candidate for Sacramento City Council in 1977 and a contributor on behalf of his development business. As a candidate he says, "Frankly, you raise money from people who have resources." As a development industry contributor, he maintains, "People who tend to be pro-economic growth will support candidates who share their philosophy."¹³

Building Industry Association lobbyist Dwight Hansen believes the high percentage of developer contributions is appropriate. "It's just like any other business . . . we take part in government," Hansen said. "Most of what [the supervisors] are doing is oriented toward . . . issues that the building industry is involved with."¹⁴ Steve Barrow of California Common Cause doubts that developer contributions directly buy votes. But he points out, "The mere perception that they do buy votes is just as damaging to the public trust toward county government."¹⁵

2. FPPC Charges Against Supervisor Bill Bryan

The Common Cause report singled out Supervisor Bill Bryan for accepting the largest percentage of developer and real estate contributions. Between 1980 and 1985, development and real estate interests gave Bryan 65% of all the funds he received. Many of these contributions were used to pay off the enormous debts he incurred in his campaigns. Because Bryan accumulated much of this debt by making personal loans to his own campaign, the contributions he used to repay those debts went directly into his pocket.

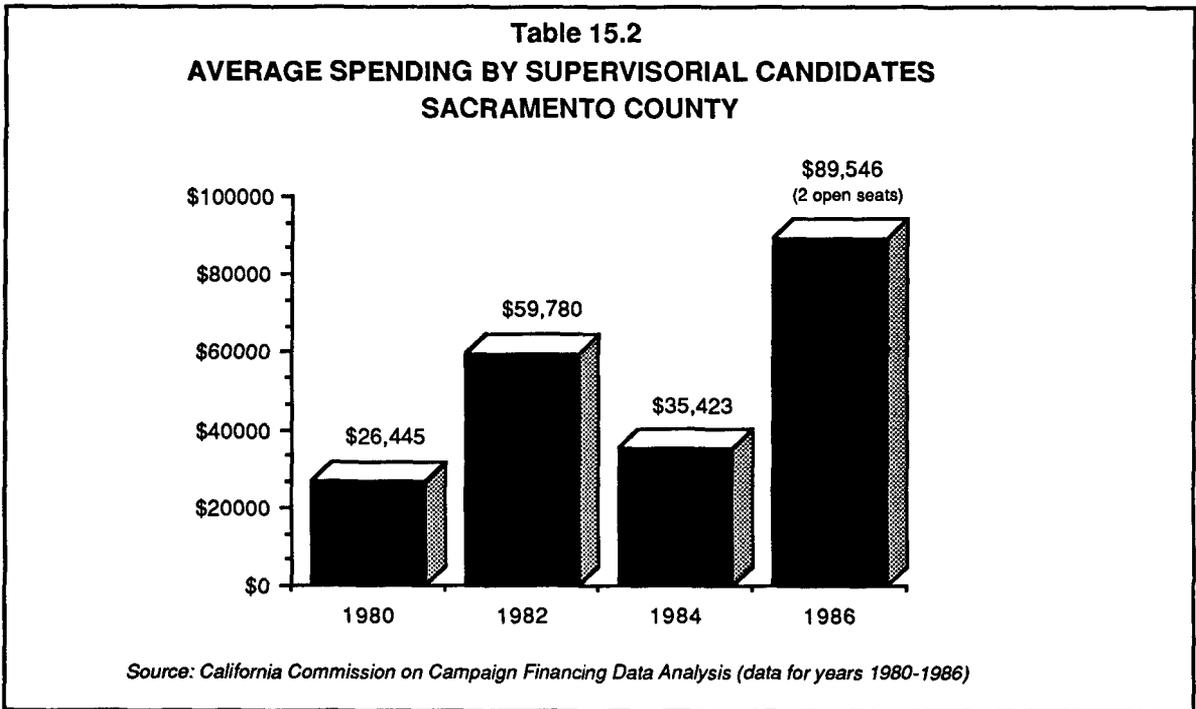
Although these debt repayment practices were legal under state law, the state Fair Political Practices Commission questioned other practices and charged Bryan with 56 specific violations of state disclosure laws. The FPPC accused Bryan of laundering contributions to conceal contributors' identities and demonstrating "a conflict of interest" in voting on matters in which he had a financial stake. Because Bryan had just been voted to the board chairmanship, his problems and subsequent resignation dealt a severe blow to the public's perception of supervisorial integrity.

C. Supervisorial Elections Are Typically Dominated by Incumbents

The board of supervisors exercises the administrative and legislative powers of county government. Each of the five supervisors represents a district of approximately 196,000 constituents. Supervisorial salaries as of early 1989 were \$40,752 per year (about the same as the base salary of a state legislator). Elections are held in even numbered years, with three seats up in one election and two up in the next. (See generally Table 15.1, "Sacramento County Data Profile.")

Sacramento County elections have been dominated by incumbents and have thus been generally uncompetitive. Incumbents have rarely faced runoffs. Challengers who have tried to mount serious campaigns cannot match the immense fundraising and spending capabilities of the incumbents. Competitive races only exist when seats become vacant. When that happens, spending by serious candidates increases and vigorous debates between the candidates occur with greater frequency. Candidates for open seats also spend a higher percentage of their funds on direct communication with the voters.

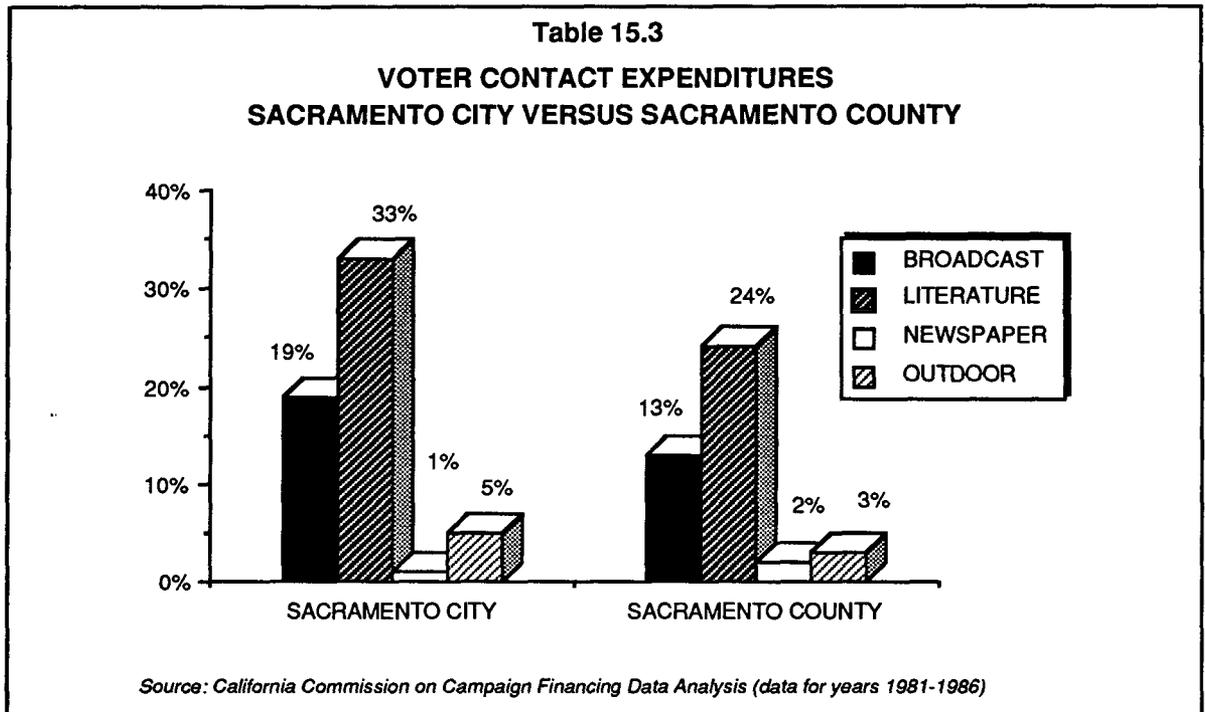
Between 1980 and 1986, average campaign spending by supervisory candidates climbed 240%. The variations over this period were directly determined by whether the election involved a non-competitive, incumbent-dominated race or a competitive open seat. (See Table 15.2.) In 1980, competition was minimal. Then, in 1982, average spending climbed sharply when three challengers tried to unseat an incumbent. The incumbent supervisor, Ted Sheedy, responded by outspending his closest opponent by 627% and handily beating all three primary opponents by 39 percentage points, thus avoiding a November runoff election. Competition dropped in 1984 because all incumbents ran for reelection, and none was seriously challenged. In 1986, the sharp expenditure rise was attributable to increased competition for two open seats—vacated when two of the four incumbents declined to run for reelection.



1. Little Voter Communication in Noncompetitive Races

The overall noncompetitive nature of Sacramento County campaigns is reflected in voter contact figures. In elections occurring between 1982 and 1986, supervisory candidates spent an average of only 42% of their total expenditures on direct communications with the voters (expenditures for campaign literature and broadcast, newspaper and outdoor advertising). By contrast, candidates in other medium-sized jurisdictions spent almost 50% of their expenditures on voter contacts. In the City of Sacramento, where the media markets and issues are

similar but the terrain covered is far less extensive, candidates for city council and mayor spent an average of 58% of their expenditures on voter contacts. (See Table 15.3.)



These differences in spending on voter communication between spread out Sacramento County and the relatively more compact City of Sacramento seem contrary to logic. One might assume that county supervisorial candidates, who must collectively reach more than 500,000 registered voters spread out over 971 square miles, should have to spend far more on voter information (campaign literature and particularly electronic media) than Sacramento city candidates. With less terrain to cover, city candidates should be able to spend less on voter information and rely more on community grassroots techniques.

Yet despite this logic, county supervisorial candidates spend much *less* than city council candidates on literature and broadcast advertising. The explanation lies less with questions of terrain or size than with questions of *competition*. Sacramento County candidates overall spend less on voter contacts because the supervisorial elections are so noncompetitive. Voters lose the benefit of communication from their representatives on issues of local importance and the benefit of any debate on such issues.

2. Greater Voter Communication in Open Seat Races

The incumbent-dominated county election of 1984 showed expenditures on voter contacts at a dramatic low (23% of total expenditures). Candidates in 1984 spent barely 4% of their total expenditures on campaign literature. By contrast, the 1986 open seat races demonstrated how greater competition can change spending strategies. County candidates in 1986 spent 42% of their money on voter contacts. Well over half of these expenditures paid for campaign literature.

Two races for the same county seat, one dominated by an incumbent in 1982 and one an open seat race in 1986, further illustrate the differences. When County Supervisor Ted Sheedy ran for reelection in 1982, he outspent his closest opponent by

6-to-1 and received 62% of the vote. Sheedy spent 21% of his expenditures on campaign literature and 46% on total voter contacts. When Grantland Johnson ran in 1986 for the same seat vacated by Sheedy, Johnson spent 67% of his money on voter contacts and, of that, 42% on campaign literature. Johnson outspent his closest opponent by only 7% and won by a bare 2% of the vote. (See Table 15.4.)

Table 15.4

**VOTER CONTACTS EXPENDITURES
INCUMBENT VERSUS OPEN SEAT CANDIDATE
SACRAMENTO COUNTY
(District 1)**

	<u>Sheedy (1982)</u>	<u>G. Johnson (1986)</u>
Broadcast	23%	25%
Literature	21%	42%
Newspaper	1%	0%
Outdoor	1%	0%
Total Voter Contacts:	46%	67%
Winning Vote Margin:	39%	2%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986,

Because county candidates spend so little on voter information, county residents often express ignorance as to who are the supervisors and what they do. While precinct walking for his 1986 campaign to fill a vacant seat, Supervisor Jim Streng reported he often had to take time to educate voters on the nature of county government before trying to persuade them to his cause. He was "quite surprised" at the voters' widespread ignorance. This lack of knowledge is particularly striking because major parts of Streng's district are unincorporated and therefore directly regulated by the supervisors.

3. Contributions and Incumbent Dominance

Over the last three election cycles, Sacramento County supervisorial candidates received most of their donations overall from individual contributors. An incumbent versus challenger breakdown of contributions sources illustrates, however, the incumbent's heavy reliance on business sources. Business contributions make up almost 50% of all the incumbent contributions. In stark contrast, challengers receive a small percentage of their contributions from business. (See Table 15.5.)

Challengers, in trying to meet the incumbent fundraising advantage, have had to turn to their own bank accounts. Challengers personally contributed a whopping 38% of their total contributions in the 1982 to 1986 election years. This proportion far exceeds the percentage of challenger business, labor and political money combined. Incumbents have held not only electoral dominance but overwhelming fundraising advantage.

4. Growing Importance of Candidate Money

The growing dominance of candidates' own money is a recent development in county campaign financing. An election-by-election analysis illuminates this major proportional shift. (See Table 15.6.) Between 1982 and 1986, the proportion of

business contributions declined. The sharpest drop (24%) occurred between the incumbent dominated election of 1984 and the open seat races of 1986. Candidates contributed an average of 2% to their own campaigns in 1982, 11% in 1984 and 20% in 1986. In just four years, the proportional amount candidates spent out of their own pockets jumped 1,000%.

Table 15.5
INCUMBENT/CHALLENGER DATA PROFILE
SACRAMENTO COUNTY

Percentage of Total Contributions Raised From Each Source

	<u><i>Incumbent</i></u>	<u><i>Challenger</i></u>
Business	49%	12%
Individual	40%	49%
Labor	1%	1%
Political	4%	0%
Candidate	6%	38%
Total	100%	100%

Average Percentage of Contributions Given to Incumbents and Challengers

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbents	96%	76%	70%	97%	52%
Challengers	4%	24%	30%	3%	48%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

Open seat races generate a much higher rate of contributions. Candidates who have the ability to raise large amounts of money early in a campaign get themselves known and develop a significant advantage. Successful candidate Jim Streng contributed approximately \$44,000 of his own money to his campaign and said he was prepared to spend \$100,000.¹⁶

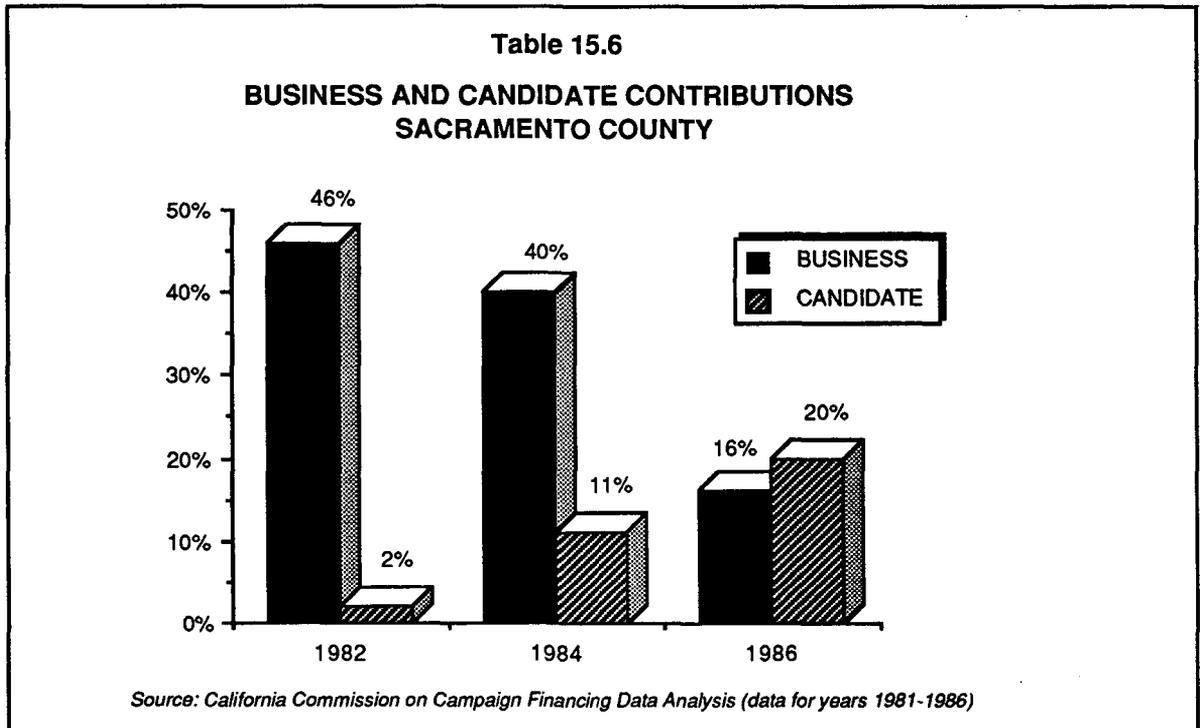
D. Reforms Follow a Decade of Debate

For over ten years prior to the public vote in 1986 on Sacramento County's campaign finance reform initiative, occasional attempts were made to institute reforms. Former Supervisor Sheedy said he first proposed campaign finance reform to the board in 1975, then again in 1978. But, Sheedy says, there was never very much interest in the issue. "Nobody wanted to touch it."¹⁷

In 1984, the issue resurfaced. This time it received much more attention. The board of supervisors appointed a Public Finance Reform Commission chaired by former state Senator Albert Rodda to study and develop various methods of campaign finance reform. Specifically, the board instructed the Sacramento Commission to look at partial public financing as an alternative for the upcoming 1986 election.

1. The Public Finance Reform Commission's Recommendations

After more than a year's debate, the Public Finance Reform Commission announced its 5-to-4 opposition to public financing of campaigns in June 1985. Chairperson Rodda voted with the majority. While the majority opinion cited public financing as "a possible solution available to remedy the actual and perceived ills of financing the elections of our public officials," it claimed, "the general public of this county is not yet willing to support [public funding of campaigns]."¹⁸



The dissenters on the Sacramento County Commission felt that public financing of campaigns should at least be given a chance. Member Richard Yanes, who led the dissent, felt, "If we don't put it out there, we'll never find out how the public feels."¹⁹ The written minority opinion called public financing "the single, most effective method for assuring that our elected officials enter and retain public office with true independence." The opinion further concluded, "No other reform . . . so directly attacks the relationship of the major financial contributions and the formation of public policy by our elected officials."²⁰

Because the Public Finance Reform Commission rejected public financing, the only court sanctioned method for justifying expenditure ceilings, the Commission made "no recommendation" on spending limits. On contribution limits, the Commission—looking at the City of Sacramento's experience—found them, alone, not useful in restraining campaign spending. Its unanimous opinion pointed out, "[For Sacramento city elections] the [contribution limits] ordinance did not lessen the amount of money spent by those campaigns when compared to previous years. Significantly more money was spent in the [1983] race for mayor than had ever previously been spent by candidates seeking that seat, and, perhaps than had ever been spent on a [Sacramento] citywide election."²¹

The Public Finance Reform Commission, however, strongly recommended a disqualification ordinance that would require supervisors to disqualify themselves from voting on a specific matter affecting a contributor of \$1,000 or more. Though

this proposal received support from the *Sacramento Bee* and many county leaders, the board of supervisors rejected it by a vote of 3-to-2. The Board's repudiation of a remedy aimed at reducing contributor influence over votes further fueled public perception that large contributors were excessively important to the supervisors.

2. *The Supervisors' Decision to Put Reform to the People*

The Public Finance Reform Commission's negative conclusion on public funding of campaigns did not deal a crushing blow to the public financing issue. There were two significant reasons for this. First, the reform commission's majority opinion did not condemn public financing—it merely cited its belief that it lacked sufficient public support. Second, the commission's vote (5-to-4) was close to a split decision, with a very strong and vocal minority in favor of public financing.

Despite the commission's vote, its dissenting members, together with representatives of the League of Women Voters and Common Cause continued to lobby the board of supervisors on behalf of comprehensive reform which included public financing. Supervisors Ted Sheedy and Illa Collin finally persuaded two other supervisors—Bill Bryan and Toby Johnson—to support this approach. The board of supervisors then voted to reconsider comprehensive campaign finance reform on a "test basis" in time for the 1988 election. The initial reform proposal, developed by Supervisor Sheedy and other officials, was based on the Model Law published by the California Commission on Campaign Financing in its 1985 book, *The New Gold Rush*. The measure was introduced for consideration in March 1986. The supervisors voted to put the proposal before county voters in the form of an advisory measure (Measure A) on the November 1986 ballot.

The text of Measure A read:

Shall Section 15-B be added to Article V of the Charter of the County of Sacramento to authorize the Board of Supervisors to adopt regulations limiting contributions to, and expenditures by, candidates for County elective offices, including authorization for the Board to provide County funds to partially finance candidate campaigns?

Dave Schmitz, a consultant to Sheedy, said the county counsel had concluded that the commitment of public funds for campaign use had to be decided by a vote of the people.²² To illuminate the comprehensive nature of the proposal, provisions containing contribution and expenditure limits were included in the ballot proposal. Commission member Richard Yanes, commenting on the decision to go to the people, called it a "real gamble."²³

Skeptics, noting the common perception that support for public financing was weak, felt that putting the issue before the people was an easy way to dispose of the reform issue. The *Sacramento Bee's* editorial writers echoed this opinion, suggesting that backers of public financing might doom other reform proposals. "If the Board ends up tying an ill-fated public financing reform proposal, like a millstone, around other reforms," the *Bee* asserted, "it can only strengthen suspicion that its real objective is not to achieve campaign reform, but to kill it."²⁴

3. *The Public's Approval of Sweeping Campaign Finance Reforms in 1986 Election*

In the months leading up to the November 4, 1986 vote, those favoring Measure A, as well as those opposed to it, felt it had little chance of passage. Both sides feared the negative public sentiment that had been expressed against public financing at the Public Finance Reform Commission hearings. This belief among both sides led virtually to a nonexistent campaign for or against the measure.

The proponents' campaign consisted of fliers handed out by Common Cause at a local shopping center and a ballot argument signed by four out of the five supervisors. Supervisor Sandra Smoley remained neutral. Dave Schmitz and others went before editorial boards and other organizations seeking endorsements for the measure. The opposition's campaign was even less enthusiastic. Opponents did not even submit an opposing ballot argument. The Sacramento Area Chamber of Commerce and the Sacramento Taxpayers Association remained silent. John Kehoe, a member of the Chamber's board of directors, reported plain apathy on the part of the Chamber towards the measure.²⁵ Because public financing was a component of the proposal, the Chamber believed it had no chance of passing. No one was willing to spend money against it.

Despite these negative predictions, the voters approved Measure A on November 4, 1986 by a 61%-to-39% majority. Opponents were stunned. Almost overnight Sacramento County had adopted one of the most sweeping campaign finance reform measures in the country.

4. Reasons for Voter Approval

Some Sacramento political insiders believed the voters "were not aware" of the public matching funds provision in the measure. Michael Manley, a former member of the Public Finance Reform Commission, believed approval of Measure A was "an aberration" and not a response to any particular circumstance. He said voters, as they entered the voting booth, were generally unaware of the public financing part of the measure.²⁶ Other observers disagreed, citing a number of factors, including the high spending 1986 election which created a pervasive public feeling that campaign reform was vital.

Steve Barrow of Common Cause believes that the 1986 election significantly triggered the pressure for reform. He also believes voters were well informed by the press about Measure A's proposals. Because the press "adequately" highlighted the draft ordinance's public financing provisions, he feels the public must have known about it.²⁷

Growing public concern over the impact of contributions on supervisory decisions enhanced the public sentiment that the county's campaign finance system needed reform. The 1986 election, and in particular the Smoley-Green race, crystallized this perception. With the backing of several key Republican leaders, Sacramento County Supervisor Sandra Smoley attempted to oust incumbent Democratic State Senator Leroy Greene. Both candidates were known and respected in the Sacramento community. Smoley had been a supervisor since 1972, while Greene had served 10 terms as an Assemblyman and one term as a state Senator.

This "long-standing respect" quickly dwindled as the race got underway. Voters were subjected to a barrage of negative television commercials and "hit" mail pieces. One Smoley television attack on Greene's liberal stances showed a streetwalking prostitute, drug-intoxicated teenager and a newly-freed convict all heartily saying, "Thank you, Senator Greene!" Highlighted on ABC-TV's *This Week With David Brinkley*, the Smoley-Greene race became a national example of sleazy and negative campaigning. Also well publicized was the more than \$1 million spent by each candidate on negative messages.

High spending and large percentages of developer contributions were a significant factor in the 1986 county supervisory races. Both open seat winners and their closest opponents spent \$100,000 or more. Successful candidates Grantland Johnson and Jim Streng spent close to and over \$300,000, respectively—the highest amounts ever spent in Sacramento County supervisory campaigns. Furthermore,

in a study conducted by the *Sutters News*, the leading candidates in three out of the four 1986 supervisorial contests were found to have received more than 35% of their total contributions from developer interests. District 4 candidates Streng and Terry Dunmore each received more than 51% of their contributions from these sources.²⁸

The success of Measure A has also been attributed to its comprehensive nature. Measure A included both expenditure ceilings and contribution limits as well as limited public matching funds. Public opinion polls conducted in 1985 showed support for such a comprehensive approach.

A 1985 University of Southern California/California Common Cause poll of California voters showed that when public financing was offered as a part of a comprehensive reform, including contribution limits and expenditure ceilings, voters favored the concept by 63%, two points higher than the Sacramento vote.²⁹ A 1985 Field Institute Poll also showed strong support for public financing as part of a comprehensive reform package. Voters favored this concept by 60%-to-35%.³⁰

E. The New Ordinance Contains Unique Provisions

In drafting the new campaign financing ordinance, some felt that provisions were needed to retard rapidly rising campaign costs—amounts well on their way to \$350,000 per candidate per election. Others felt campaign reforms should be constructed to attack the perceived influence developers wielded through generous contributions to supervisorial candidates—contributions which, according to a Common Cause report, exceeded 60% of one supervisor's total campaign funds. Former Supervisor Sheedy believes the aim of the ordinance was both. "You're never going to attack the influence question without attacking spending first," he asserts. "When you try to limit spending and bring in public money, there is obviously less [contributor] influence because the public has a stake in it."³¹

The new ordinance was unanimously passed by the board of supervisors in December 1986. Several changes were subsequently made during a five-month fine-tuning process. The revised ordinance was unanimously re-adopted by the board in April of 1987. The new law took effect in May of 1987 and was in force for the June 1988 election, but since one incumbent was unopposed and the other faced token opposition, the ordinance was not put to a test.

With the recent voter approval of Proposition 73, certain provisions of Sacramento County's ordinance have been left in doubt, namely the public matching funds sections allowing the existence of expenditure caps. Sacramento County reformers may have to consider other options to allow the continued existence of this most important part of their reform. (See Chapter 23, "The Commission's Model Ordinance," for a discussion of these options.)

If, however, charter jurisdictions are found to be exempt from Proposition 73's new provisions, Sacramento County's landmark law, one of the most sweeping and comprehensive local ordinances in the nation, will be left unaffected. Sacramento County has filed a lawsuit in the Third District Court of Appeal asking that its charter amendments be found to have superseded the prohibition on public financing in Proposition 73. The case is pending. (See Chapter 22, "Proposition 73.")

1. Expenditure Ceilings

The ordinance limits expenditures to \$75,000 per election in the primary or special election period and \$75,000 in the general or special election runoff period. Candidates must accept expenditure ceilings in order to be eligible for matching funds from the Campaign Reform Fund.

If one candidate in the race exceeds the limit, the expenditure cap ceases to apply to all other candidates. A candidate cannot, however, unilaterally determine that his or her opponent has exceeded the limit and then exceed it. Excess spending must be determined by a judicial ruling, a "notification of rejection" sent to all candidates by the violating candidate or a clear expression of such overspending on the candidate's campaign report.

2. Contribution Limits

No individual may contribute more than \$500 per election to any candidate. Furthermore, no individual may make contributions totaling more than \$250 per candidate in any single non-election year. (Each of the three years preceding the election year is a "non-election year.")

Organizations, labor unions, partnerships, joint ventures, business trusts, corporations, associations, PACs or committees (which must be composed of 25 or more persons) may contribute up to \$1,000 in any single election year, or \$250 in any single non-election year. An aggregate limit of \$10,000 is placed on the total amount of contributions a candidate can receive in each non-election year.

3. Limited Public Matching Funds

Candidates who accept expenditure limits will receive \$1 of public matching funds for every \$1 they raise in private contributions of \$250 or less in the election year. For a candidate to qualify for matching funds, the candidate must first receive at least \$10,000 in contributions of \$250 or less in the election year. The candidate must also have a serious opponent who has raised, spent or has cash on hand of \$10,000, or who has qualified for matching funds. Candidates who accept public funds must establish two checking accounts: one labeled "public account," containing public matching funds; the other labeled "private account," containing all other contributions. The public funds can only be used for expenditures on voter contacts.

4. Campaign Auditing

One-half of all candidates who receive public matching funds are subject to audit on a random basis.

5. Independent Expenditures

Any person or group which makes independent expenditures of more than \$5,000 in support of or opposition to a candidate must notify the registrar of voters and all other candidates in the race.

6. Enforcement and Penalties

Any person who violates any provision of the ordinance is guilty of a misdemeanor. Citizens have the right to file civil actions against candidates who violate provisions of the ordinance.

F. Conclusions and Recommendations: Experience With Sacramento County's Ordinance May Require Minor Adjustments

With two candidates each spending in excess of \$280,000 in the 1986 primary and general races combined, and three others spending over \$100,000 each in the 1986 primary alone, the ordinance's \$150,000 election cycle expenditure ceiling (primary \$75,000, general \$75,000) may be too low. While this low expenditure cap will significantly reduce spending from levels achieved in the 1986 election, it may also force some candidates to reject expenditure ceilings. Furthermore, the same \$75,000 limit for both primary and general elections may not fit the realities of

competitive spending. Because the general election involves a runoff between the top two primary candidates, neither of whom received more than 50% of the vote, a higher expenditure ceiling for the November runoff election might be prudent.

The competitive 1986 open seat race between Grantland Johnson and Roger Dickinson illustrates the differing levels of spending in the primary and general races. In his general election campaign, unsuccessful candidate Dickinson spent twice as much as he spent in the primary.³² Johnson spent 26% more in his general election campaign than he did in his primary effort.³³ The county should consider raising the limits to \$100,000 in the primary and \$125,000 in the general election.

Another possible trouble spot in the ordinance is the \$10,000 total limit on all contributions in each non-election year. With three off years, this amounts to \$30,000. Yet in the incumbent-dominated elections of 1982 and 1984, challengers rarely raised more than \$30,000 in the election year. This provision may thus provide incumbents with a major advantage as challengers are rarely able to raise *any* off year funds. Non-election year contributions should be more severely limited or perhaps even banned.

Perhaps the most unique provision in the ordinance is the requirement that limited public matching funds must be spent exclusively on voter contacts. Under the new law, candidates who accept matching funds can only use this funding for "direct campaign expenditures (DCEs)." The ordinance defines DCEs as expenditures for "the printing of campaign literature, television, radio, newspaper and billboard advertising and postage." All other campaign expenses—such as overhead—must be paid out of private contributions.

The value of this provision may lie in what it symbolizes. It mandates a direct relationship between the supply of limited public matching funds and the clash of ideas between candidates. Limited public matching funds thus fund the *debate* between the candidates, not simply the campaigns of individual candidates. In future years, this section may need amendment to include additional methods of communicating with the voters, such as the use of computer modems or pre-taped campaign messages for home video cassette recorders.

Reaction to the new ordinance has been largely accepting. While many express some reservations over limited public financing, they are willing to wait and "see how it works." Observers feel, however, that two or three elections will be needed to judge accurately the ordinance's effectiveness. Supervisor Jim Streng—in his 1988 reelection campaign—accepted expenditure ceilings but rejected public funds. He ran unopposed. Though he remains philosophically opposed to public financing, Streng strongly believes that campaign spending has to be controlled.³⁴ His record-breaking 1986 campaign spent more than \$300,000, double the amount allowed by the county's current expenditure cap for primary and general elections combined.

To some property developers, the new ordinance presents a welcome approach. Developer Phil Angelides said he was "very happy" with the plan. Although Angelides expressed skepticism about the contribution limits provision, he said, "The important part of [the ordinance] is the cap on spending."³⁵ Larry McConnell, a former member of the Public Finance Reform Commission, commented, "Though I am philosophically opposed to public financing, it deserves a chance. I was a consultant for 12 years. I felt something needed to be done."³⁶

NOTES

1. Dan Walters, *Who's In Charge Here?*, Sacramento Bee, Mar. 29, 1987.
2. Publications Network and Greater Sacramento Chamber of Commerce, *the Business Handbook: Sacramento on the Go*, p. 19 (1986).
3. Dan Walters, *Does Citrus Heights Have the Makings of a City?*, Sacramento Bee, Apr. 5, 1987.
4. "As political leadership in the Sacramento area has waffled and temporized, there have arisen serious movements aimed at wresting control away from county supervisors, who are viewed as being overly solicitous of the interests of developers," Sacramento Bee columnist Dan Walters has written (Walters, *supra* note 1). Walters also believes "county government should have offered a more comprehensive oversight of suburbanization, rather than simply rubber-stamping developers' schemes . . ." (Walters, *supra* note 3.)
5. Ricardo Pimentel and Jim Lewis, *Money, Growth and Politics: Planners, Residents Said No, But Developer Won—Twice*, Sacramento Bee, Oct. 14, 1985.
6. *Id.*
7. California Common Cause, *A Study of Sacramento County Supervisors' Campaign Contributions—A Developing Problem* (Oct. 29, 1986).
8. Pimentel and Lewis, *supra* note 5.
9. Kay Mogarvero, *Money Keeps Rolling In*, Suttertown News, May 29-June 5, 1986.
10. California Common Cause, *supra* note 7.
11. Interview with Jim Streng, Supervisor, Sacramento County, May 7, 1987.
12. Telephone interview with Ted Sheedy, former Supervisor, Sacramento County, June 10, 1987.
13. Rebecca Calder, *Do Developers' Contributions Affect Supervisors?*, Galt Herald, Mar. 26, 1987.
14. *Id.*
15. California Common Cause, *supra* note 7.
16. Interview with Streng, *supra* note 11.
17. Telephone interview with Sheedy, *supra* note 12.
18. Public Finance Reform Commission, *Recommendations*, p. 3 (June 7, 1985).
19. Telephone interview with Richard Yanes, former Public Finance Reform Commission member, Apr. 22, 1987.
20. *Recommendations*, *supra* note 18.
21. *Id.*
22. Telephone interview with Dave Schmitz, consultant, June 10, 1987.
23. Telephone interview with Richard Yanes, former Public Finance Reform Commission member, Dec. 22, 1987.
24. Editorial, *Do the Supervisors Want Reform?*, Sacramento Bee, Apr. 1, 1986.
25. Telephone interview with John Kehoe, Member, Sacramento Area Chamber of Commerce, Apr. 22, 1987.
26. Telephone interview with Michael Manley, former Public Finance Reform Commission member, Apr. 22, 1987.
27. Telephone interview with Steve Barrow, California Common Cause Legislative Director, June 8, 1987.
28. Mogarvero, *supra* note 9.
29. California Public Interest Poll, University of Southern California/Common Cause, June 20, 1984.
30. California Poll, Field Institute, Feb. 1985.

31. Telephone interview with Sheedy, *supra* note 12.
32. Roger Dickinson spent approximately \$71,000 in the primary and \$146,000 in the general.
33. Grantland Johnson spent approximately \$125,000 in the primary and \$157,500 in the general.
34. Interview with Streng, *supra* note 11.
35. Calder, *supra* note 13.
36. Telephone interview with Larry McConnell, former Public Finance Reform Commission member, Apr. 23, 1987.

CHAPTER 16

San Diego: Toughest Campaign Financing Ordinance in the Nation

In 1973, San Diego adopted the most stringent campaign finance ordinance in the nation and one of the first in California. The ordinance bans all corporate and PAC contributions and limits individual contributions to no more than \$250 per candidate. Compliance with San Diego's ordinance is closely monitored by an efficient city clerk's office, an active press and a concerned public.

Still there are calls for further reform. Accusations that city councilmembers pay excessive deference to contributors continue to be a major theme in every council election. Mayor Maureen O'Connor made campaign reform a centerpiece of her successful 1986 campaign. A citizen task force, formed by the city council after the resignation of former Mayor Roger Hedgecock in 1985, spent two years re-evaluating the city's ordinance. It appears that San Diego's 1973 reform ordinance has not yet resolved the city's campaign finance problems.

Residents of San Diego—the second largest city in California—love its beautiful climate and relaxed pace of life. “San Diegans, in many cases, choose to live here instead of Los Angeles,” says one local observer, “and people here are very interested in preserving their quality of life.”¹ Another comments, “Los Angeles is the image of what San Diego is trying not to be.”²

San Diego's environmental beauty draws residents from all over the world, and the newcomers need homes, services and jobs. The resulting development is strongly resisted by those who have already arrived. City officials are thus torn between three competing forces—the newcomers' needs for enhanced facilities, the residents' demands for environmental preservation and the developers' desires to build profitable housing for the expanding population. As a result, local residents have developed an almost paranoid suspicion that money from developers influences official decisionmaking.

San Diego voters demand vigilance from their city officials to prevent their sunny Southern California paradise from being spoiled by overdevelopment. For some 70 years, San Diego's elections have turned on issues of "environment" versus "development." As early as 1917, in an election dubbed "Smokestacks versus Geraniums," victorious city council candidates sided with pro-environmental forces. Ever since, local San Diego races have been won and lost on voter perception of the candidate's environmental policies.³ In large part, successful candidates have stressed their dedication to environmental preservation and their independence from local developers.

A. California's Second Largest City Resists Becoming a "Second Los Angeles"

In 1971, Pete Wilson was elected mayor of San Diego "largely on his pledge to control growth."⁴ In 1983, Roger Hedgecock, Wilson's successor, campaigned on his environmental credentials and his pledge to prevent "the Los Angelization of San Diego."⁵ In 1985, San Diego city voters strongly supported ballot Proposition A which blocked development in urban reserves and required voter approval of additional developments.⁶ In 1986, Maureen O'Connor became mayor by confirming her commitment to "slow-growth," rejecting contributions from development interests and making developer contributions to her opponent Bill Cleator a campaign issue.⁷ In her 1988 State of the City address, Mayor O'Connor boasted that 7,000 fewer building permits had been issued in 1987 than in 1986.⁸

1. Rapid Pace of San Diego Growth

In the early 1980s, San Diego County surpassed Orange County to become the state's second most populous county. The San Diego Association of Governments (SDAG) now estimates that between the years 1980 and 2000 central San Diego's population will grow by 12%, and the population in peripheral areas of the city and outlying communities, especially in the northern part of the county, will grow by 100% or more.⁹ By the year 2020, the county's population is expected to climb from the current 2 million to over 3.5 million.¹⁰

Demand for housing currently outstrips demand for commercial or industrial development. As a result, "residential developers have been more active at City Hall than have commercial developers," says political consultant Bobby Glaser of the La Jolla Group.¹¹ Commercial and industrial development lags behind housing because of San Diego's isolation. "San Diego is somewhere south of Southern California," Jonas Salk, inventor of the polio vaccine, explained to a reporter from the *San Francisco Chronicle*.¹² With the ocean to the west, the desert to the east, an international border to the south, and Camp Pendleton to the north, the size of San Diego's market is confined. Elected officials in San Diego are asked to provide new houses and jobs for an ever-growing population without hurting the environment and without the security of an expanding business base.

2. High Ethical Pressures on Elected Officials

The San Diego electorate has historically "voted conservatively San Diego County is one of the few in the state with an absolute majority of registered Republicans and it voted 2-to-1 for Ronald Reagan over Walter Mondale in 1984."¹³ Yet San Diegans are also strong environmentalists. They are critical of pro-development candidates and demand high ethical standards in elected officials.¹⁴

Table 16.1

SAN DIEGO DATA PROFILE

Local Government

- STRUCTURE:** Charter drafted in 1931; eight city councilmembers elected by district to four-year terms (prior to 1988 charter amendment, candidates ran in a district primary and the top two in a citywide runoff); city attorney elected; city manager and city clerk appointed by council.
- CITY BUDGET:** \$716 million (fiscal year 1988-89)
- CITY FACTS:** Population (1985): 971,587; Area: 323 square miles; Registered voters (Apr. 1989): 557,772; Voter turnout (Nov. 1987): 37%

Contributions

	<u>City of San Diego</u>	<u>Large Jurisdictions</u>	<u>All Jurisdictions</u>
Business*	0%	60%	52%
Individual	75%	27%	33%
Labor*	0%	4%	4%
Political*	0%	6%	6%
Candidate	25%	3%	5%
Non-Election Year	8%	49%	42%
Election Year	92%	51%	58%

Expenditures

	53%	33%	38%
VOTER CONTACTS			
Broadcast	21%	7%	7%
Literature	26%	23%	26%
Newspaper	3%	2%	2%
Outdoor	3%	1%	3%
OVERHEAD	45%	67%	62%
General	13%	25%	22%
Personnel	7%	4%	6%
Fundraising	8%	15%	13%
Survey	4%	3%	4%
Consulting	15%	11%	10%
Travel	0%	1%	1%
Candidate Transfer	0%	8%	6%

*San Diego's ordinance prohibits contributions from non-individuals. Thus, no business, labor or political contributions were reported.

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1986)

San Diego has had its share of political scandal. Charges of bribery weakened the candidacy of then-Mayor Frank Curran in 1971, allowing Pete Wilson to win as a reformer. One of Mayor Wilson's first initiatives was passage of San Diego's campaign finance ordinance in 1973. In 1985, Mayor Roger Hedgecock resigned after being convicted of violating the 1973 campaign finance ordinance along with other laws.

It is not clear, however, whether the problem of political integrity is greater in San Diego than in other California cities or counties or whether there are special local circumstances at work. San Diego's district attorney may be more active than in other areas; the local ordinance may be so strict that the temptation to violate it is great; or San Diego politicians may be more closely watched by the people and the media than elsewhere.

"I grew up in Los Angeles and later moved to San Diego for work," says Mark Nelson, Executive Director of the San Diego Taxpayers Association, and Chairman of the recent city-sponsored Campaign Review Task Force. "I'm not sure that [corruption] is any worse here than elsewhere. I think that concern about corruption may be overblown here. I think we, in San Diego, may have a bit of a Pollyanna complex."¹⁵ However, the concern expressed by San Diego voters over honesty in government spurred the drive for campaign finance reform in 1973 and underlies interest in additional reforms today.¹⁶

B. San Diego Drafts the Toughest Local Ordinance in the Nation

"The local movement for campaign reform began in 1970 when then-former U.S. Attorney [Edwin] Miller was elected district attorney in what was considered an upset over Bob Thomas, the candidate supported by banker C. Arnholdt Smith, whose name was synonymous with what was called 'The Establishment.' . . . A year later, then-Assemblyman Pete Wilson was elected mayor. He, too, had run against a Smith-supported candidate, incumbent Frank Curran. Like Miller, Wilson felt that lax [campaign finance] laws gave an unfair advantage to the wealthy kingmakers. He was determined to trim that advantage."¹⁷

Mayor Wilson and District Attorney Miller were supported by a public that had grown tired of kingmakers, favored politicians and public revelations of laundered and hidden contributions. In 1970, for example, Mayor Frank Curran and seven other public officials were indicted on charges of taking bribes from the San Diego Yellow Cab Company. Testimony at Curran's trial suggested that C. Arnholdt Smith's Barnes-Champ agency had carried the mayor's \$18,000 campaign deficit for more than two years, providing a very large, indirect campaign contribution to Curran. Curran was acquitted in January 1970 but was politically hurt by the trial. He finished fourth in the mayoral primary four months later.¹⁸ Within 16 months of Wilson's election as mayor, he and District Attorney Miller had shaped the most stringent campaign reporting ordinance anywhere.

San Diego's Municipal Election Campaign Control Ordinance states, "Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributions over elected officials." The ordinance contains several provisions designed to reduce improper influence exercised over elected officials:

- **Prohibited Contributions.** Contributions from all non-individuals—corporations, labor unions, political action committees (PACs)—and transfers from one campaign committee to another are prohibited.
- **Individual Limits.** Contributions from individuals—other than the candidate—are limited to \$250 per candidate per single election.

- **Credit.** No one except the candidate may extend credit to a campaign of more than \$250 or of any amount for more than 30 days.
- **Anonymous Contributions.** If a candidate receives a total of over \$200 in anonymous contributions, he or she cannot use the money and must pay the excess amount over \$200 to the city's General Fund.
- **Disclosure.** If a candidate or committee fails to disclose a contributor's occupation and employer, the candidate cannot deposit the contribution (added by 1985 amendment to the ordinance).
- **Independent Expenditures.** Independent expenditures are allowed, but any materials published, displayed or broadcast by persons or organizations not subject to the control of a candidate or committee must indicate that they were not authorized by a candidate or committee.
- **Penalties.** Any candidate convicted of violating any provision of the ordinance forfeits his or her office (if the winner of the election) and is forbidden to run again for at least five years.

San Diego's ordinance has been amended three times since its adoption in 1973 but only once substantively. In 1985, the city council voted to require candidates to obtain all disclosure information before cashing contributions. Two city task forces have recommended additional changes, but their recommendations have not been adopted.

C. San Diego's Ordinance Has Neither Limited Spending nor Eased Public Concern Over Developer Influence

As the result of the prohibition against contributions from non-individuals, San Diego candidates receive no money from businesses, labor unions or PACs (see generally Table 16.1, "San Diego Data Profile"). Instead, candidates raise all their money from two sources—individuals (subject to the \$250 per election limit) and the candidates themselves. (See Table 16.2.) This has not, however, resulted in reduced overall campaign spending, nor has it eliminated the appearance of excessive contributor influence. It has, however, given wealthy candidates an advantage.

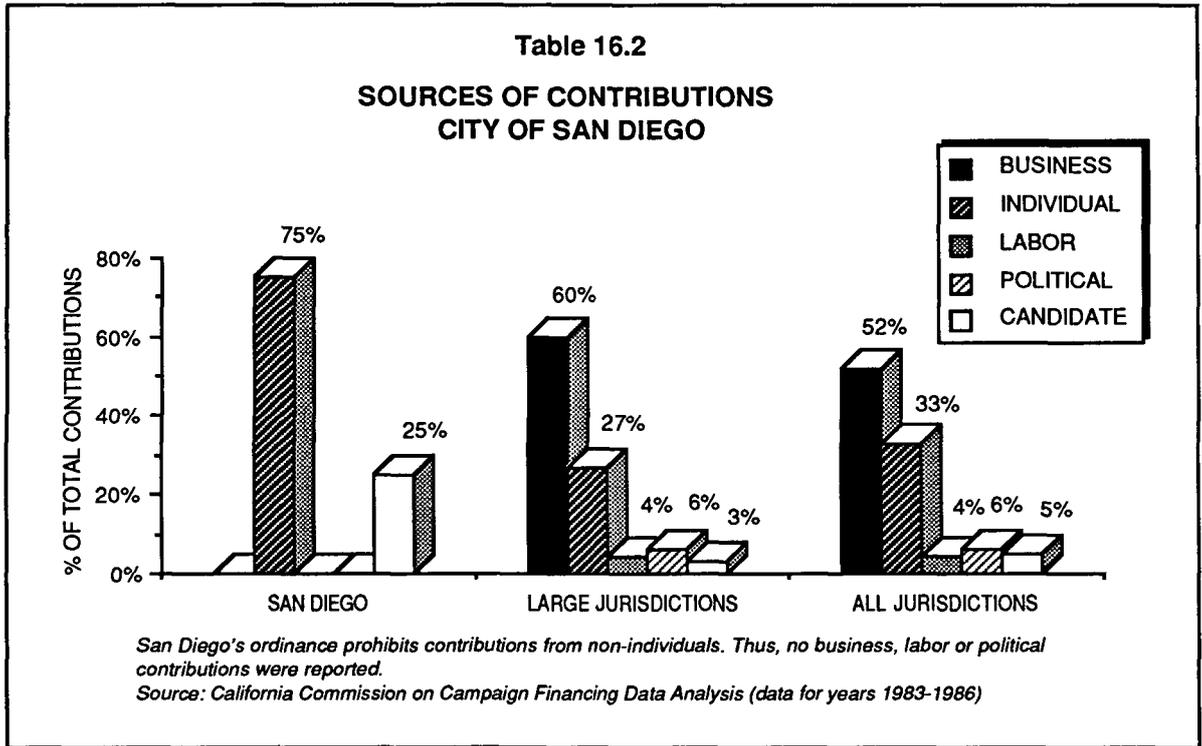
1. Continued High Spending

Up to now, candidates for the San Diego City Council had to run two types of campaigns: an in-district campaign, which selected the two candidates with the highest vote totals for a November runoff; and a citywide campaign, from which the city council was chosen. Under this hybrid system, successful candidates had to develop two campaign approaches: a low-cost, grassroots campaign for the September district elections, and a higher-cost, media-dominated campaign for the November runoff. (In 1988, city voters approved a plan for district-by-district elections in both the primary and the runoff elections.)

The city's strict contribution limits have not reduced the high, and rising, costs of local campaigns. Between January 1, 1983, and mid-1986, for example, city councilmembers raised over \$4.2 million in contributions and contributed over \$1 million in personal loans for campaign use. "Competitive campaigns for city council now cost over \$250,000," says former Councilmember Mike Gotch. "Since [the election of U.S. Senator] Pete Wilson, there is a higher profile associated with the San Diego City Council. The area is just too large; you really need a political consultant."¹⁹

Political consultant Bobby Glaser of the La Jolla Group comments, "It's hard to say exactly how much money is necessary for a local city council race today. It varies so much. When you have a serious race in San Diego, you have to use some

television advertising which is very expensive. In primaries, little television is used because those elections are only district-wide. With less competition, only mail is necessary, even in the citywide vote.”²⁰



“I used most of my money in the general election,” says Abbe Wolfsheimer, a first term councilperson from the First District. “Media buying is the most expensive and the most difficult aspect of a campaign. I didn’t really need money in the primary. I walked to 16,000 households.”²¹

“In a city the size of San Diego, campaigning is communication,” explained former FPPC executive director John Keplinger. “Campaigning is getting your message to the voters—direct mail, radio, television. To communicate adequately, to have good competition in campaigning, people have to spend good amounts of money. But if you adopt low limits and receive money only from individuals, something is going to pop.”²²

When competition is stiff in San Diego, pressure for fundraising becomes intense. Because San Diego candidates must raise money in smaller increments, they must increase the number of their contributors. Moreover, they have increasingly turned to creative fundraising alternatives such as coordinated giving by employees from the same company or to personal contributions from candidates themselves.

2. Coordinated Individual Giving as a Substitute for Contributions From Organizations

San Diego’s ordinance allows employees of the same company to make political contributions so long as they are not reimbursed. Locally, however, employee giving to San Diego city council and mayoral campaigns is often dubbed “organized giving.” Employee checks are frequently gathered at a workplace fundraiser, “bundled” together and delivered by a corporate officer to the candidate. According to George Lattimer, Executive Vice President for Harry Summers, Inc., a major building contractor in the area, “Typically, we bundle the contributions [from employees] up

in an envelope and send them off. It seems like a logical procedure to us.”²³ In the candidate’s campaign reports, the contributions are usually listed alphabetically by individual contributors so their common source is not easy to detect. Each contribution may be limited in individual importance, but a coordinated bundle of employee contributions can provide the impact of a large corporate gift.

Mark Zerbe, formerly of Common Cause and now of Citizens for Responsible Government, analyzed contributions to the 1983 mayoral special election and found several examples of “organized giving.” “The biggest single example was 32 contributions from 21 employees of Arcwel Corporation, a shipbuilding company, to [Dick] Carlson’s campaign.”²⁴ In the same election, successful candidate Roger Hedgecock received \$7,250 from 23 employees of Herzog Contracting Company, based in St. Joseph, Missouri. Herzog Contracting Company was a major contractor for the eastern extension of the San Diego Trolley and, at the time, was involved in a controversial trash-to-energy project in San Diego.²⁵

Zerbe also analyzed contributions to councilmembers between January 1, 1983, and August 31, 1985, and ranked the eight highest corporate contributors according to accumulated employee giving. (See Table 16.3).

Reimbursing employees for their contributions is illegal. But, comments political consultant Bobby Glaser, “We have statements from employees who describe how reimbursement for contributions is buried in expense accounts.”²⁶ “There are easy ways to get around [the law],” adds Paul A. Petersen, a Democratic activist. “For example, . . . a business firm can simply get fifty of its employees to donate individually, then reimburse them with Christmas bonuses or other means.”²⁷ If indirect reimbursements are occurring in San Diego, they are not well publicized or prosecuted.

“Organized giving” tends to undermine the objective of San Diego’s ordinance because employers rather than individual employees get the credit. “Individual” giving becomes organizational giving. The public does not appear to distinguish between corporate checks and checks from employees of an organization, especially when the organization is involved in local development.

Nancy MacHutchin, a major San Diego fundraiser, “helped Hedgecock defeat three millionaires in two years (Maureen O’Connor and City Councilmember Bill Cleator in 1983, and Dick Carlson in 1984).”²⁸ She defends candidates who accepted contributions from possibly undisclosed sources. On charges that tickets purchased by one individual for a 1983 Valentine’s Day dinner were really purchased by another, MacHutchin commented:

*“There is such a huge volume of people raising money and checks coming in, especially right around the time of a big fundraiser. What are you going to do? Stand there and say, ‘Did you get a check from every one of these people?’ It’s impossible. Whatever abuses have occurred . . . are the fault of a contributions limit that is too low and a ban on corporate contributions.”*²⁹

In future elections, “bundling” of contributions must be disclosed. Proposition 68 requires that any person who delivers a check must be disclosed on the campaign statement of the recipient.³⁰ Reimbursements of such contributions continue to be illegal under state law unless disclosed.³¹

3. The Appearance of Undue Influence and an Instance of Corruption

“In San Diego, there is only one real special interest,” says Councilmember Abbe Wolfsheimer, “and that is development.”³² In 1986, the *San Diego Union* analyzed contributors to that year’s special mayoral election by counting the contributions of all employees of Building Industry Association (BIA) members and

adding employees of real estate brokers and property management companies. The *Union* found that "more than half of the \$468,722 contributed to the mayoral campaign of Councilmember Bill Cleator has come from individuals employed in real estate and land development-related industries and their family members."³³

Table 16.3

**TOP TEN CORPORATE EMPLOYEE AGGREGATES
AUGUST 1983 - AUGUST 1985
CITY OF SAN DIEGO**

<u>Company</u>	<u>Accumulated Employee Total</u>	<u>No. of Employees</u>
Pacific Scene (Developer)	\$23,755	112
SDG&E (Utility)	\$12,648	106
Great American First (Bank)	\$12,402	104
Rick Engineering (Developer)	\$18,262	97
Luce, Forward, Hamilton & Scripps (Law firm/Lobbyists)	\$11,127	95
Harry L. Summers, Inc. (Construction)	\$18,687	93
Peterson, Thelan & Price (Law firm)	\$15,675	90
Genstar (Developer)	\$17,024	84

Source: CALIFORNIA COMMON CAUSE, DISTURBING DEVELOPMENTS—A STUDY OF THE SAN DIEGO CITY COUNCIL ELECTIONS OF 1983 (Jan. 9, 1984).

San Diego's ordinance has forced candidates to increase the number of contributors (since each contribution is limited to \$250), but the ordinance has not broadened the base or type of contributor. William Moorhous of the Donald Bren Company, speaking on behalf of the BIA before the Campaign Review Task Force in 1985, conceded that San Diego's contribution limit forced candidates to draw their contributions from the employees of a few industries. But he expressed concern that raising the limit would be fruitless. "I'm tired of seeing very few companies raising the vast majority of money that is given to campaigns . . . I frankly feel our elected officials need to broaden their base of support. I think they need to get their neighbors, their PTA, the people who go to their churches to contribute to them." But, Moorhous continued, "If the contribution limit is raised to \$500, candidates will not meet rising campaign costs by widening their community support, but instead will expect established donors to double their contributions."³⁴

The cumulative weight of development-related contributions (each of which does not exceed \$250) has created local concern about developer influence over city policies. Development-related contributions have become a campaign issue in nearly every council campaign. Candidates criticize each other for accepting too many contributions from employees of development companies.³⁵

In the mid-1980s, fears of corruption in city politics were substantiated when popular Mayor Roger Hedgecock was charged with receiving illegal and undisclosed campaign contributions. Federal investigators in 1984 uncovered an unreported loan of \$130,000 from Nancy Hoover, a J. David & Associates employee, to Hedgecock for

remodelling the mayor's home.³⁶ The San Diego County Grand Jury investigated the undisclosed loan as a possibly disguised campaign contribution designed to circumvent the city's ordinance. On September 19, 1984, the Grand Jury indicted Hedgecock for this loan and for 57 alleged attempts to launder campaign contributions dating back to 1980.³⁷

At the same time, District Attorney Edwin Miller began an investigation of Hedgecock for violations of the local ordinance. On May 21, 1984, Miller filed a civil lawsuit against Hedgecock alleging numerous violations, the most salient of which was Hedgecock's receipt of excessive and undisclosed "in-kind" contributions through use of a political consulting firm managed by his friend and aide, Thomas Shepard.³⁸

In a third action, the state Fair Political Practices Commission (FPPC) launched its own investigation of Hedgecock for suspected violations of the state Political Reform Act's disclosure provisions. The FPPC subsequently filed a multi-million dollar civil suit against Hedgecock and five political associates "alleging more than 400 violations of state law," such as failure to disclose in kind, cash and "laundered" contributions from seven-year-old children and non-resident aliens.³⁹

Under the specter of three investigations, Hedgecock ran for reelection in June and November 1984—and won. Hedgecock claimed the charges against him were politically motivated. The voters supported him in a landslide November victory, despite the FPPC lawsuit filed just 22 days before the election.

Hedgecock's first criminal trial in February 1985 was declared a mistrial. Following a second trial in October 1985, he was convicted of perjury and conspiracy. He was sentenced to one year in the custody of the county sheriff. Hedgecock's conviction is currently on appeal, but because of penalties prescribed by San Diego's local ordinance, he lost his office.⁴⁰ The civil suits are still pending.

The Hedgecock scandal spawned questions about the effectiveness of the San Diego ordinance and new calls for reform.⁴¹ Some, like the city clerk, argue that San Diego's overly restrictive contribution limits might have driven candidates to use "creative" funding sources. The city clerk suggests higher contribution limits (\$1,000, not \$250, per election). Others point to Hedgecock's conviction as evidence of the effectiveness of the local law. Without it and its prohibition on credit and in-kind contributions exceeding \$250, Hedgecock would have retained his office.

Following Hedgecock's conviction, Councilmember William Jones suggested the creation of a task force to examine possible amendments to San Diego's ordinance. Lobbyists, fundraisers and community representatives were invited to join the new Campaign Review Task Force which met over a two-year period and took extensive testimony. When Roger Brown, the FPPC's Chief of Enforcement, spoke before the Campaign Review Task Force, he asserted that some San Diego candidates resorted to "laundered" contributions because legitimate contributions were difficult to raise: "In my experience," Brown said, "those jurisdictions which have stringent contribution limitations are areas where we have received more complaints of laundering . . . than any other areas. I believe there is some correlation between very strict contribution limits and incidents of laundering."⁴²

Then-FPPC Chairman Dan Stanford also observed that the FPPC's investigation into Hedgecock's contributors uncovered "several donations from teenagers and children as young as seven." He continued, "It strains credulity to think a six-, seven- or eight-year-old contributes the legal maximum allowed by law. Personally, I think the San Diego ordinance causes those kinds of contributions."⁴³

4. Candidate Contributions

Because San Diego city candidates feel they must refuse "developer money" and avoid the appearance of corruption, those who are personally wealthy often fill the funding gap with their own money.⁴⁴ Strict contribution limits in San Diego make personal contributions and loans one of the few *legitimate* alternatives to special interest contributions. Candidates' own contributions are often not well publicized until after an election, which means they can be last-minute, large and influential. When they are publicized, San Diego candidates proclaim them as evidence of their independence from developers.

The widespread use of personal loans was not anticipated by the authors of the San Diego ordinance. One of the first instances of the practice occurred in 1979, when mayoral candidate Si Casady personally borrowed \$10,000 from his son and then made a personal contribution to his own campaign.⁴⁵ (This may have been an illegal disguised contribution over the \$250 limit from Casady's son, but it was never challenged.) This incident became the first step in a growing trend toward personal contributions. In 1983, mayoral candidate Maureen O'Connor broke records by contributing more than \$565,000 to her unsuccessful campaign. In 1986, O'Connor again dipped into her personal account, spending \$30,000 of her own money against Bill Cleator in the closing days of the campaign.⁴⁶

In 1985, successful candidate Abbe Wolfsheimer broke records for council candidates when she spent \$240,000 of her own money to turn incumbent Bill Mitchell out of office. "I had planned to spend \$250,000," Wolfsheimer was quoted as saying in the *San Diego Evening Tribune*.⁴⁷ The precedent established by Wolfsheimer was repeated in 1987 when two competing candidates in a contest for the open District 8 council seat together spent "\$436,000 of their personal money campaigning for a job that pays \$45,000 a year."⁴⁸ Bob Filner, the victor in the race, spent \$224,000 of his own money. His opponent, Mark Aguirre, put in \$212,000 of his own money before he voluntarily stopped the flow to his coffers. "I got to the point where I felt I'd put enough of my own money in and it was time to raise money."⁴⁹

It is not uncommon for San Diego candidates personally to provide well over 75% of their own campaign financing. One quarter (25%) of *all* campaign contributions to San Diego municipal candidates comes directly from the candidates themselves. (See Table 16.1, "San Diego Data Profile."). Challengers contribute the largest amount to their own campaigns: about one-third of their total contributions. One-half of the members of the 1986-87 council, including the mayor, were millionaires.

Opponents claim they are unfairly disadvantaged when forced to run against wealthy candidates and suggest that wealthy candidates are unaccountable to voters. In the 1986 special mayoral election, former Councilmember Floyd Morrow made the wealth of front-runners Cleator and O'Connor a campaign issue. In campaign speeches, Morrow said, "They don't think the way those of us who have to work for a living do. And they spend their money differently than we do. Their priorities are different than ours, and I think we have to emphasize that."⁵⁰ Ironically, Morrow, who criticized his two opponents as millionaires, used more of his own money in the 1986 mayoral primary than either Cleator or O'Connor. Morrow gave over \$80,000 of his own money to the campaign and spent most of it on television spots and mailings. Yet Morrow did not make it into the runoff.⁵¹

Wealthy candidates wear their personal contributions as a badge of independence from "influential" contributors. An aide to 1983 mayoral candidate Dick Carlson, who gave lavishly to his own campaign, commented, "By using his own money to provide more than half of his campaign budget, Carlson has been able

to be more independent of special interests.”⁵² Councilmember Wolfsheimer, who donated \$240,000 to her 1985 campaign, commented, “I look at my contributions as an investment in good government.”⁵³

Mark Aguirre, a 1987 council candidate, proudly proclaimed his “independence” from outside influence and noted that John F. Kennedy and Mayor Maureen O’Connor both used personal contributions. His unsuccessful opponent in the primary, Neil Good, responded, “I think that the argument that somehow personal wealth gives you more independence than otherwise is wrong. Personal wealth gives you public arrogance rather than personal accountability.”⁵⁴

D. San Diego’s Ordinance Has Altered Fundraising and Spending Patterns

While San Diego’s ordinance has neither limited campaign spending nor significantly dampened concerns over excessive developer influence, it has had a distinct effect on fundraising and spending patterns. (It is difficult to compare pre- and post-ordinance patterns because San Diego’s records do not extend to years prior to 1973, the date of its ordinance.)

1. Positive Effects

Many positive features of San Diego City elections continue under the local ordinance. These include intense public interest in elections and campaign finance issues and competitive campaigns for council and mayor.

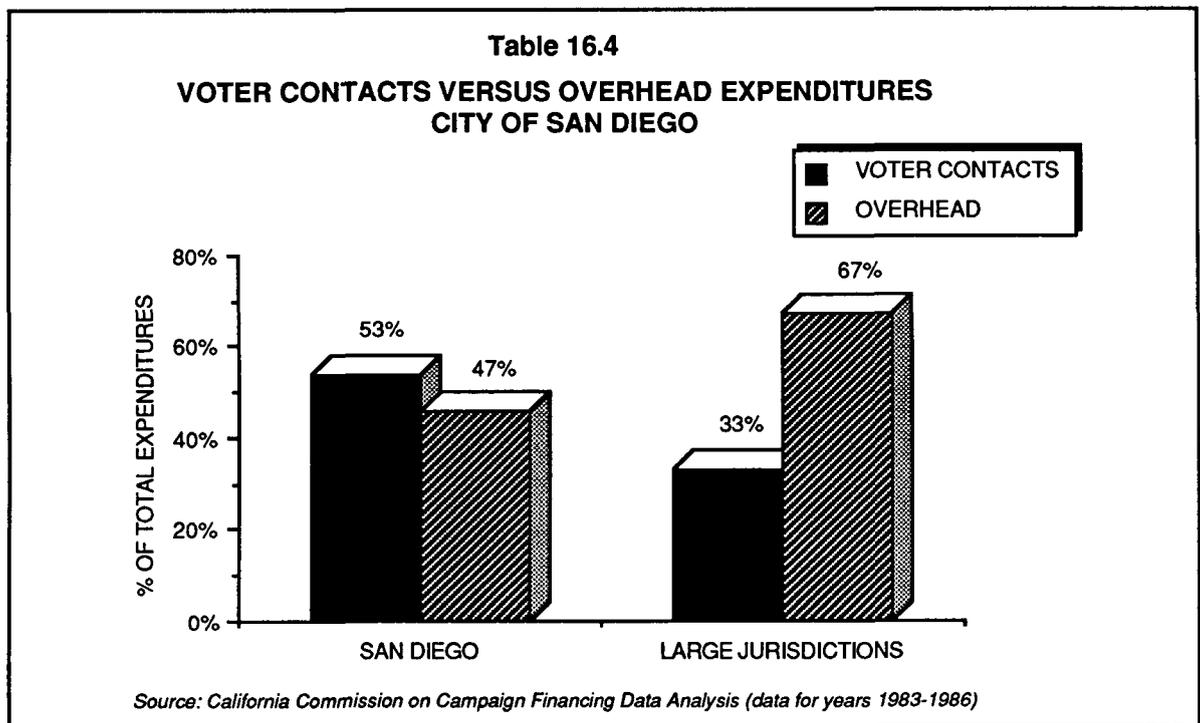
a. Intense Public Interest

Compliance with San Diego’s ordinance is efficiently monitored by an organized city clerk’s office, which has the unenviable task of checking far more voluminous campaign finance reports than in other local jurisdictions. The district attorney has also been active in enforcing both the city and county laws, which are similar. The press has publicized every exposed violation and use or attempted use of loopholes. The voters continually demonstrate a commitment to campaign finance law enforcement.

City Elections Officer Jack Fishkin attests to the tremendous interest in campaign statements. “When the statements arrive, we make several copies. There are three lobbyists that always want copies of everyone’s statements. One public interest spokesman wants copies of all statements for numerical analyses. Sometimes reporters are in here waiting for the statements to arrive by mail.”⁵⁵

Campaign statements in San Diego are complete largely because of a unique 1985 amendment which requires candidates to disclose fully a contributor’s occupation and employer *before* they can cash the contributor’s check. The amendment has significantly increased compliance with state law—100% in San Diego, compared with less than 50% in many other cities. Unfortunately, the format of the state’s disclosure form does not allow for easy analysis of this new information. Contributors are not grouped by employer to detect organized giving.

Public interest in city elections is also expressed by high voter turnout, even in off years when there are few other races or issues to attract attention. During campaigns, public forums are held throughout the city, many of which are sponsored by 43 planning groups sanctioned by the city. These forums are well-attended by both candidates and voters. San Diego city candidates respond to voter curiosity about municipal elections by spending large portions of their campaign budgets on direct voter contacts, including broadcast, literature and advertising, and relatively less on general overhead expenses—just the opposite of spending patterns in other large jurisdictions in the state. (See Table 16.4.)



The local print media reflect and encourage voter interest in campaigns. The *San Diego Union*, the *San Diego Tribune*, and the San Diego edition of the *Los Angeles Times* all assign reporters exclusively to cover City Hall and local elections. During campaigns, these newspapers assign extra reporters to cover individual races. Stories on campaign spending and possible connections between contributors and votes are frequent. San Diego's television and radio stations also provide strong local coverage.

Active public interest groups also supplement the education of the San Diego voter. Local chapters of the Sierra Club and League of Women Voters encourage candidates to discuss their positions on issues. Under the leadership of Mark Zerbe in 1983 and 1984, the local chapter of Common Cause raised public consciousness about the sources of funding for city campaigns with extensive analyses of contributions and expenditures.

b. Competitive Races and Minimal Non-Election Year Fundraising

Incumbents commonly gain a fundraising advantage in communities where contribution limits are the centerpiece of the campaign financing ordinance. Incumbents with existing name recognition and power over legislation can generally tap a broader network of potential contributors than challengers. Incumbents also receive the bulk of corporate and PAC support, which generally goes to those most likely to win.

In San Diego, incumbents have been able to secure a significant fundraising advantage. (See Table 16.5.) During the election cycles surveyed by the Commission, incumbents received 70% of all the contributions from individuals to incumbents and challengers. In response to this fundraising disparity, challengers raised 96% of all the candidate money given by incumbents and challengers to their own campaigns. Incumbents received virtually all (99%) their contributions from individual contributors, while challengers contributed approximately one third of their total contributions themselves.

**Table 16.5
INCUMBENT/CHALLENGER DATA PROFILE
CITY OF SAN DIEGO**

Percentage of Total Contributions Raised From Each Source

	<u>Incumbents</u>	<u>Challengers</u>
Business	0%	0%
Individual	99%	67%
Labor	0%	0%
Political	0%	0%
Candidate	1%	33%
Total	100%	100%

Percentage of Total Contributions Given to Incumbents and Challengers

	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	0%	70%	0%	0%	4%
Challengers	0%	30%	0%	0%	96%
Total	0%	100%	0%	0%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1986)

One of the main incumbent advantages in other jurisdictions—non-election year fundraising—has not yet occurred in San Diego. (See Table 16.6.) Accumulated war chests, which often discourage challengers in other jurisdictions, are virtually non-existent in San Diego. Ironically, the competitiveness of local races may deter contributors from early commitments. Candidates may also worry that early fundraising might attract adverse public comment under the conditions present in San Diego.

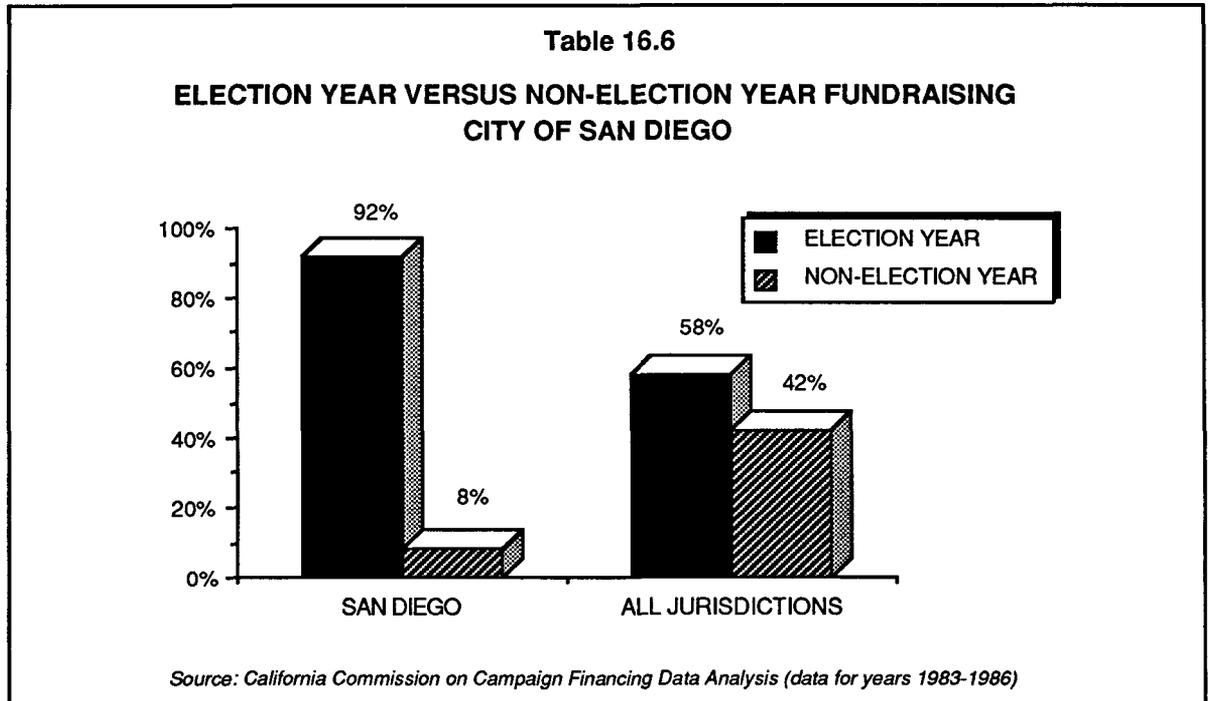
The small amount of non-election year fundraising that does occur is apparently not done to build war chests. Sometimes it goes toward special mid-term elections, like the 1986 mayoral contest. Sometimes it is used to repay past debts. In several instances, off year funds have been raised in anticipation of races that did not materialize.⁵⁶ “Since 1983, I have not had any fundraisers,” says former Councilmember Mike Gotch. “In that time I’ve probably collected just \$2,500 from checks that people have voluntarily sent in.”⁵⁷

Competition may also be enhanced in San Diego because of general public and voter awareness of local issues, which appears higher than in other major metropolitan areas. Possibly the greatest boon to competition in San Diego may be the willingness of wealthy challengers to spend lavishly from personal funds.

2. Negative Effects

Both organized giving and wealthy candidate contributions tend to circumvent the original purposes of the San Diego ordinance and to create inequities among candidates. Only pro-development candidates, for example, can take full advantage of organized giving. Only a few candidates are wealthy enough to invest

substantially in their own campaigns. Other practices which tend to undermine financially strapped candidates and reduce the effectiveness of San Diego's ordinance include past and prospective fundraising, abuses of credit and the establishment of legal defense committees. Supporters of candidates can also make independent expenditures, which are on the rise in San Diego.



a. Past and Prospective Fundraising

San Diego's ordinance limits individual contributions to \$250 per election, but a candidate can legally accept a larger check if it is intended to cover past debts, the current election and a future election, all at the same time. Each person can give \$250 per election or \$500 per couple per election. According to the *San Diego Union*, Councilmember Ed Struiksma "keeps track of married contributors" so they can be pushed to give the full \$500 per election.⁵⁸ Since there are always two elections per campaign for the city council, a couple could give \$1,000 in an election year. Carrying the technique still further, a couple could give \$3,000 for the current campaign and two past elections, provided that the recipient candidate owed debts in the past elections and the contributor had not given to the candidate in the past elections. Such contributions to past campaigns can only go, however, towards repayment of personal loans. "Bill Cleator invented the past/prospective contributions idea If a couple hadn't given in 1979 or 1983, they could give up to \$3,000 for the 1986 election," says Mark Zerbe. "In 1985, Cleator pocketed \$8,563 this way."⁵⁹

b. Wide Use of Credit

The authors of the San Diego ordinance were especially concerned about the ability of "kingmakers" to provide indirect contributions to their candidates through credit extensions and other in-kind contributions. The ordinance thus seeks "to limit the use of loans and credit in the financing of municipal election campaigns" by limiting credit to no more than \$250 and no more than 30 days.

According to one of the original drafters, Terry Knoepp, "The goal was always that the original source of campaign funds had to be disclosed. It was designed to

prevent agents or intermediaries from being used as a shield to hide the source of contributions.”⁶⁰ But the \$250 and 30-day credit limits have not been enforced.

In the absence of such enforcement, candidates and their consultants largely ignore the credit limitations. This problem becomes particularly acute in campaigns using television advertising. For example:

- In the 1984 mayoral race, Ken Reitz spent \$121,199 as an extension of credit to candidate Dick Carlson. After the campaign, Carlson personally loaned the campaign \$53,000 to help reimburse Reitz.⁶¹
- In the 1985 council races, consultants Johnston & Lewis paid \$89,677 of Councilmember Ed Struiksma’s reelection expenses, including \$60,382 on advertising and \$20,066 in consulting fees.⁶²
- In the 1986 special mayoral race, candidate Bill Cleator received credit of \$56,483 from Ken Reitz, his media consultant, and candidate O’Connor received \$55,000 in similar credit from her consultants, Dresner, Sykes and Associates.⁶³

These large “loans” help explain why San Diego candidates spend proportionately more on consultants (15%) than candidates in other jurisdictions (10%). Loans provide a major advantage to candidates who can find consultants willing to extend them credit. Candidates who are either unknown or unsupported by many contributors find it much tougher to get similar extensions of credit.

c. Legal Defense Committees

On July 31, 1985, the San Diego Superior Court ruled that San Diego’s campaign finance ordinance did not apply to legal defense funds raised to defend elected officials charged with campaign law violations.⁶⁴ The next day, Nancy MacHutchin, fundraiser for Mayor Hedgecock, raised \$10,500 for his legal defense fund, called Californians for the Future. She sought only contributions of \$1,000 or more. She found several willing donors, including a \$5,000 contributor. The city attorney’s office argued unsuccessfully in court that Hedgecock’s committee was intended to keep him in office and should thus be subject to the \$250 limit.⁶⁵ When Councilmember Uvaldo Martinez was indicted for possible “misuse of public funds,” he followed Hedgecock’s example. Martinez set up a legal defense fund that was unrestricted in the contributions it could receive. Such legal defense funds place contributors in the awkward position of being asked by elected officials for large sums of money that exceed local contribution limits.

As yet, no elected city official in San Diego has formed a non-election committee for purposes other than legal defense. In San Francisco, campaign financing is regulated by a local ordinance patterned after San Diego’s law. Nevertheless, San Francisco officeholders regularly form so-called “Friends” committees which have not to date been subjected to its local campaign contribution limits. (See Chapter 17, “San Francisco.”) Officeholders in San Francisco have used these funds for political but supposedly non-campaign uses, such as constituent newsletters, office expenses, charitable contributions, polling or legal defense. “Friends” committees create the potential for and certainly the appearance of undue influence by receiving and spending (at the behest of the candidate) large and unregulated contributions.

d. Independent Expenditures

San Diego’s stringent limits appear to encourage independent expenditures which cannot directly be restrained by campaign finance ordinances.⁶⁶ Independent expenditures in San Diego were first used in ballot measure campaigns. In 1980, the San Diego’s Firefighters Union mortgaged its headquarters building for \$150,000 to campaign successfully in support of Proposition N regarding firefighter salaries.⁶⁷ Since that time, independent expenditures came to be used in candidate campaigns.

In 1984, the Sierra Club purchased \$2,459 worth of independent radio commercials and newspaper advertising to promote Hedgecock's reelection bid.⁶⁸ Firefighters Local 145 also made expenditures in support of Mayor Hedgecock. The union gave \$21,000 to its Committee on Political Education (C.O.P.E.), which purchased radio and television ads supporting Hedgecock. The ordinance specifically bars labor unions from contributing directly to campaign committees. Although independent expenditures are legal, the city attorney concluded that the union had violated the ordinance. Because the violation had been committed unknowingly and without Hedgecock's direction, the city attorney decided not to file charges.⁶⁹

In 1985, Councilmember Ed Struiksma (who himself was up for reelection but lacked major competition) spent over \$100,000 on radio commercials to support two other council candidates—Abbe Wolfsheimer and Jeanette Roache. According to the benefitting candidates, the commercials surprised them. “[Struiksma] produced radio commercials supporting myself and another candidate,” recalled Wolfsheimer. “We both first heard the commercials on the air, and we immediately called each other to say, ‘Did you just hear that?’ I don’t know how much effect the commercials had. I won, but the other candidate [Roache] lost.”⁷⁰ Struiksma's independent expenditures were rumored to have upset the development community. The developers had endorsed Struiksma but not Wolfsheimer or Roache. Finally, in the recent 1986 special mayoral election, over \$25,000 was spent by Larry Lawrence, owner of the Hotel del Coronado, for a mailer supporting Maureen O'Connor.⁷¹

The use of independent expenditures in San Diego is established and growing. These expenditures provide an easy opportunity for major donors to circumvent San Diego's ordinance. Contributors are increasingly pressured to use this release valve because of the severity of the ordinance's contribution limit.

E. Conclusions and Recommendations: San Diego Needs More Than Stringent Contribution Limitations

Mark Nelson, Chair of San Diego's Campaign Review Task Force, has said, “Campaign finance laws are like a dam. Water will always find a way around it. I believe that all campaign finance ordinances need review and amendment after five years of operation.”⁷²

1. Support for Expenditure Ceilings

San Diego voters appear to realize the desirability of a cap on total candidate spending. A recent poll showed that 81% of San Diego voters favor a campaign spending limit. The same poll showed that such voters, by a 67% majority, also believe that candidates should take *no* contributions from land developers.⁷³ The campaign spending “arms race,” which encourages circumvention of contribution limits such as those in effect in San Diego, would be largely halted by effective expenditure limits. Candidates who lack personal wealth or support from special interests would benefit from expenditure ceilings in combination with limited public matching funds.*

San Diego's recent Campaign Review Task Force concluded it could not recommend expenditure ceilings because they require public financing. “The task force discussed [expenditure limits] at length,” explained Chair Mark Nelson. “We would have loved expenditure limits tied to the Consumer Price Index (CPI), with no contribution limits at all. After watching so many people testify before the task force, I determined, personally, that the problem is not so much the source of candidates' money, but the excessive amounts of money they spend. Unfortunately, expenditure limits require public financing. City municipalities don't have an easy opportunity to identify [local] tax opportunities. There are no mechanisms in place to support

voluntary check-offs. We tried to institute public financing of arts in San Diego a few years ago. It would have been an add-on to people's taxes. It failed miserably."⁷⁴

Mark Zerbe, a Task Force member, said that his first choice was a spending cap but he feared that public financing might not be approved by San Diego voters. Instead, he proposed a "Fair Campaign Contract" in which candidates would voluntarily accept expenditure ceilings in exchange for such incentives as a grant of seed money and a higher contribution limit of \$500 (rather than \$250) for candidates limiting their expenditures. (See further discussion of this possible incentive for candidates to accept spending limits in Chapter 23, "The Commission's Model Ordinance.") His proposal failed in the Task Force. It is worth noting, however, that the Task Force rejected expenditure ceilings and limited public financing before Sacramento County voters (by a 61% majority vote) *strongly accepted* the concept of spending caps together with limited public financing in their 1986 election (see Chapter 15, "Sacramento County"), and before California voters approved Proposition 68 (which included spending caps and limited public financing) in 1988.

2. Other Amendments

The Commission suggests that the following improvements in San Diego's ordinance be considered to increase the law's effectiveness, enforceability and credibility.

a. Wealthy Candidates

San Diego should seriously consider an approach similar to that of Sacramento (see Chapter 14, "Sacramento City") by providing that when a candidate makes personal contributions or loans to his or her own campaign, contribution limits are lifted until he or she has raised an equal amount. This provision is designed to promote fairness among all candidates—rich and poor. Proposition 73 undermines the effectiveness of this provision, however, since it limits individual contributions to \$1,000—only \$750 higher than San Diego's current contribution limit.

b. Independent Expenditures

San Diego's contribution limits might also be raised whenever independent expenditures exceed a specified amount in any campaign—for example \$10,000. This would help candidates defend themselves against large outside expenditures.

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v Valeo*, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voter's adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as San Diego) and charter counties. The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, "Proposition 73.") If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure caps—limited public matching funds. If Proposition 73 is found to apply to chartered jurisdictions, the city could consider other possible incentives for candidates accepting expenditure ceilings. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, "The Commission's Model Ordinance," for discussion of this alternative.)

c. Enforcement

The city's Task Force has recommended that enforcement be improved by allowing citizen lawsuits and re-designating the district attorney as the "Enforcement Authority." The district attorney initially served as the enforcement authority for both the city and the county laws. After five years, however, he complained that the administrative burden was too great and persuaded the city council to transfer city enforcement powers to the city attorney's office. Since gaining enforcement authority, the city attorney's office has conducted two investigations but has not filed an enforcement action. The city attorney's office has been criticized for a perceived laxness in enforcement.

The strongest critic of the city attorney's office has been Common Cause. In 1984, Common Cause filed papers with the grand jury, charging that the city attorney had failed to find evidence against Mayor Hedgecock (even though other enforcement agencies had found numerous campaign law violations) and calling for transfer of the enforcement responsibility back to the district attorney's office. In 1985, the grand jury recommended that the district attorney resume responsibility for enforcement of the city's ordinance because "the city attorney has a dual responsibility . . . [to] advise the mayor and/or members of the council, and also possibly bring charges against them for campaign violations."⁷⁵ To date, nothing has occurred in response to their recommendations.

3. Conclusion

Elections and campaign fundraising in San Diego already possess many positive characteristics: a high percentage of individual contributors, active voter participation, strong local interest in municipal elections, a minimum of non-election year fundraising and many competitive council and mayoral races. Without expenditure ceilings, however, the toughest local law in the country will, in all likelihood, fail to affect existing trends toward higher spending campaigns, increased participation by wealthy candidates and attempts to evade the city's low contribution limits.

NOTES

1. Interview with Christopher Crotty, Aide to Mayor Maureen O'Connor and Senior Committee Consultant, City of San Diego, Sept. 11, 1986.
2. Kenneth Sulzer, Executive Director, San Diego Association of Governments, *quoted in* Carl Nolte, *Super Bowl City Showing Off—It's Big and Getting Better*, San Francisco Chronicle, Jan. 25, 1988.
3. Gerry Braun, *Rivals Try to Hitch Ride on Proposition A Bandwagon*, San Diego Union, Feb. 16, 1986.
4. Ralph Frammolino, *Growth Issue Hits at Core of Political Power in San Diego*, Los Angeles Times, Oct. 28, 1985.
5. *Id.*
6. Losing opponents of Proposition A knew what they were up against and adopted a pro-environmental slogan, "No L.A.; No on Proposition A." Voters were not persuaded by this confusing slogan (slow-growth advocates supported Proposition A). The measure passed by 56% to 44%. Frammolino, *supra* note 4.
7. Endorsements by the Building Industry Association (BIA) have become a liability in local campaigns. In the fall of 1986, the San Diego County BIA adopted a new policy. It no longer endorses or publicizes its contributions to local candidates because developer support is often used *against* them. Instead, BIA members are encouraged to volunteer their time to local campaigns. See Daniel Weintraub, *Developers' New Political Strategies Pay Off*, Los Angeles Times, Nov. 25, 1986.
Sierra Club endorsements, on the other hand, are considered an asset. It would be difficult to find another Southern California community in which the Sierra Club is accorded as much respect as in San Diego. According to a San Diego Union editorial, "By joining with diverse community groups to forge a successful coalition in support of the [Proposition A] initiative, the Sierra Club showed it represents not just the naturalist and rock-climber, but mainstream San Diegans on growth and quality-of-life issues." Editorial, San Diego Union, Aug. 10, 1986.
8. Sulzer, *supra* note 2.
9. Dan Walters, *The New California*, p. 55 (1986).
10. Between 1975 and 1980, about 30% of those who moved to San Diego County came from other parts of California, another 55% came from other states and 15% migrated from other nations, according to San Diego Association of Governments (SDAG) statistics. Approximately half of those moving to San Diego County from other parts of California came from Los Angeles and Orange Counties. Migrants to San Diego County tend to concentrate in two age groups: 20-to-34-year-olds who come seeking employment; and people over 65 who come for retirement. Dan Walters, *Growth Pinches San Diego's Relaxed Life*, Sacramento Bee, Mar. 20, 1986. Because large percentages of new residents in the county will be retirees or immigrants from southeast Asia or Mexico, "demographers project that San Diego will not be in the top 10 urban areas in terms of median personal income by the turn of the century, despite its status as the state's second largest city." *Id.* "As San Diego County grows by 45% between the mid-1980s and 2020, racial/ethnic minorities, mostly Asian and Hispanic, will account for almost 40% of the expansion. By 2000, Asians are expected to be San Diego's largest minority group, many of them from Southeast Asia." *Id.*
11. Interview with Bobby Glaser, Political Consultant, The La Jolla Group, Sept. 11, 1986. Commercial developers have nonetheless been active in rebuilding downtown San Diego, which now includes over \$3.5 billion in new office buildings, theaters, shops, hotels, housing and a convention center. Sharon Spivak, *A Vision's Reward: Downtown Comes Alive*, San Diego Tribune, Aug. 8, 1985.
12. Sulzer, *supra* note 2.
13. Walters, *supra* note 9, p. 59.

14. An editorial in the San Diego Union remarked on the relative weak showing of Councilmember Bill Cleator in the 1986 mayoral primary election: “. . . the most startling result of the primary was that Republican Cleator, running against two Democrats, could only get 30% of the vote. This is San Diego? Richard Nixon’s favorite city? A bastion for President Reagan? A city that has elected Republican mayors in five straight elections?” Editorial, *Something for Everyone*, San Diego Union, Feb. 27, 1986. The editorial attributes Cleator’s poor showing to his pro-development record.
15. Interview with Mark Nelson, Executive Director, San Diego Taxpayers Association, Oct. 9, 1986.
16. A public opinion poll, sponsored by the San Diego Union in February 1986, asked respondents to describe the relative importance of local issues. “Honesty in government” was “very important,” according to 84% of the respondents. Michael Smolens, *Big Margin Seen Favoring O’Connor*, San Diego Union, Feb. 16, 1986.
17. Jon Standefer, *Political Angel Still Seen as Dilemma*, San Diego Union, Aug. 12, 1984.
18. *Id.*
19. Interview with Mike Gotch, then-Councilmember, City of San Diego, Oct. 9, 1986.
20. Interview with Glaser, *supra* note 11.
21. Interview with Abbe Wolfsheimer, City Councilmember, City of San Diego, Nov. 13, 1986.
22. Ralph Frammolino, *Campaign Donation Limit Questioned as Mayor’s Case Probed*, Los Angeles Times, Oct. 19, 1984.
23. Ralph Frammolino, *City’s Political Races Thrive on Builder Gifts*, Los Angeles Times, Jan. 10, 1984.
24. Jeff Ristine, *Study Blasts Campaign Giving*, San Diego Tribune, Nov. 1, 1984.
25. *Id.*
26. Interview with Glaser, *supra* note 11.
27. Quoted in Nancy Skelton, *Legislators Sit In on Lively Debate Over San Diego’s Tough Campaign Reform Law*, Los Angeles Times, Oct. 25, 1979.
28. James Richardson, *Fundraiser Shares Some Secrets of Her Success*, San Diego Union, Dec. 17, 1984.
29. *Id.*
30. Cal. Gov’t Code §84302.5 (West Supp. 1989).
31. Cal. Gov’t Code §84301 (West Supp. 1989).
32. Interview with Wolfsheimer, *supra* note 21.
33. Gerry Braun, *Cleator Campaign Donors Detailed*, San Diego Union, May 24, 1986. This method is actually conservative. Aggregating BIA members misses employees of developers who have not joined the BIA or who are employed in ancillary industries such as banking, architecture and engineering.
34. Moorhous also observed, “I certainly have had calls from elected officials saying, ‘You have not maxed out. Could your company do a fundraiser for me? What do you mean you’re going to charge \$100 a head at that fundraiser? I think that a company your size should give maximum contributions.’” Quoted in Gerry Braun, *Builders Tired of Building Up Funds for Council Races*, San Diego Union, Nov. 9, 1985.
35. In one recent election, Kay Davis accused Ron Roberts of raising 70% of his campaign contributions from developers. Roberts refuted the accusation by saying that “developer” labels were often incorrect. J. O’Connell, *Candidates Grilled on Developer Gifts*, San Diego Union, Aug. 20, 1987. An editorial in the Union criticized the candidate’s preoccupation with developer contributions: “. . . what has surfaced as the hottest issue? . . . If some candidates are to be believed, it is campaign financing But even in the dog days of August, our potential councilmembers should demonstrate more interest in many other pressing issues” Editorial, *Some Issue*, San Diego Union, Aug. 14, 1987.
36. Ralph Frammolino, *Jury Indicts San Diego Mayor, Jailed Financier*, Los Angeles Times,

Sept. 20, 1984.

37. *Id.*
38. Shepard had been on Hedgecock's staff until 1982, when he left to start his own political consulting firm representing Hedgecock and other clients. Shepard received money and benefits such as free office space from Nancy Hoover, representing a total value of \$357,000. Hoover claimed that she had invested in the company. The district attorney pointed to the discrepancy between Shepard's lower fees for Hedgecock and for Shepard's other clients. The district attorney found that lower charges to Hedgecock constituted subsidies, or "in-kind" contributions, from Hoover to Hedgecock through Shepard's firm, which violated credit provisions of the local ordinance. Ralph Frammolino, *D.A. Defends Timing of Hedgecock Probe*, Los Angeles Times, Oct. 31, 1984.
39. Ron Roach, *FPPC Files Suit Against Hedgecock*, San Diego Evening Tribune, Oct. 15, 1984.
40. Superior Court Judge William Todd, who presided from the start of the case through the mistrial and the second trial, ended the sentencing with a scolding to Hedgecock: "I am completely convinced of your guilt, Mr. Hedgecock," he said. "Your conduct is reprehensible in every sense of the word because you violated the public trust completely, over and over again." J. Richardson, *The Rise and Fall of Roger Hedgecock*, California Journal, pp. 105-108 (Feb. 1986).
41. Three months after the conviction and resignation of Roger Hedgecock, the San Diego County Grand Jury indicted Councilman Uvaldo Martinez on 28 felony counts for misappropriating public funds by falsely reporting uses of his city credit card. The felony counts related to 21 drink and meal charges at 14 local restaurants for a total of \$1,878. In November 1986, Martinez was convicted of two felony counts and left office. See Roy Schneider, *Martinez Vows to Fight Charges*, San Diego Tribune, Mar. 13, 1986. In late 1985, the district attorney announced an investigation into the travel expenses of another councilman, Ed Struiksma, who at the time was a candidate for mayor in the special election to replace Hedgecock. Charges for "misuse of public funds" were never filed, but the implications were apparently strong enough to force Struiksma out of the 1985 mayoral race. The cases of Martinez and Struiksma did not involve campaign finance violations, but they did contribute to a public perception of "corruption" in local government. See Rick Shaughnessy, *Image Repair Awaits Next Mayor*, San Diego Evening Tribune, Feb. 20, 1986.
42. Ralph Frammolino, *Campaign Donation Limit Questioned as Mayor's Case Probed*, Los Angeles Times, Oct. 19, 1984.
43. *Id.*
44. The U.S. Supreme Court ruled in *Buckley v. Valeo* that candidates have the constitutional right to spend any amount of their own money on, or make personal contributions or loans to, their own campaigns.
45. Skelton, *supra* note 27.
46. Michael Abrams, *Ex-Rivals' Fundraiser Brings in \$55,000*, San Diego Union, Aug. 23, 1986.
47. Rick Shaughnessy, *Campaign Spending Climbs Out of Sight*, San Diego Evening Tribune, Nov. 30, 1987.
48. *Id.*
49. *Id.*
50. Michael Smolens, *Mayoral Candidates Turn Up the Volume*, San Diego Union, Feb. 19, 1986.
51. *Id.*
52. Jeff Ristine, *Study Blasts Campaign Giving*, San Diego Tribune, Nov. 1, 1984.
53. Interview with Wolfsheimer, *supra* note 21.
54. Quoted in Rick Shaughnessy, *Good to Disclose All His Contributions*, San Diego Evening Tribune, Aug. 10, 1987. See also, Rick Shaughnessy, *Accusations Fly in District 8 Campaign*, San Diego Union, Aug. 11, 1987.
55. Interview with Jack Fishkin, City Election Officer, City of San Diego, Sept. 11, 1986.

56. Former Councilmember William Jones explained the one instance in which he conducted off year fundraising: "In June 1982, Leon Williams left office and the council was debating whether to appoint a replacement or to hold a special election. I decided to assume that there would be a race and began to raise funds. Fortunately, I was appointed, so that I was able to use the 1982 funds for my reelection in 1983. Since then, I think I have had only one fundraiser. That was in 1985 for my birthday party." Interview with then-Councilmember William Jones, Nov. 13, 1986.
57. Interview with Gotch, *supra* note 19.
58. Braun, *supra* note 34.
59. Mark Zerbe, *The Irony in the Mayor's Race*, Newsline, Feb. 4, 1986.
60. The drafters were aware that the Barnes-Champ advertising firm (part of C. Arnholdt Smith's organization) allegedly "overbilled clients or got paid for non-existent work and passed the money along to candidates," says Terry Knoepp, as a way of disguising contributions. See Jon Standefer, *Political Angel Still Seen as Dilemma*, San Diego Union, Aug. 12, 1984.
61. Mark Zerbe, *The Political Campaign Spending Pie*, Newsline, July 1, 1986.
62. *Id.*
63. Mark Zerbe, *Off Year Fundraising Fills Council Campaign Coffers*, Newsline, Aug. 12, 1986.
64. Michael Smolens and Carol Sottili, *Court Favors Hedgecock in Defense Fund*, San Diego Union, Aug. 1, 1985.
65. Michael Smolens, *Mayor Gets \$10,500 for Legal Costs*, San Diego Union, Aug. 2, 1985.
66. The U.S. Supreme Court has held that limits placed on spending by committees independent of candidates are unconstitutional abridgements of free speech. See *Federal Election Comm'n v. National Conservative Political Action Comm.*, 470 U.S. 480 (1985).
67. Vicki Torres, *Mayor Favoring Repeal of Curbs on Political Fund*, San Diego Tribune, Apr. 20, 1981.
68. Abrams, *supra* note 46.
69. John Gilmore, *Firefighters' Union Violated City Election Law, Witt Says*, San Diego Union, Nov. 29, 1984.
70. Interview with Wolfsheimer, *supra* note 21.
71. Michael Smolens and Gerry Braun, *\$25,000 Is Spent to Aid O'Connor*, San Diego Union, May 15, 1986.
72. Interview with Nelson, *supra* note 15.
73. The poll failed to explain, however, that limited public financing is a necessary corollary of spending caps. See Smolens, *supra* note 16.
74. Interview with Nelson, *supra* note 15. It should be noted that tax "add-ons," which increase taxpayers' tax bills, are less successful than tax "checkoffs," which are used in presidential campaigns and do not increase taxpayers' tax bills. See *The New Gold Rush*, p. 188.
75. Daniel Weintraub, *Shift in Election Law Enforcement Urged by Jury*, Los Angeles Times, Mar. 29, 1985.

CHAPTER 17

San Francisco: “Friends” Committees and Fluctuating Contribution Limits

San Francisco pioneered local campaign finance reforms when it adopted expenditure ceilings and contribution limits in 1973. Following adverse court rulings, however, it repealed its expenditure ceilings in 1976. Since then, San Francisco has raised its contribution limit from \$500 to \$750, then to \$1,000, and finally dropped it back to \$500 again. None of these contribution limit changes have restrained escalating campaign spending or the perception of excessive developer influence at City Hall. Loopholes in San Francisco’s ordinance, allowing incumbents to form “Friends Committees” that raise and spend money without restriction, have further undermined San Francisco’s campaign finance reforms. Experience with San Francisco’s ordinance effectively demonstrates the weaknesses of limits placed solely on contributions.

Founded in February 1850, San Francisco is one of California’s oldest cities. The “city by the bay” encompasses spectacular scenery, sweeping vistas and one of the the world’s largest inland seaports. Home to many different races and cultures, San Francisco provided the state with industrial and financial leadership for over a century. Both a city and a county, its political structure has been dynamic and creative.

Some San Franciscans take local politics with deadly seriousness. In the late 1880s, *San Francisco Chronicle* publisher Charles de Young shot mayoral candidate Isaac Kalloch in an angry political feud that escalated beyond the columns of the *Chronicle*. Kalloch survived and became mayor. A year later, Kalloch’s son shot and

killed de Young. In 1979, nearly a hundred years later, ex-San Francisco Supervisor Dan White, angry over not being reappointed to the board (after voluntarily resigning), shot and killed Mayor George Moscone and Supervisor Harvey Milk in their City Hall offices.

Today, San Francisco's neighborhood organizations, businesspersons, local newspaper publishers, labor unions and minority activists participate as actively in elections and policymaking as did their predecessors during the city's first century. The city/county charter encourages grassroots participation by requiring the appointment of citizen commissioners who run most municipal departments. The diversity and commitment of constituent groups in San Francisco have heightened the level of controversy in many local elections and policy decisions.

A. Activists, Constituent Groups and Special Interests Simultaneously Influence Local Politics

Not everyone who lives in the City and County of San Francisco is interested in municipal matters, but residents overall appear more interested and active than those in many other local jurisdictions. Citizens express their commitments by raising political funds, acting as campaign volunteers, participating in neighborhood and political party clubs or serving on city commissions and advisory boards. Businesses, neighborhood groups, unions and the media all contribute actively to San Francisco's political environment.

1. Business Leaders

San Francisco's business leaders have historically headed the list of municipal activists. After the 1906 earthquake, William Henry Crocker and other businessmen went east to find investors for the Panama Pacific International Exposition, desiring to demonstrate that San Francisco was alive and growing economically despite the earthquake's devastation.¹ Business leaders played a pivotal role in drafting and passing the still-operative City Charter of 1932 which structured city government like a business.

Since the 1960s, rapid development in San Francisco's downtown area has heightened business interest in City Hall. Between 1966 and 1986, local government approved construction of the equivalent of "75 Transamerica Pyramids, or 50 million square feet of office space for downtown San Francisco."²

Business interests—like other interests in San Francisco—participate in politics through campaign fundraising and endorsements. Between elections, business professionals serve alongside other residents on city boards and commissions, 23 of which are charter-mandated. The mayor shares his or her executive burdens with these appointed bodies and officials.

"San Franciscans have a long history of participation in local politics," explains Rick Pacurar, former President of the Harvey Milk Democratic Club. "There is still prestige here associated with public office and appointment. Businesspersons, like other residents, want to serve in local government."³ John Jacobs, political reporter for the *San Francisco Examiner*, believes the businessperson's motive for participation is even more direct. "It's a small town. One way to get ahead is on a commission. The way to get on a commission has been through a [campaign] contribution."⁴

2. Neighborhood Organizations

During the Gold Rush era, many San Francisco residents were single men pursuing opportunity or adventure. By the late 1800s, families began to settle in residential enclaves, each with a unique identity. North Beach became home to

residents of Italian descent. Chinese immigrants settled in Chinatown. The Mission District attracted Irish families. The Western Addition first drew German and Jewish families and later black families from the southern United States. Each residential district acquired its own political "bosses" and biases.⁵

Table 17.1

CITY AND COUNTY OF SAN FRANCISCO DATA PROFILE

Local Government

STRUCTURE:	City/county charter adopted in 1932; strong mayor-board of supervisors government unique in California; mayor elected in citywide elections in odd-numbered years prior to presidential elections; 11 supervisors elected to alternative four-year terms in even-numbered year elections.
CITY/COUNTY BUDGET:	\$2.4 billion (fiscal year 1988-1989)
CITY/COUNTY FACTS:	Population (1989): 731,700; Area: 91.1 square miles (44.82 square miles of land); Voter registration (May 1989): 402,042; Voter turnout (Nov. 1988): 67%

Contributions

	<u>San Francisco</u>	<u>Medium Jurisdictions</u>	<u>All Jurisdictions</u>
Business	40%	37%	52%
Individual	45%	46%	33%
Labor	4%	3%	4%
Political	5%	5%	6%
Candidate	6%	9%	5%
Non-Election Year	40%	30%	42%
Election Year	60%	70%	58%

Expenditures

VOTER CONTACTS	46%	49%	38%
Broadcast	5%	8%	7%
Literature	28%	30%	26%
Newspaper	3%	3%	2%
Outdoor	10%	8%	3%
OVERHEAD	54%	51%	62%
General	16%	16%	22%
Personnel	9%	10%	6%
Fundraising	13%	11%	13%
Survey	3%	3%	4%
Consulting	10%	8%	10%
Travel	1%	1%	1%
Candidate Transfer	2%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

Today's residential districts are less consistent in their ethnicity but their political identities remain strong. Homeowner associations organize voters and

provide testimony to the board of supervisors on city policies. "Constituent" clubs supplement the representation of neighborhood organizations. Voters with similar interests band together in groups like the Chinese-American Democratic Club or the Alice B. Toklas Lesbian/Gay Democratic Club. Like neighborhood associations and other constituencies, these groups gain political strength through endorsements, volunteer work, independent expenditures and get-out-the-vote canvassing.⁶

Independent campaign spending by such organizations can be especially influential. "In the 1986 elections, the top vote-getter, Supervisor Nancy Walker, probably paid for just 500,000 pieces of mail, but I'll bet she appeared on at least two million pieces citywide," explains Rick Pacurar.⁷ Supervisor Walker was promoted for reelection in slate cards distributed by various neighborhood and union organizations. Her endorsements of two local ballot propositions, along with accompanying pictures of her, also appeared in mail and flyers supporting the two ballot measures, Propositions M and V.

3. Unions

At the turn of the century, the Building Trades Council in San Francisco was "perhaps the most powerful labor organization in the United States."⁸ Union representation existed for nearly every occupation in San Francisco, even when there were no national affiliates.

The devastating 1906 earthquake changed the composition of industry in San Francisco. During the rebuilding, manufacturing jobs decreased while service industry jobs increased. Even though the percentage of union jobs fell, labor unions remained strong. "By World War I, San Francisco was the most unionized city in the nation . . . a closed-shop city."⁹

As San Francisco's economy increasingly came to rely on service related rather than manufacturing jobs, union locals—like unions nationwide—lost members and political muscle.¹⁰ "We have lost blue collar workers to the suburbs," says Rick Pacurar. "The myth of San Francisco as a union town has been perpetuated, however . . . and, compared to other parts of the state, San Francisco probably is. But I would not say unions are strong here."¹¹

Although candidate interest in union support may stem from pro-labor philosophies rather than the unions' real political strength, unions are active in city political life. Union locals make endorsements and union members volunteer in campaigns. Between elections, labor representatives serve alongside other interests on city boards and commissions.

4. Newspapers

In 1880, mining millionaire George Hearst bought the *San Francisco Examiner* "as a gesture of support to the Democratic Party in San Francisco."¹² His son, William Randolph Hearst, assumed the role of publisher/editor. For many years, George Hearst subsidized the paper's operations and used it to support and oppose city policies and candidates.

Today, local newspapers including the *San Francisco Chronicle*, the *San Francisco Examiner* and the *San Francisco Bay Guardian* are influential in local elections and city policies.¹³ A study published in 1985 by Richard DeLeon and Bill Watt, San Francisco State University researchers, found that "a non-incumbent candidate for San Francisco supervisor who lacks the endorsements of the four largest newspapers in the city would need so much money to win an at-large election that the task is essentially hopeless . . . [Referring to the 1982 and 1984 supervisory elections] the most important newspaper endorsement is . . . the *San*

San Francisco Examiner, followed by the *Bay Guardian*. The *San Francisco Chronicle* is third, and the *San Francisco Progress* [now defunct] a distant fourth.”¹⁴

B. San Francisco’s Ordinance Has Failed in Its Goal of Curbing High Campaign Spending

Strong voter interest in San Francisco elections and policies translates into high campaign spending. In 1971, Joseph Alioto spent \$547,000 in his successful mayoral campaign, while supervisorial candidate Robert Mendelsohn spent nearly \$100,000. The *San Francisco Examiner* editorialized, “It’s an old tradition in San Francisco to take pride in our excesses, particularly those committed with a flair. But, the community surely finds it difficult to be proud of the \$1,100,000 spent by candidates in the recent race for the \$40,000 post of mayor The Mayor and the Board of Supervisors should enact a similar [to federal legislation] reform governing local elections before campaign costs grow more scandalous.”¹⁵

In 1973, Supervisor Quentin Kopp drafted a campaign finance ordinance and successfully obtained its passage. Kopp modeled the law on San Diego’s campaign finance ordinance. “I knew that San Diego had passed an ordinance, so I didn’t have to develop a law from scratch. We took the San Diego ordinance and made some modifications in it [to accommodate] labor unions and corporations [in San Francisco]”, explains Kopp. “Overall, we hoped that the ordinance would hold down election spending.”¹⁶

1. San Francisco’s Law

San Francisco’s ordinance today resembles San Diego’s, with one major difference. In San Francisco, corporations and PACs can make political contributions; in San Diego, they cannot (no non-individual can contribute funds in San Diego).

In San Francisco, contribution limits are designed “to place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections”¹⁷ San Francisco’s ordinance includes the following provisions:

- Contributors (individuals, corporations and political action committees) cannot give or lend more than a total of \$500 *per election per mayoral or supervisorial candidate*. Contributors may give an additional \$250 to every candidate in a runoff;
- A candidate must file a *declaration of intention* to run before accepting any campaign contributions. Candidates may accept contributions for only one office at a time;
- Campaign treasurers must open contribution trust accounts in San Francisco and submit bank account records to the Registrar of Voters.
- If candidates have unspent funds in campaign committees after the election, the money can be returned to contributors on a pro-rata basis, donated to charitable organizations or transferred to the candidate’s “Friends” committees;
- Knowing and willful violations can lead to a \$500 fine or six month imprisonment. If a candidate is convicted of a violation, that candidate loses his or her office and is prohibited from running for city or county office for five years; and
- Negligent violations can result in civil penalty actions brought by the City Attorney.¹⁸

According to an oral opinion from the office of the city attorney, however, contributions to *non-campaign* “Friends” committees of officeholders can be any

size, although a recent advice letter from the Fair Political Practices Commission states that such contributions will be subject to the limitations in Proposition 73.¹⁹ Contributions to recall election campaigns can also be unlimited.²⁰

2. Amendments Since 1973

San Francisco's original 1973 ordinance also contained expenditure ceilings, and these ceilings held spending down in the 1973 and 1975 elections. (The caps limited spending to 30¢ per voter for mayoral candidates—about \$127,000 per candidate—and 12¢ per voter for supervisorial candidates—about \$51,000 per candidate.) When the U.S. Supreme Court declared mandatory expenditure ceilings unconstitutional in *Buckley v. Valeo*,²¹ the board of supervisors removed the spending ceilings before the 1977 elections, the first year of district-by-district supervisorial elections.

The 1973 ordinance originally set contribution limits at \$500 per contributor, but these limits were raised and lowered several times. In January 1981, the board of supervisors raised them from \$500 to \$750 per election. In January 1983, the supervisors raised them again from \$750 to \$1,000 per candidate per election. In June 1986, the voters through Proposition F lowered the contribution limits from \$1,000 to \$500 per candidate per election. (Proposition F also prohibited members of city commissions or boards from lobbying other commissions or branches of government.) Supervisor Quentin Kopp says, "I sponsored Proposition F [on the June 1986 ballot] to lower contribution limits, because spending was once again getting out of hand . . . I would have made the limit even lower than \$500, if I could have. I would have gone to \$100, but it wasn't practical."²²

3. Failure in Operation

Advocates for campaign finance reform since 1973, as well as proponents of Proposition F in 1986, hoped that contribution limits would lower or hold down campaign spending. Between 1973 and 1976, when expenditure ceilings were in effect, campaign spending did fall dramatically. After expenditure ceilings were lifted, district-by-district elections appeared to keep each candidate's spending at or below pre-ordinance levels. However, when citywide supervisorial elections returned to San Francisco in 1980, only contribution limits were in place, and campaign spending climbed steadily and dramatically. Between 1980 and 1984, campaign spending almost quadrupled (see Table 17.2), and between 1977 and 1986, spending increased by 750%. Spending leveled off between 1984 and 1986 because the 1986 election lacked any significant challenges to sitting incumbents, and because in 1984 three incumbents competed with each other to earn a position as top vote-getter (and hence President of the Board of Supervisors).

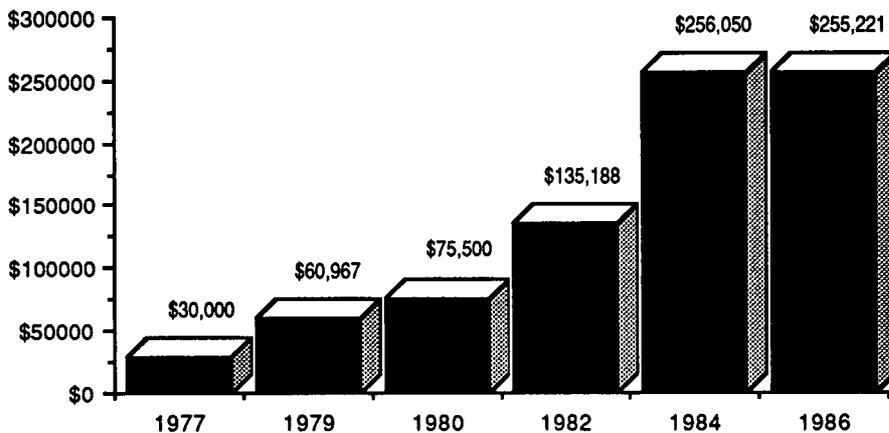
Ex-Supervisor and ordinance author Quentin Kopp notes his disappointment. "[Contribution limits] make a candidate work harder for his money, but they do not control spending. There is an infinite market for contributors. You just become more creative."²³

Kopp pointed to his own challenge of Mayor Dianne Feinstein in 1979 as an example. Contribution limits, Kopp explained, affected only the amount of each contribution, "but not the total amount spent . . . Feinstein spent over \$950,000 and I raised and spent about \$850,000. There was a certain amount of doubling up—like husbands, wives, kids and corporations. I remember I had one contributor who had eight corporations and each gave \$500 to my race. With the limits, we just found more contributors."²⁴

In the 1987 mayoral primary, candidates Art Agnos, Roger Boas and John Molinari spent over \$1 million each. Agnos and Molinari raised almost another million combined for their December 8, 1987 runoff, so the total cost for the 1987

mayor's race exceeded \$4 million. "This must be a world record for a local municipal election in a city the size of San Francisco," wrote newspaper columnist Warren Hinckle, himself a mayoral candidate in the 1987 primary. "The case for public financing of mayoral elections in San Francisco is developing in front of us."²⁵

Table 17.2
AVERAGE AMOUNTS SPENT PER ELECTION
BY WINNING SUPERVISORIAL CANDIDATES
SAN FRANCISCO



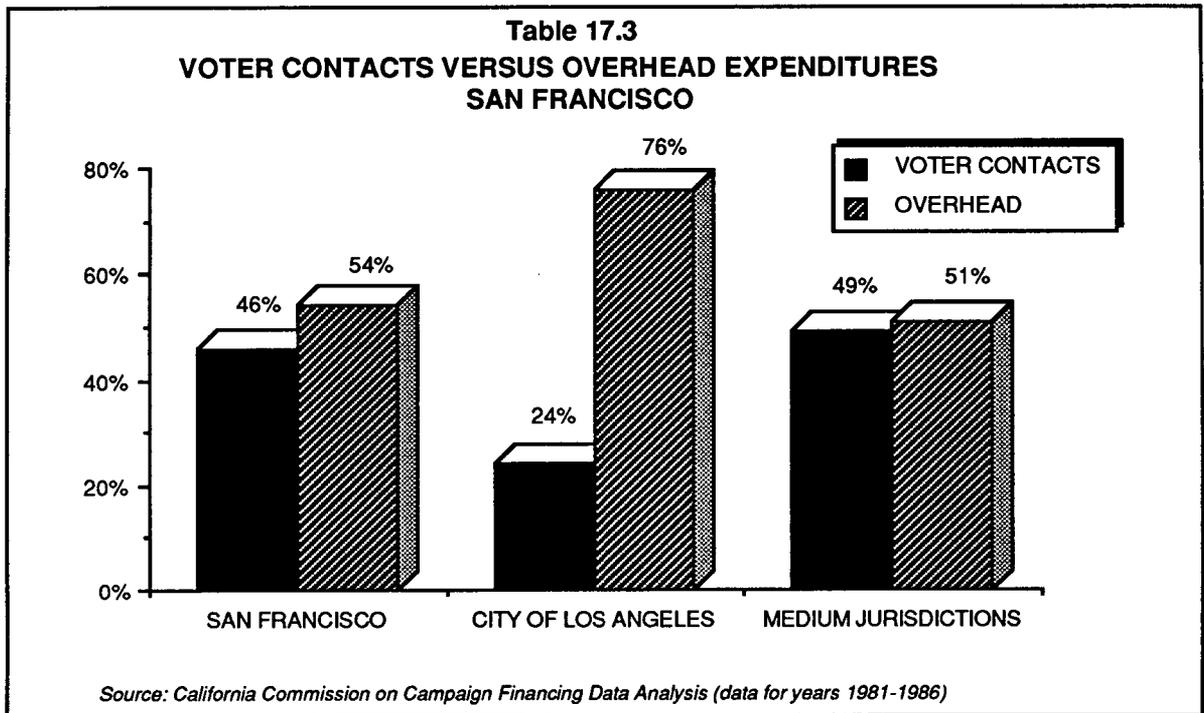
Source: Northern California Common Cause based on FPPC reports (1977-1986)

"All this [spending] for just 375,000 registered voters and only about 70,000 people who actually vote [or \$57 per vote]," complains political consultant and lobbyist Marcia Smolens.²⁶ Her observation underscores a comparison of San Francisco's mayoral race with mayoral candidate spending in San Diego, a much larger city. San Francisco's top 1987 mayoral spenders spent almost \$1.5 million each, while San Diego's 1983 top mayoral spenders in its last open race for mayor disbursed about half this amount even though San Diego is a much larger city. (See Chapter 16, "San Diego.")

San Francisco candidates spend more on direct voter contacts than candidates in larger cities like Los Angeles, but about the same as other medium-sized jurisdictions. Between 1980 and 1986, for example, San Francisco candidates spent a little less than half of their budgets on direct voter contacts (broadcast, literature, newspaper and outdoor advertising). By contrast, Los Angeles spent only 24%. "Elections in San Francisco are still fairly grassroots," says political consultant Smolens. "Campaigns are filled with precinct walking. Candidates have to attend three events every night. There are events to attend in every neighborhood with every group. Very little is spent on television for supervisorial races."²⁷ The relatively high percentages of money spent on direct voter contacts reflects the local emphasis on volunteers and grassroots campaigns. (See Table 17.3.)

Political consultant Clint Reilly says increases in campaign costs are justified by a need to educate voters. "Everyone says that campaign costs are going up and isn't it awful. Perhaps spending is a necessary evil to educate the voter The press and media are not doing their part to educate the voter. In the face of this lack of free media, candidates are forced to spend money to educate the voters."²⁸ However, if increased campaign spending is intended to educate the voter, former Supervisor Lee Dolson claims the money is not being well spent. "Too much money

is being spent overall,” Dolson says. “But people still do not know what they are getting [when they elect a supervisor] or what’s happening. Unfortunately, people are not very well informed.”²⁹



San Francisco’s contribution limits have not prevented local candidates from raising whatever campaign budgets they need. Despite contribution limits, campaign spending has escalated dramatically in San Francisco since 1980. And, as in other jurisdictions, incumbents typically raise and spend substantially more than challengers from most contributor groups. (See Table 17.5, below.)

C. Organized Giving and “Friends” Committees Create the Perception That Money Buys Influence

“Is it conceivable that politician John Molinari can receive \$30,100 from a developer and not be influenced to vote pro-developments? I can only speak for myself, but as one who earns considerably less in a given year, I can assure you the one who pays my wages does influence how I behave on my job.”

— Letter to the Editor,
*San Francisco Chronicle*³⁰

Enthusiastic supporters can assist candidates in many ways. A \$500 contribution to a candidate’s campaign committee may be just the beginning. Contributors can multiply their own contribution by raising additional funds from friends, relatives, business associates, subcontractors and subsidiaries and passing them along to the candidate. Moreover, under San Francisco’s law, contributors can also give freely and without any contribution limits to *non-campaign* “Friends” committees, the proceeds of which the candidate (invariably an incumbent) can use almost without restriction. Both techniques—multiplying contributions and making “Friends” committee contributions, while legal under San Francisco law, create the perception that contributors can influence elections and city decisions by making or arranging contributions far in excess of \$500.

1. *Organized Business Giving*

While contribution limits in San Francisco restrict each contribution to \$500, the number of \$500 contributions that “related” persons may give is not limited. Officers, employees and subcontractors of the same company or organization may each make \$500 contributions to the same candidate. In San Diego, it is called “organized giving.” (See Chapter 16, “San Diego.”). In San Francisco, organized giving played a part in the 1987 mayoral race:

- John Molinari received \$8,050 in donations from 31 employees of Deloitte Haskings & Sells, an accounting firm that has business contracts with the city and county of San Francisco.³¹
- Molinari received \$23,700 from employees, owners and relatives of garbage interests, including officers, employees and subsidiaries of Envirocal, a holding company for Sunset Scavengers.³²

Proposition 68, passed by the voters in June 1988, requires disclosure of “bundling” of contributions. If one person delivers contributions to a candidate, the contributor’s name *and* the deliverer’s name must be disclosed on the campaign statement.³³ A 1986 exposé by Gerald Adams and John Jacobs in the *San Francisco Examiner* reported examples of unseemly influence by special-interest contributions. In the lead article, Jacobs and Adams said, “Indeed, development is now the preeminent lobby in San Francisco, pumping at least \$1.75 million into individual campaign and special civic funds from 1982 through 1985 as The City was trying to impose tighter controls on its downtown.”³⁴

Supervisor Richard Hongisto told the *Examiner* that the degree of developer influence amounted to “legalized corruption.”³⁵ Supervisor Quentin Kopp said that the system suffered from “undue influence peddling.”³⁶ Supervisor Harry Britt told the *Examiner* that “the bottom line is the politically-connected developers will get what they want.”³⁷ Developer-contributor Walter Shorenstein said, “We have a shadow government. The supposition is that Walter Shorenstein is the hidden hand behind everything. But the politicians are creating a target to divert attention from what they’re really doing, which is exercising power for their special privileges. We need a redirection of the political process and more accountability.”³⁸

The 1986 *Examiner* series publicized links between contributions and supervisorial votes for five major downtown projects: 212 Stockton Street, 505 Montgomery Street, 100 First Street, 345 California Street and Embarcadero Center West. The reporters found that “from 1982 to the end of 1985, these five projects and their associates contributed nearly \$360,000 to 11 supervisors, Mayor Feinstein and City Attorney George Agnost. During the same period, special exemptions from laws or shrewd application of laws were worth a potential \$20 million a year for the projects.”³⁹

When the *Examiner* reporters examined one development, at 212 Stockton Street, they found that developers, attorneys and other associates “donated \$46,000 to elected officials, and saw the project approved with an array of exemptions. One—drafted by [attorney Tim] Tosta for the Sunshine Ordinance before it became city law—allowed the building to cast shadows on Union Square. Another permitted it to exceed height limits of the pending Downtown Plan. Tosta also obtained a variance to avoid constructing a loading dock at one of The City’s busiest commercial intersections.”⁴⁰

Says *Examiner* reporter John Jacobs, “It’s not just developer money that creates the problem, but also money from lawyers, construction companies, subtenants, subcontractors and others. In fact, those who serve as fundraisers—often lawyers and lobbyists—are more influential in many cases.”⁴¹

It is difficult to pinpoint exactly how many contributions from San Franciscans are development-related. The *San Francisco Chronicle* analyzed contributions to six incumbents over a 21-month period ending September 17, 1984. The *Chronicle* found that total contributions to incumbents equaled \$1.02 million, 60% of which came from contributors with business before the board of supervisors. (See Table 17.4.)

Table 17.4

**SOURCES OF CONTRIBUTIONS
SAN FRANCISCO**

• Developers	20%
• Major corporations and banks	13%
• Real estate interests	10%
• Law and accounting firms	10%
• Business regulated by the city	7%
TOTAL money raised from contributors with business before the board of supervisors	
	60%

Source: Evelyn Hsu, 21-Month Survey of Funds, San Francisco Chronicle, Oct. 25, 1984

“Here’s the dilemma,” explains campaign consultant Clint Reilly. “The only people who want to give *are* special interests. And candidates—especially challengers—need money to win. Still, the potential influence of any individual contributor is less now than before contribution limits were enacted. When Alioto was mayor, unions with few members or individual developers had tremendous clout. They could give chunks like \$50,000 checks. Without limits, one [contributor] can have an inordinate amount of influence.”⁴²

With contribution limits, neighborhood activist Rick Pacurar claims, developers remain influential through organized giving. “Molinari does not vote favorably on a project due to one contribution he received, but rather because of the sum total of money that he received from developers.”⁴³

Supervisor Nancy Walker, who was first elected to office primarily with support from individuals and neighborhood organizations, not business and development interests, said in the *Examiner* series, “Developer contributions are very important. I hope I get some. It now costs \$175,000-\$200,000 to do a [supervisorial] campaign. You don’t get that in ten dollar contributions from ‘grassroots people.’ The only thing wrong with that is . . . [in] exchange for financial support, an indebtedness occurs.”⁴⁴

By enacting two ballot measures, San Francisco voters have expressed their frustration over the appearance of improper influence from “organized giving.” In June 1986, after publication of the *Examiner* series, voters approved Proposition M, which limited supervisorial control over development. Four months later, on November 3, 1986, voters approved Proposition F, which lowered the city’s contribution limit from \$1,000 to \$500 and prohibited “influence brokers” (who fundraise and contribute to campaigns and then win appointments to a city board or commission) from lobbying before other city boards or commissions.

A 1986 *Examiner* editorial proposed another solution. “We think that officials ought to start *rejecting* donations from people whose projects seem sure to come up

for official approval. The perception of corruption needs to be avoided if the people are to retain any faith in city government."⁴⁵

2. "Friends" Committee Contributions

So-called "Friends" committees in San Francisco contribute toward the appearance of undue influence over elected officials. San Francisco's ordinance places limits on contributions to *campaign* committees, *i.e.*, those committees that raise and spend funds directly for elections. It does not expressly limit contributions to *non-campaign* committees, although Proposition 73 imposes its higher limits on these committees. Incumbents have therefore created such "non-campaign" committees—commonly called the "Friends of Supervisor [so-and-so] Committee"—to pay for expenses they claim are non-campaign related, such as office expenses, entertainment, travel and special projects. "Friends" committees, however, have two negative effects on San Francisco politics.

a. Influence on Elections

Incumbents use "Friends" committees in non-election years to promote themselves through constituent newsletters, advertising and attendance at charity events. By election time, incumbents reap the electoral benefits from this increased name identification—purchased with moneys received from contributions that are not limited by San Francisco's ordinance. Prior to the 1984 elections, incumbents John Molinari and Quentin Kopp gave new meaning to the term "non-campaign" expenses. In the first six months of 1984, for example, Kopp's "Friends" committee paid for public opinion polls (\$17,500), four newsletters to more than 10,000 constituents and political advertisements publicizing Kopp's support of or opposition to various ballot measures.⁴⁶ Before the 1987 mayoral campaign, Friends of Molinari used "non-campaign" dollars for constituent postcards (\$3,500), fundraising (\$22,000), a "demographic report" from Schlackman, Fazio & Associates (\$12,500) and advertisements coordinated by the Nathan Group (\$47,352).⁴⁷

b. Influence on Decisions

Because contributions to "Friends" committees (controlled by incumbents) can be received in any amount, their size and timing in non-election years can also create the appearance of undue influence over incumbents' legislative decisions. The appearance of such influence is accentuated by the wide discretion incumbents have over the funds' use. Indeed, contributions to "Friends" committees may benefit incumbents more directly than traditional campaign funds.

Supervisor Nancy Walker, 1987 President of the Board of Supervisors, explains why she supports "Friends" committees. "We need the 'Friends' committees because we are paid only \$24,000 a year. There are expenses that come up that are not appropriate taxpayer expenses, but I don't have the personal money to pay for them. For example, my 'Friends' committee redecorated my office. As President of the board, I have to greet foreign dignitaries and I think San Francisco should be well represented. I believe that it is appropriate to spend 'Friends' committee monies to furnish offices, pay staff and buy clothes necessary for office."⁴⁸

Newly-elected Mayor Art Agnos created additional uses for "Friends" committee funds on March 30, 1988, when his committee raised nearly \$500,000, most of which was slotted to underwrite continuation of Agnos' volunteer campaign force. Instead of formally campaigning for Agnos, the workers worked on projects designed to aid the homeless, AIDS patients and other disadvantaged residents, all in Agnos' name.

"If you're interested in the influence of contributors, don't overlook 'Friends' committees," says former Supervisor Lee Dolson. "That is where the real influence lies. Businessmen give generously."⁴⁹ Contributors give generously because there

are no limits and no opposing candidates in off-election years, and because the contributions help obtain access to the officeholder.

According to Dan Kalb, Northern California coordinator for Common Cause, "Friends' Committees provide a blatant loophole to the local ordinance. The intent of the law was that no one entity should have more than a certain amount of influence through contributions. Yet, contributions to 'Friends' Committees are not limited."⁵⁰

Enforcement agencies like the city attorney and district attorney have refused to rule that contributions to "Friends" committees fall under the San Francisco ordinance. The resulting use of these unregulated committees has undermined the effectiveness of San Francisco's contribution limits by giving incumbents the ability to pay for enormous public relations advantages with unrestricted funds and by providing contributors an opportunity for access and influence through unregulated contributions. The San Francisco 49ers, for example, gave the "Friends" committee of Mayor Art Agnos \$10,000 in the first half of 1988, as did the owner of the San Francisco Airporter Bus Company, Nicholas Leonadakis. Angelo Tsakopoulous, a controversial Sacramento developer and longtime personal friend of Agnos, contributed more than \$40,000 in funds from his companies. By giving to Agnos' "Friends" committee, these contributors were able to circumvent the local contribution limits by a substantial margin. Starting in 1989, however, the limits imposed by Proposition 73—ranging from \$1,000 to \$5,000—will apply to all funds received by San Francisco officeholders.

D. Incumbents Dominate Challengers in San Francisco Supervisorial Elections

In San Francisco, as in nearly every jurisdiction studied, incumbents are very difficult to defeat. In San Francisco, as elsewhere, both "business" and "individual" contributors overwhelmingly support incumbents over challengers. Yet incumbents in San Francisco have advantages above and beyond those of incumbents in other California cities. San Francisco incumbents receive added benefits from lavishly funded "Friends" committees. By contrast, no challenger has ever formed a "Friends" committee. At-large citywide supervisorial elections in which five to six supervisors are selected each time also benefit incumbents because the elections are more expensive and make it harder for challengers to compete. Because voters must vote on all candidates who run citywide instead of district-by-district, San Francisco's long ballot favors incumbents with established name identification.

San Francisco contributors—like contributors statewide—heavily favor incumbents in both election and non-election years. Between 1980 and 1986, incumbents received 86% of all contributions given. Incumbents also drew more contributions proportionately from "business" and "individual" contributors. Challengers in many cases were forced to rely on personal contributions ("candidate" money) to make up the difference. (See Table 17.5.)

In San Francisco, candidates' personal contributions to their own campaigns have grown with increases in overall campaign budgets. In 1980, challengers Pius Lee, Ben Tom and David Scott contributed \$66,000, \$50,000 and \$22,100, respectively, to their own campaigns.⁵¹ Former Mayor Feinstein ended her 1979 mayoral campaign \$170,000 in debt, \$100,000 of which she owed to herself.⁵² In 1986, challenger Angela Alioto contributed over \$250,000 to her losing campaign.⁵³ And unsuccessful 1987 mayoral candidate Roger Boas broke all records by contributing \$557,000 to his own mayoral primary campaign. "Roger has a self-fulfilling candidacy," reported Jerry Roberts in the *California Journal*. "The only reason he's considered a major candidate is that he has a million dollars to spend."⁵⁴ Boas

defended his personal contributions, "As I go into this election, no one and I mean no one, owns a piece of me."⁵⁵

Expenditures of personal money in San Francisco often do not translate into successes for local candidates. Many San Francisco candidates who contribute to their own campaigns lose. The need to use personal money in San Francisco supervisorial elections may mean that a candidate is unable to get support from other contributors. Contributors know how difficult it is for challengers to defeat incumbents in San Francisco's free-for-all elections. In San Francisco, successful supervisorial candidates—primarily incumbents—clearly appear able to raise sufficient campaign funds [easily exceeding those of challengers] without expenditure of personal money.

Table 17.5

**INCUMBENT/CHALLENGER DATA PROFILE
SAN FRANCISCO**

Percentage of Total Contributions Received From Donor Sources

	<u><i>Incumbent</i></u>	<u><i>Challenger</i></u>
Business	43%	19%
Individual	50%	38%
Labor	3%	2%
Political	2%	15%
Candidate	3%	26%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbents	88%	81%	83%	30%	24%
Challengers	12%	19%	17%	70%	76%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1981-1986)

"Incumbents are ingrained," says Dan Kalb of Common Cause. "The last time an incumbent lost was in 1982, and then just barely. Incumbents are favored because their "Friends" committees strengthen name recognition with charity contributions and advertisements."⁵⁶

District elections in 1977 and 1979 increased supervisorial competition somewhat. In 1977, all eleven seats were up for election and there were 114 candidates. Several incumbents chose not to run for reelection under the new rules, but the five incumbents who ran were all reelected.

In the district elections of 1979, only one of six incumbents was reelected. Some observers credit this turnover to the ability of challengers to reach the limited number of voters in each district without large campaign budgets. Since the return of citywide supervisorial elections in 1980, however, successful challengers are rare.

In 1980 and 1982, one incumbent lost in each election. Since then, no incumbent has been defeated. San Francisco voters in 1988 defeated two ballot measures which have imposed a two-term limit on supervisors. (There is already a two-term limit for San Francisco mayors.) A principal purpose of these two measures was to increase the opportunities for new candidates to enter supervisory office.

San Francisco Examiner reporter John Jacobs comments, "The only way to get on the board of supervisors today is to be appointed by the mayor and to become an incumbent that way. It is a source of great power for the mayor. The mayor can appoint not only the various planning bodies, commissioners and board members but also the supervisors as well."⁵⁷

E. Loopholes and Lackadaisical Enforcement Further Reduce the Effectiveness of San Francisco's Ordinance

The "Friends" committee loophole undermines the effectiveness of San Francisco's ordinance and implies that use of other loopholes will go unnoticed. The registrar, city attorney and district attorney have done little to signal otherwise. Local regulators fail to monitor closely contributions for compliance with San Francisco's ordinance or the state Political Reform Act. As a result, a free-for-all atmosphere pervades local campaigns and reduces the effectiveness of San Francisco's campaign finance ordinance.

While San Francisco reporters occasionally comb campaign disclosure reports for abuses or violations, poor recordkeeping at the office of the registrar of voters hinders their investigations. Incumbents often maintain several committees simultaneously and various active and inactive committees may exist at any one time. The registrar finds it difficult to track every committee. Reports are frequently missing. Spotty records and multiple committees confuse reporters trying to trace the financial dealings of one candidate.

San Francisco's ordinance provides for criminal actions by the district attorney and civil actions by the city attorney against violations of the ordinance. In fifteen years since adoption of the San Francisco ordinance, neither office has filed a serious criminal action or a civil complaint.

In 1979, the district attorney's office prosecuted a case against a supervisory challenger in District 8. The candidate, Hugh Griffith, spent \$582 in the entire campaign and received just 71 votes. The district attorney's office charged the candidate with failure to report a \$59.43 expenditure. After Griffith was acquitted by a municipal court jury, the judge admonished the district attorney's office not to pursue cases against three other candidates because the prosecutions would waste the court's time.⁵⁸

Since that time, the district attorney's office has refused to file any compliance actions, even when serious matters have been brought to its attention. In 1986, for example, the *Examiner* documented the existence of laundered contributions from the Philippine government to San Francisco supervisors. The district attorney investigated the charges but initiated no action.

Lack of prosecutions render other regulators ineffective and reluctant to refer potential violations to the proper authorities. Former Registrar of Voters Jay Patterson explained, "After the exposé on 212 Stockton [laundered Philippine contributions] . . . , I told the district attorney's office, 'You guys never prosecute, so why should I try to enforce the law?' For example, when David Scott ran for mayor in 1979, he never filed a statement. We noticed him, but got no support from the D.A.'s office. The Citizen's Advisory Committee on Elections has also harangued the district attorney to enforce the law, but to little avail."⁵⁹

Other potential violations have been ignored. In the 1986 supervisorial elections, incumbent Supervisors Doris Ward and Richard Hongisto raised \$100,000 and \$25,000, respectively, *before* filing their “declarations of intent” to run. (San Francisco’s ordinance requires candidates to declare for a specific office before raising money.) The press reported the violations but city and county enforcement agencies refused to initiate compliance actions. The district attorney investigated Supervisor Ward’s extensive pre-declaration fundraising and concluded that Ward “had no intent to deceive anyone or to violate the law.”⁶⁰ Ward and Hongisto were allowed to keep the funds they had raised illegally. Apparent violations of San Francisco’s ordinance go unaddressed. The public and the press have apparently not expressed sufficient outrage to force local regulators into action.

F. Conclusions and Recommendations: Additional Reforms Need to Be Considered

It would be highly desirable in the Commission’s opinion for amendments to San Francisco’s existing ordinance to address problems of increased campaign spending, the appearance of special interest influence over elected officials and circumvention of the contribution limits law. Expenditure limits would hold down campaign spending as they did for two years in the past. San Francisco’s contribution limits ought to be applied to “Friends” committee contributions. If “Friends” committees are to be continued, the definition of “expenditures” by “Friends” committees needs to be tightened to prevent such committees from spending money on purposes which are actually campaign related. Other amendments are suggested below.

1. Expenditure Ceilings

San Francisco’s contribution limits have failed to restrict the total amounts of money raised and spent in local elections. Between 1979 and 1986, supervisorial candidates increased their average spending more than fourfold. In the 1987 mayoral election, despite the new low contribution limits law, candidates spent a total of over \$4 million. When the mayoral election was over, the three candidates each broke the million dollar mark for the first time. Only expenditure ceilings will restrain such campaign spending, as they successfully did in San Francisco in 1973 and 1975. To reenact them, however, will require either limited public matching funds or, if the recent passage of Proposition 73 is held to prevent such limited public financing, consideration of alternative ways of persuading candidates to accept expenditure limits.* (See further discussion in Chapter 23, “The Commission’s Model Ordinance.”)

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accept them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, “Constitutionality.”) With the voter’s adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities and counties such as San Francisco. The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, “Proposition 73.”) If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure ceilings. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, “The Commission’s Model Ordinance,” for a discussion of this alternative.)

Board President Supervisor Nancy Walker supports such a comprehensive reform. "I support an entire package [of campaign limits, expenditure ceilings and matching funds]. Our ordinance makes people think everything is OK, but it is only part of the answer."⁶¹

If expenditure ceilings can be reinstated in San Francisco, it would be appropriate for mayoral and supervisory limits to be distinguished. For mayoral races, a limit of \$500,000 per candidate per election would be reasonable. Although several 1987 mayoral candidates spent over \$1 million each in the primary alone, such spending appears excessive for a compact city with about 400,000 registered voters. The Commission recommends that citywide supervisory campaigns be limited to no more than \$250,000, the average amount spent in primary and general city council elections in San Diego, a city larger than San Francisco.

Access to and use of limited public matching funds can be restricted by "threshold" qualifiers that require candidates to raise initial campaign funding on their own to demonstrate community support. Use of partial public funding can also be limited by requiring public funds to be matched by private contributions.

2. "Friends" Committee Regulations

"Friends" committees provide a powerful advantage to incumbents over challengers who are subject to the strict \$500 limitation. They also give large contributors an unregulated avenue for access and influence. Expenditures by "Friends" committees during non-election years in San Francisco provide incumbents with special advantages. Incumbents are able to spend the moneys on so-called "non-campaign" expenditures which in essence promote their candidacies. Challengers cannot benefit from these tactics.

According to a 1982 state Attorney General opinion, contributions to "Friends" committees should be classified as either "gifts" or "political contributions," which are defined in the state Political Reform Act.⁶² If contributions are to be defined as "political contributions," then they should be limited to the same amounts as contributions to campaign committees.

3. Higher Contribution Limits

San Francisco's contribution limit was \$1,000 per election between 1983 and 1986. In 1986, the voters lowered it to \$500 for all city races, plus \$250 for runoffs. (There are no runoffs for supervisor.) Although former Supervisor (now State Senator) Quentin Kopp sponsored the reduction to stem campaign spending, the tactic has failed. The lower contribution limit does not appear to have held down campaign spending. Moreover, the reduction may hinder competition because incumbents have access to a greater number of contributors than do challengers. Dan Kalb of Common Cause feels that "contribution limits should be set fairly high in order to give challengers a fair chance of winning. I worry about strict contribution limits, because they create an incentive to find ways around the law."⁶³ Former Registrar Jay Patterson, who monitored compliance with the local ordinance, says, "I would consider raising the contribution limits again. We already have had children giving to local races. And the problem will only get worse [with the lower limit]."⁶⁴

Political consultant Clint Reilly echoes Patterson. "The contribution limit in San Francisco should be raised again from \$500 to \$1,000. A \$1,000 contribution won't buy more influence, but it could help competition for local races."⁶⁵ Appointed supervisor Jim Gonzales agrees. "As a minority candidate, I believe the lower limits hurt me. I have a few strong supporters from the Hispanic community and they are limited in what they can give."⁶⁶

The Commission agrees, and believes that for San Francisco a somewhat higher contribution limit (perhaps \$750) would be appropriate for both mayoral and supervisorial races, with an additional \$250 per contributor permitted for mayoral runoffs.

4. Enforcement Responsibilities

San Francisco's ordinance is compromised because its enforcement has been spotty and ineffectual. Responsibility for enforcement has fallen on the press and community-at-large, both of which lack the necessary resources and authority for enforcement. Without proper enforcement, abuses occur and public perception of the probable existence of corruption increases.

San Francisco's ordinance specifies enforcing agencies and responsibilities. The designated enforcers have simply chosen not to use their powers. The Commission recommends that the ordinance be revised to allow private citizens to file complaint actions for violations of the ordinance. Experience in other cities with such a provision shows that such pressure from private citizens has prodded enforcement authorities into action. (See, e.g., Chapter 10, "The City of Los Angeles.") Private citizen suits would also provide back-up enforcement if designated authorities refuse to investigate or prosecute violations. In addition, San Francisco may wish to consider establishing a new office similar to the Fair Political Practices Commission, which could bring administrative and civil actions.

5. Restrictions on Special Interest Contributions

A "disqualification" ordinance aggregates the contributions of corporations and their owners and directors and, when aggregate contributions exceed a certain limit, prohibits the officeholder from voting on matters affecting the contributors. In Orange County, for example, if a corporation, its officers, directors or owners together give over \$1,808 during a four-year period, the recipient supervisor is disqualified from voting on matters affecting the contributor for the next four years. San Francisco might consider adopting a disqualification requirement as an additional deterrent to violations of its contribution limits.

"I would support a disqualification ordinance because it hits at the root of the problem," says the *Examiner's* John Jacobs. "A disqualification ordinance attacks the connection between contributions and influence."⁶⁷ "Disqualification sounds like a good idea," agrees Burke Delventhal, Assistant Deputy City Attorney.⁶⁸

If San Francisco were to consider a disqualification ordinance, it would need to address circumstances which are unique to its local elections:

- Would contributions to both "Friends" committees and campaign committees be accumulated?
- How long should the requirement for disqualification last?

Alternatively, or in addition, it is suggested that San Francisco consider banning contributions from those doing business, or bidding on or entering contracts or franchises, with the city and county. (See Chapter 7, "Gardena.")

6. Restrictions on Lobbyists and Consultants

San Francisco prides itself on its independence and uniqueness. Various political observers have made novel suggestions for additional laws to improve the city's electoral and municipal lobbying processes. "We don't know anything about lobbyists in San Francisco," explains *Examiner* reporter Gerald Adams, for example. "We should bring it out in the open."⁶⁹ Lobbyist registration has been required by the City of Los Angeles. San Francisco should consider a similar law.

7. Conclusion

San Francisco's contribution limit ordinance constitutes a rather plain and ineffective approach toward regulating electoral and municipal activities in this unusual city. Contribution limits have failed to hold down campaign budgets in either local supervisorial or mayoral races. Nearly 60% of San Francisco's contributors also have business before the supervisors or mayor, creating an appearance of significant connections between contributions and votes. The city's contribution limits ordinance has not cured this appearance. Contributors in San Francisco also arrange contributions from subsidiaries, friends, relatives, subcontractors and business associates. They give larger contributions to "Friends" committees which incumbents use to boost their name identification between elections. Lackadaisical enforcement of San Francisco's ordinance encourages these compromising practices.

San Francisco has adopted several campaign finance ordinances in the past 16 years but most have merely tinkered with perceived problems. The city ought to conduct a complete review of the laws now on the books—both state and local—and address its apparent problems head-on.

NOTES

1. William Issel and Robert W. Cherny, *San Francisco 1865-1932: Politics, Power and Urban Development*, p. 52 (1986).
2. Gerald Adams and John Jacobs, *S.F.'s Highrise Insiders: How They Work*, *San Francisco Examiner*, June 16, 1986.
3. Interview with Rick Pacurar, former President, Harvey Milk Lesbian and Gay Democratic Club, Jan. 5, 1987.
4. Interview with John Jacobs, reporter, *San Francisco Examiner*, Jan. 22, 1986. Similar criticisms led new Mayor Art Agnos to appoint a special commission to interview and recommend new appointees for Agnos' administration.
5. In the early days of San Francisco, neighborhoods were vital in delivering votes. "In a system based on maximizing voter turnout, the man who could provide voters commanded attention. Proprietors of sailors' boardinghouses thus stood high in organizational councils, for each boardinghouse held as many as a hundred potential voters." Issel and Cherny, *supra* note 1, pp. 71-95.
6. "Since the 1960s, running for city office has become an exercise in collecting endorsements from the city's many political organizations, including the Black Leadership Forum, the Mexican American Political Alliance, the Labor Council's C.O.P.E., the Chamber of Commerce, the Republican County Central Committee and a host of Democratic clubs, including neighborhood clubs, the Feminist Democrats, the Chinese-American Democratic Club, and several gay clubs, especially the Alice B. Toklas Lesbian/Gay Democratic Club and the Harvey Milk Lesbian and Gay Democratic Club." Issel and Cherny, *supra* note 1, p. 217.
7. Interview with Pacurar, *supra* note 3.
8. Issel and Cherny, *supra* note 1, p. 97.
9. *Id.*, p. 100.
10. "In the past five years, the Bank of America shifted 5,000 jobs from San Francisco to Concord; Pacific Bell sent 5,000 jobs from San Francisco to San Ramon; Chevron moved another 1,250 jobs to San Ramon, and AT&T transferred 2,100 jobs to Pleasanton. Spreckles Sugar Company, a San Francisco native since 1897, is now headquartered in Pleasanton. Mayor Feinstein's office recently estimated that in the last two years about 100 companies had relocated all or part of their operations outside of San Francisco costing the city 25,000 jobs. Jobs are moving to outlying areas

where rents are cheaper and workers find it easier to commute.” David Beers, *Tomorrowland: We Have Seen the Future and It Is Pleasanton*, San Francisco Examiner, Jan. 18, 1987.

Journalist Dan Walters also blames city policies and city leaders for not arresting the economic decline of once-dominant San Francisco. “Somewhere, somehow, it turned sour . . . [San Francisco] allowed its politics to become so fragmented that only those with pull could navigate the city hall thicket, and public policy decisions on such matters as an athletic arena, an unfinished freeway or a housing project would be left hanging for years. It made rents and homes so expensive that the middle class and poor residents were driven from the city in despair, leaving only the affluent and the down-and-out to call it home. And as it closed its doors to all but the wealthy, it allowed Los Angeles to become the new melting pot of the West.” Dan Walters, *Disneyland North: The Selling of S.F.*, Sacramento Bee, Mar. 23, 1986.

11. Interview with Pacurar, *supra* note 3.
12. Issel and Cherny, *supra* note 1, p. 22.
13. Coverage of San Francisco elections and politics has increased due in part to new leadership at the Examiner. William Hearst, grandson of the paper’s founder, has taken the helm and directed staff to increase investigations into local politics once again. In the summer of 1986, for example, the Examiner published a long series of articles on downtown development and the influence of campaign contributions on development policies. It was a hard-hitting exposé that many said played a role in swaying voters to finally pass a ballot measure limiting growth, Proposition M. Co-author Gerald Adams credits Hearst and a changing of the “old guard” for new vigor in investigative reporting. “It was unusual for the Examiner to hit against the San Francisco establishment. We needed a young Will Hearst to even consider doing the series. The series also came at a time when the old power structure is being merged out of existence. Some of the mergers involved old corporate stalwarts like Crown Zellerbach, Pacific Lumber, Natomas and Crocker Bank. The old titans for San Francisco are gone.” Interview with Gerald Adams, Dec. 11, 1986.
14. Tim Redmond, *New Study Confirms the Power of Incumbency, Newspaper Endorsements—and Money—In S.F. Elections*, San Francisco Bay Guardian, May 1, 1985.
15. Editorial, *Outrageous Cost of Campaigning*, San Francisco Examiner, Dec. 17, 1971.
16. Interview with Quentin Kopp, State Senator, State of California, Dec. 29, 1986.
17. San Francisco Campaign Contributions Control Ordinance, Section 16.501.
18. At the time the San Francisco 1973 ordinance was passed, the board also approved an ordinance requiring lobbyists to register and disclose their activities before appearing before city/county boards and agencies. The lobbyist registration requirement was dropped after passage of the Political Reform Act, because the city attorney argued that the state law had precedence.
19. FPPC Advice Letter to Randy Riddle, San Francisco Deputy City Attorney, Apr. 17, 1989, I-89-016.
20. Op. City Att’y 83-8 (1983).
21. 424 U.S. 1 (1976).
22. Interview with Kopp, *supra* note 16.
23. *Id.*
24. *Id.*
25. Warren Hinckle, *If My Dog Raised a Million, He Could Be Mayor*, San Francisco Examiner, Image Magazine, Jan. 3, 1988.
26. Interview with Marcia Smolens, political consultant and lobbyist, Dec. 10, 1986.
27. *Id.*
28. Interview with Clinton Reilly, campaign consultant, Jan. 23, 1987.
29. Interview with Lee Dolson, former San Francisco Supervisor, now Executive Director of the Downtown Association, Jan. 23, 1987.
30. Letter to the Editor, San Francisco Chronicle, June 22, 1986.

31. Bill Wallace, *Boas Has Lent Half a Million to His Own Campaign*, San Francisco Chronicle, Oct. 23, 1987.
32. Bill Wallace, *Mayoral Donors Skirt the Law*, San Francisco Chronicle, Nov. 25, 1987.
33. Cal. Gov't Code §84302.5 (West Supp. 1989).
34. Adams and Jacobs, *supra* note 2.
35. *Id.*
36. *Id.*
37. *Id.*
38. *Id.*
39. *Id.*
40. *Id.*
41. Interview with Jacobs, *supra* note 4.
 "Neighborhood organizations do have access without making contributions, but it is not instant access like that accorded to Bill Coblentz [a local lobbyist/fundraiser]," explained another Examiner reporter Gerald Adams. "Neighborhood organizations have to organize real well and the Mayor has to be convinced that the organization can get out the vote. But, if the organization does these things, it can get access and influence." See Interview with Adams, *supra* note 13.
 Bill Coblentz defended himself: "In many ways, we in California go too far in assuming conflicts of interest that just do not exist. I have people come to me who are from Chicago or New York. They ask: 'Who do I pay in the government to get my approval?' I say: 'Me,' because I represent their issues before local government." Interview with Bill Coblentz, attorney, Dec. 12, 1986.
42. See Interview with Reilly, *supra* note 28.
43. Interview with Pacurar, *supra* note 3.
44. Gerald Adams and John Jacobs, *S.F. Poll: 2 of 3 Want Tough Limits on Highrises*, San Francisco Examiner, June 18, 1986.
45. Editorial, *Political Money Going Sky-High*, San Francisco Examiner, June 19, 1986.
46. *Molinari Enters Filing Day With Biggest Campaign War Chest*, San Francisco Examiner, Aug. 22, 1984.
47. Semi-Annual Campaign Statements, Form 420, State of California, for "Friends of Molinari," Jan. 1 to June 30, 1986, and July 1 to Dec. 31, 1986.
48. Interview with Nancy Walker, Supervisor, San Francisco Board of Supervisors, Jan. 22, 1987.
49. Interview with Dolson, *supra* note 29.
50. Interview with Dan Kalb, Field Director, Northern California Common Cause, Dec. 9, 1986.
51. *Tom Not Only Supervisorial Candidate Financing Own Race*, San Francisco Examiner, Oct. 6, 1980.
52. W.E. Barnes, *Election Winners' Suffering From Hangovers of Debt*, San Francisco Examiner, Jan. 2, 1980.
53. Campaign statements filed with the San Francisco Registrar and Recorder.
54. Jerry Roberts, *Surprise: There's a Political Donnybrook in San Francisco Again*, California Journal, p. 543 (November 1987).
55. Philip Matier, Andrew Ross, *Agnos Misses Deadline for Reporting Funds*, San Francisco Examiner, Oct. 23, 1987.

Another unsuccessful 1987 mayoral candidate, City Attorney Louise Renne, wanted to lend money to her campaign but lacked the resources. She went to the bank for a personal loan in order then to lend the money to her campaign. The transaction was improperly conducted and had to be rearranged, which brought negative press. At first, Renne's campaign committee rather than the candidate received the \$50,000 loan, which violated the \$500 limit on contributions and loans. Renne later changed the papers to reflect a bank loan to her, followed by a personal

- loan to the campaign. Marshall Kilduff, *Renne Won't Rule on Her Campaign Loan*, San Francisco Chronicle, Sept. 25, 1987.
56. Interview with Kalb, *supra* note 50.
 57. Interview with Jacobs, *supra* note 4.
 58. LeConnie Kanz, *Acquittal in Vote-Fund Cases*, San Francisco Examiner, Apr. 21, 1979.
 59. Interview with Jay Patterson, former San Francisco Registrar of Voters, Dec. 10, 1986.
 60. *DA Lets Ward Off the Hook*, San Francisco Progress, July 11, 1986.
 61. Interview with Walker, *supra* note 48.
 62. 65 Op. Att'y Gen. 494. The 1982 attorney general opinion advised that contributions to "Friends" committees in San Francisco should be considered *political contributions*, and thus limited as are contributions to "campaign" committees. The opinion has been ignored.
 63. Interview with Kalb, *supra* note 50.
 64. Interview with Patterson, *supra* note 59.
 65. *See* Interview with Reilly, *supra* note 28.
 66. Interview with Jim Gonzales, Supervisor, San Francisco Board of Supervisors, Apr. 3, 1987.
 67. Interview with Jacobs, *supra* note 4.
 68. Interview with Burke Delventhal, Deputy City Attorney, City/County of San Francisco, Oct. 24, 1986.
 69. *See* Interview with Adams, *supra* note 13.

CHAPTER 18

San Rafael: A Future of Grassroots Organizing or High Spending Campaigns?

In the early 1970s, San Rafael city council and mayoral campaigns typically cost around \$4,000. By 1983, an incumbent mayor had spent nearly \$30,000 on his successful reelection—a 650% spending jump in just over a decade. In the fall of 1987, however, one challenger launched a modestly-funded, grassroots, “controlled growth” campaign that shocked the political establishment, defeated several well-funded challengers and turned out the first incumbent in recent municipal history. Whether the 1987 election signals a return to grassroots organizing instead of high spending campaigns remains to be seen. Although recent San Rafael campaigns have been characterized as wasteful and extravagant, the city has twice repealed local campaign finance reforms.

The City of San Rafael is located 17 miles north of San Francisco in central Marin County. Best known as an affluent bedroom community for white collar commuters to San Francisco’s financial district, San Rafael’s 21 square miles is home to more than 46,000 residents. Far from ethnically or economically diverse, San Rafael is 94% Caucasian and two-thirds of its working residents are employed in professional, technical or administrative fields.

Although San Rafael’s prosperity is moderate by Marin standards, the city ranks as one of the wealthiest communities in the country. Average household income in 1980 was \$28,800—30% above the California average and twice the

national average.¹ San Rafael's beautiful surroundings, pleasant climate and close proximity to San Francisco make it a highly desirable place to live. Stiff demand for real estate has sent property values skyrocketing. A constant stream of affluent home buyers has made San Rafael a residential developer's dream.

Despite its reputation as a bedroom community, San Rafael is the only city within the county to boast a positive "in-migration" during business hours. The significant population of commuters into and out of San Rafael has generated severe transportation and road congestion problems. Highway 101, the main freeway connecting San Rafael with San Francisco to the south and Sonoma County to the north, reaches near-gridlock during daily commuting hours, and this condition has discouraged new businesses from locating in San Rafael. Local business leaders have actively courted light industry to expand the local economy. But without a transportation plan, San Rafael has lost coveted firms to other communities in the north. Santa Rosa in Sonoma County and Novato in northern Marin County (which recently surpassed San Rafael as Marin's largest city) both offer less expensive real estate and better traffic conditions.

San Rafael's political structure resembles other suburban communities. The city is governed by a mayor and four city councilmembers, all part-time posts. Representatives are elected at-large to four-year alternating terms. The mayor and city councilmembers draw yearly salaries of \$7,788 and \$5,196, respectively. The city attorney and the city clerk are also elected. San Rafael is the Marin County seat.

Elections are typically low-keyed contests over personalities and not issues. Before 1987, no incumbent councilmembers in recent memory had been defeated. Normally, when a council seat fell open, one or two candidates supported by local developers, real estate interests or businesses stepped forward to vie for the vacancy. Controversy was rare. "San Rafael is run by two good old boy networks," says one local observer, "conservative Democrats on the council that line up with the mayor, and conservative Republicans that are supported by local business and law enforcement. Right now, the two have a truce, and decisions are made in the mayor's living room."²

First-person information on San Rafael campaigns is difficult to obtain. Only two elected officials, Councilmember Dorothy Breiner and City Clerk Jeanne Leoncini, granted interviews to Commission researchers preparing this study. Despite numerous requests, the mayor, remaining councilmembers and city attorney all refused to meet with Commission representatives. By contrast, former elected officials, candidates and local activists were quite helpful in providing the Commission with important insights.

A. High Spending Incumbents Meet Grassroots Challengers

San Rafael election campaigns in the early 1970s cost the average candidate around \$4,000. But low cost campaigns began to disappear with the boom in real estate and development, as city council land use decisions grew in economic importance. In 1981, Gary Frugoli, a former police officer with strong developer support, won a council seat after spending \$20,000. Candidate Jerry Russom, a public relations executive, spent in excess of \$20,000 on his unsuccessful campaign in the same election. Such abrupt leaps in expenditures soon became standard for San Rafael campaigns.

In an effort to stem rising campaign spending, 1983 council challenger Rich Gosse proposed that all candidates voluntarily agree to limit campaign spending to \$5,000. His proposal was ignored by all incumbents and only taken seriously by another challenger, Joan Lisetor. After it was clear that other candidates were simply going to ignore the voluntary limit, Gosse and Lisetor spent \$10,000 and

\$7,000, respectively, in their unsuccessful campaigns. Incumbent Councilmember Richard Nave and challenger Jerry Russom won after spending over \$22,000 each. Mayor Lawrence Mulryan spent nearly \$30,000 in his successful reelection bid.

Table 18.1

SAN RAFAEL DATA PROFILE

Local Government

STRUCTURE: Charter drafted in 1913; council-manager form of government; four city councilmembers elected at-large; mayor elected citywide; city attorney and city clerk elected .

CITY BUDGET: \$23.8 million (1989)

CITY FACTS: Population (1989): 46,450; Area: 17.3 square miles; Registered voters (1989): 27,257; Voter turnout (Nov. 1987): 38%

Contributions

	<u>San Rafael</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	24%	40%	52%
Individual	52%	45%	33%
Labor	4%	2%	4%
Political	4%	5%	6%
Candidate	16%	8%	5%
Non-Election Year	3%	6%	42%
Election Year	97%	94%	58%

Expenditures

	<u>San Rafael</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
VOTER CONTACTS	71%	57%	38%
Broadcast	0%	0%	7%
Literature	32%	48%	26%
Newspaper	32%	6%	2%
Outdoor	7%	3%	3%
OVERHEAD	29%	43%	62%
General	10%	17%	22%
Personnel	6%	5%	6%
Fundraising	13%	6%	13%
Survey	0%	5%	4%
Consulting	0%	8%	10%
Travel	0%	0%	1%
Candidate Transfers	0%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

"I was told that if I raised less than \$25,000, I would lose," said attorney Steve Kline, an unsuccessful candidate for city council in 1985.³ Kline actually spent only \$8,000, yet he narrowly missed upsetting a council incumbent and was considered to be the strongest independent challenger to step forward in years. Although Kline

says the suggested \$25,000 was excessive, he believes that non-incumbent candidates must raise at least \$12,000 to initiate a serious campaign “and to gain a *minimal* level of exposure and credibility—I fell \$4,000 short.”⁴ Incumbents up for reelection in 1985 clearly followed the philosophy that “excess equals success,” Kline continued. “One of my opponent’s *surplus* was larger than my entire budget, and he spent that surplus on some absurd, wasteful things like three-color ads in the local newspaper.”⁵

Councilmember Dorothy Breiner, however, discounts challengers’ complaints about spending levels. “When I started out in local politics, Congresswoman Barbara Boxer (D-San Anselmo) told me that if I couldn’t raise the money, I didn’t belong in office.”⁶

The municipal election of 1987 may have changed the terms of political participation in San Rafael. Joan Thayer, a virtual unknown, used grassroots organizing and canvassing techniques to capitalize on growing anti-developer sentiment in the community. She received the most votes in the council election, despite spending less than half of what her competitors spent. Her progression from longshot to winner, however, was not simple. Midway through the campaign, Thayer had tremendous difficulty raising funds, a deficiency that was magnified by the recordbreaking fundraising of her competitors. By the end of the campaign, incumbent Councilmember Richard Nave and challenger Richard O’Brien had each raised over \$30,000 compared to Thayer’s \$16,000.

The single most important factor in Thayer’s upset victory was the involvement of the California League of Conservation Voters (CCLV), which gave \$6,700 in non-monetary contributions—primarily phone lines and paid coordinators for campaign workers—late in the campaign. With CCLV’s help, Thayer’s campaign broke with San Rafael tradition. It launched a thorough grassroots campaign, carefully targeted environmentally-conscious residents and conducted a well-orchestrated get-out-the-vote drive during the campaign’s final days.

As a result, Thayer became the first challenger to upset an incumbent in years. “The voters of San Rafael have sent a message to City Hall,” declared Thayer at her election party.⁷ “It’s like an invasion,” Planning Commissioner (and unsuccessful council candidate) Richard O’Brien was quoted as saying. “They [CCLV] really are invading Marin County and pressing their political views on an apathetic public. People who ordinarily wouldn’t have voted were convinced to vote.”⁸

Thayer’s grassroots techniques may become the new vogue among San Rafael politicians. Yet these techniques may only have been successful under the specific circumstances present in 1987—significant local frustration with overdevelopment and traffic and the 1988 council review of San Rafael’s General Plan. If Thayer’s victory is attributed to successful campaign techniques, then future candidates may conclude that political success is not necessarily dependent on higher spending. If her success is merely viewed as issue-related, San Rafael campaigns may return to their high spending, non-competitive ways.

B. Campaign Reforms Are Repealed—Twice

San Rafael has adopted—and repealed—two campaign finance laws. The first, enacted in 1974, was designed to prevent:

“. . . the exercise by campaign contributors of potential undue or improper influence over elected officials and to insure against a candidate being elected to office based primarily on the amount he expended on his campaign.”⁹

This original law contained a \$200 individual contribution limit, which included the candidate's contributions to his or her own campaign, and expenditure caps set at \$.25 per registered voter (about \$5,000 per candidate). It required candidates to disclose all contributions over \$50. Penalties for violations of the law included loss of elected office and permanent loss of eligibility to run for future city office. San Rafael's new law did not survive long enough to affect any elections. It was repealed in 1975, after the city attorney and council *incorrectly* concluded that the local law had been superseded by California's Political Reform Act of 1974.¹⁰

In 1983, then-City Attorney Ed Duggan suggested that the council adopt another campaign finance ordinance in response to increases in campaign spending and allegations of improper developer influence in at least one candidate's campaign. "It wasn't a long, thought-out process," says Duggan. "It was a resurrection of what we had before." Although the proposal was seen as an "attention-getting move" by Duggan, the council passed the ordinance with only one dissent. "I was surprised they went for it," says Duggan. "I had imagined there would be a great deal of opposition."¹¹ Comments Councilmember Breiner, "We felt opposing the law would look bad in spite of our doubts."¹²

The new law simply adopted contribution limits prohibiting individual or group contributions above \$250. The law received little attention and was left in place for only the 1983 election. City Attorney Duggan was defeated in that election (his opponent outspent him 4-to-1), and campaign reform lost its only advocate at City Hall. On the advice of the new city attorney, the council quietly repealed the law in April 1984, stating that it was poorly written and unenforceable against candidates.¹³ Because both campaign finance laws were adopted and repealed with little discussion or public support, many local politicians now question whether a campaign finance law was ever appropriate for San Rafael.

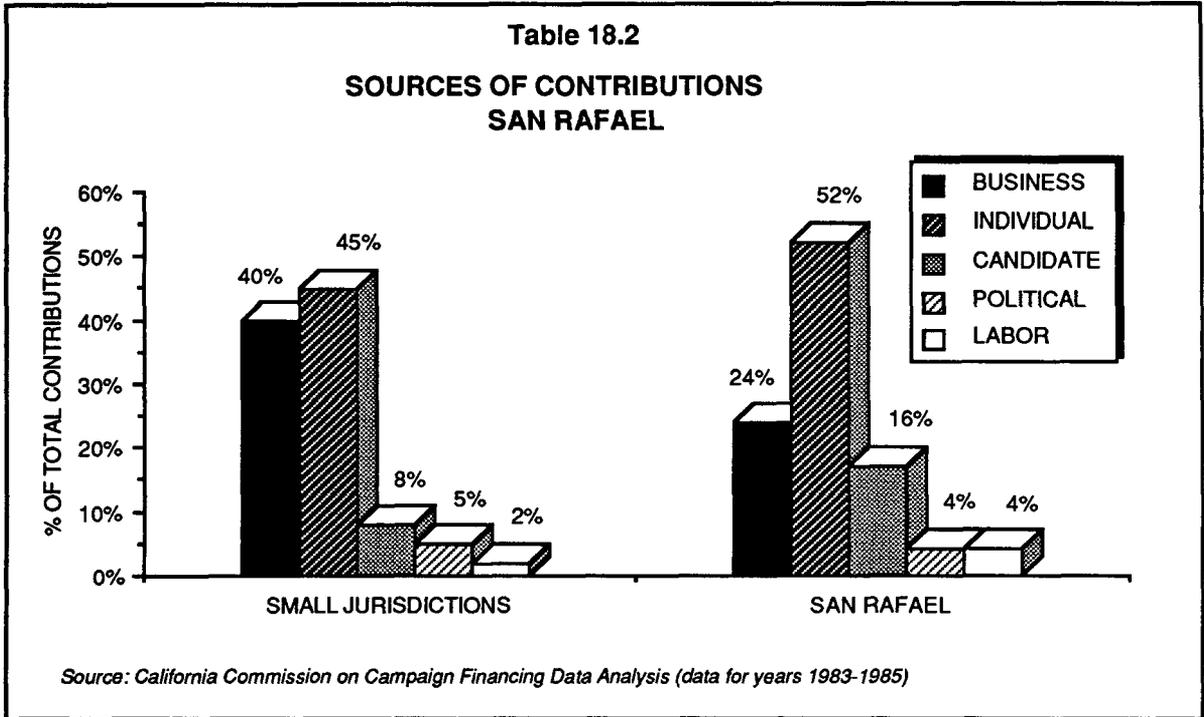
C. Contribution and Expenditure Data Reinforce the City's Image of Affluence and Contributor Secrecy

San Rafael's contribution and expenditure trends are unusual for a small city. (See generally Table 18.1, "San Rafael Data Profile.") Business contributions are substantially lower than in other small cities (24% versus 40%), possibly because business plays a less prominent role in a bedroom community. (See Table 18.2.) Individual contributions are somewhat higher than in other small cities (52% versus 45%), partly because of the community's affluence. San Rafael's higher personal incomes allow residents to contribute more money to political campaigns. Higher personal wealth also increases the level of candidates' contributions to their own campaigns (16% as compared to 8% in other small cities).

The largest proportion (48%) of campaign contributions in San Rafael is received in increments below \$100, compared to about 30% in small jurisdictions. (See Table 18.3.) Although below-\$100 contributions are typically considered a gauge of contributions from moderate income sources, the very high level of contributions in this category can be attributed to a desire by San Rafael residents to remain anonymous. Many politically active San Rafael residents hold prominent business positions and prefer to make their contributions confidentially, according to a source familiar with San Rafael politics and fundraising.¹⁴ By contributing less than the \$100 state disclosure requirement, citizens can make political contributions without identifying themselves.

Under-\$100 contributors may also seek to minimize the appearance of their possible influence over the political process. Business owners or real estate developers, for example, might host fundraisers for the candidates they support and invite a number of colleagues and guests to contribute \$99 each.¹⁵ Candidates

receiving the contributions would be well aware of the host's role in soliciting the funds, yet the public and media would remain unaware of the host's identity or those of the contributors. If the candidates were elected to the council, they could favor their fundraisers without creating the appearance of an improper *quid pro quo*.



Campaign statements for the November 1987 election, however, indicate an exception to traditional reliance on below-\$100 contributions. Because the council planned to revise San Rafael's General Plan in 1988 and because one incumbent chose not to run for reelection, development-related interests increased their contributions to ensure representation during consideration of the General Plan.

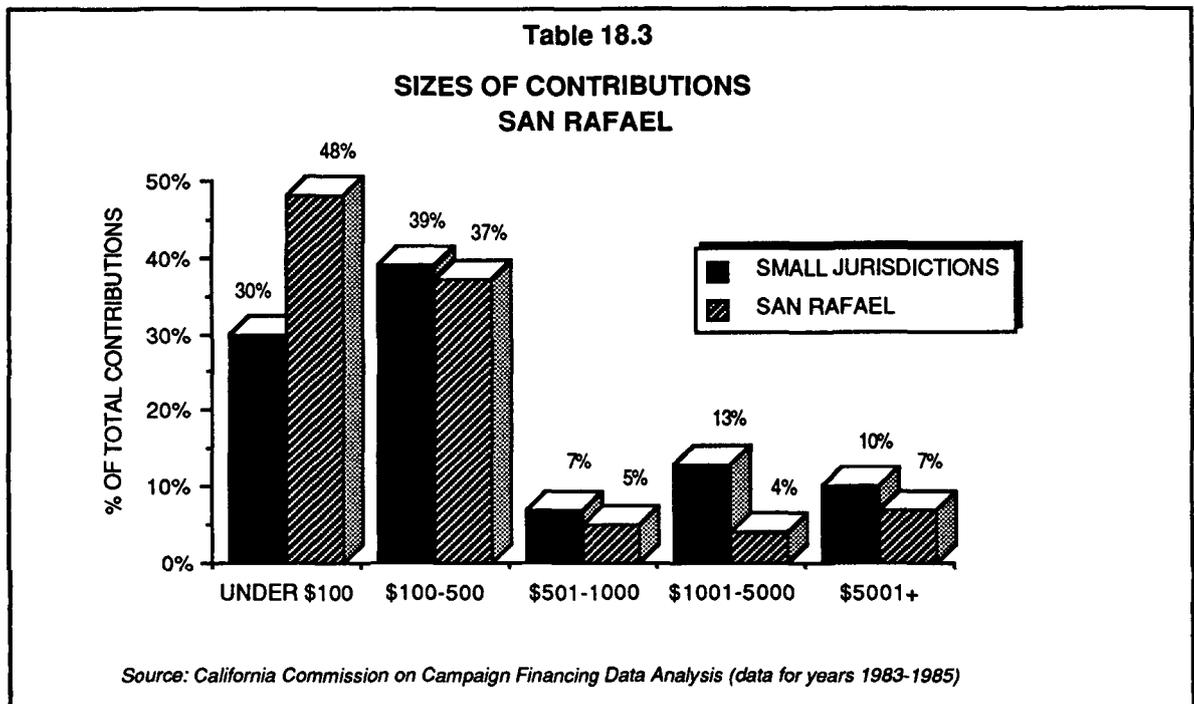
Although real estate interests had long been active in San Rafael, their political contributions *rarely* appeared on disclosure statements. Suddenly in 1987, contributions of \$250 or more from real estate interests began to appear on candidate statements. It is unlikely that these interests had not made previous political contributions, but in past years real estate interests apparently chose to contribute in small, unreportable increments. Ironically, increased competition and a focus on local development have caused the disclosure of better information for San Rafael residents about sources of their officials' campaign funds.

Expenditures on campaign overhead are lower in San Rafael than in other small cities studied by the Commission. (See Table 18.4.) Candidates as a rule do not use professional political consultants, and campaigns incur minimal travel, survey and general expenses. Instead, candidates in San Rafael spend higher percentages of their money on voter contacts (71%) than office seekers in other small cities surveyed (57%).

While the percentage spent on campaign literature is less in San Rafael than in other small cities (32% as compared to 48%), expenditure percentages for newspaper advertisements are *five times higher* (32% in San Rafael, 6% in other small cities). For example, in 1983, successful candidate Richard Nave spent more than \$12,000 on newspaper advertising; he devoted less than \$4,000 to campaign literature. San

Rafael is the only city studied where candidates emphasize newspaper advertising to such a degree—candidates in other jurisdictions consider it outdated and not cost-effective.

Candidate expenditures on newspaper ads are particularly unusual because San Rafael does not have its own newspaper. Instead, it relies upon the *Marin Independent Journal*, a countywide newspaper with inconsistent coverage of individual Marin County communities. Newspaper ads purchased by San Rafael candidates reach an audience far beyond the voters of their own city, making this method of voter contact appear less economical for local candidates. San Rafael's emphasis on newspaper advertising reinforces the view of some that local candidates believe "excess equals success."



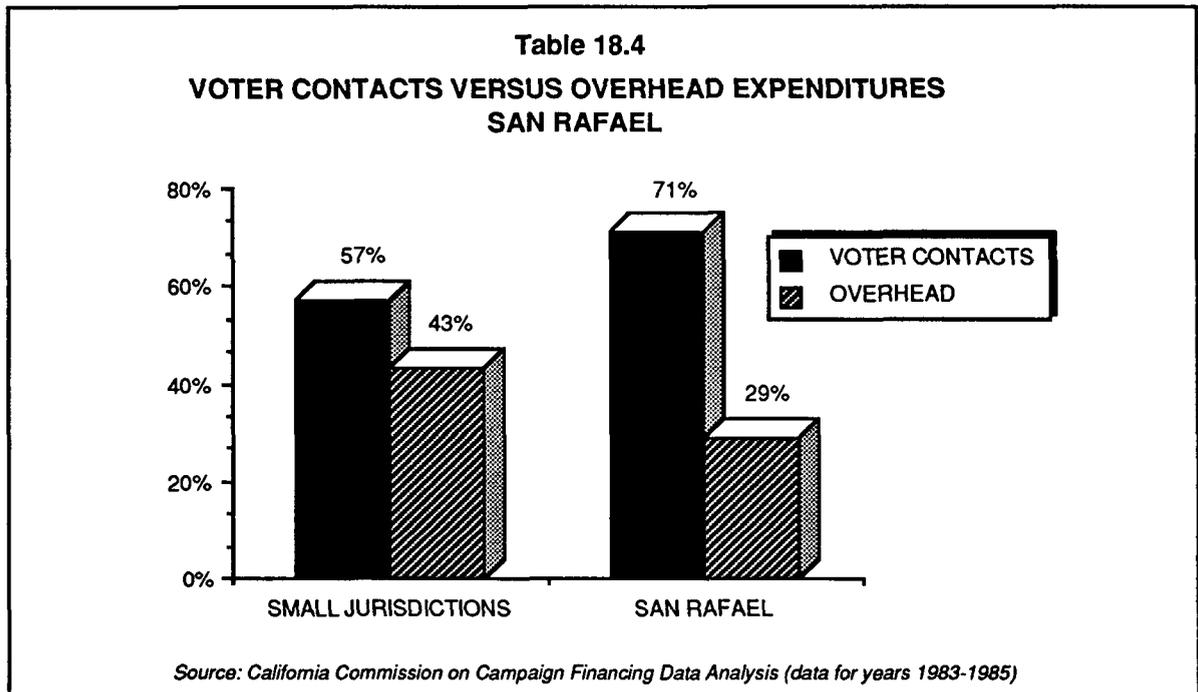
Incumbents raise the largest proportion of their funds from individual sources (48%), challengers raise only about 30% from individuals. Challengers' primary contribution sources are their own personal funds (37%) while incumbents contribute virtually no money to their own campaigns. Although incumbents raise 42% of their total funds from businesses, business contributions account for only 10% of challengers' funds. (See Table 18.5.)

Businesses largely favor incumbent councilmembers when making political contributions, giving 88% of their contributions to council incumbents. (See Table 18.6.) Council challengers lag far behind, receiving only 12% of business contributions, on average. Individual contributors favor incumbents but not to the same degree as business donors. Individuals give 78% of their contributions to incumbents and 22% to council challengers.

Because council challengers receive smaller percentages of business and individual contributions, they must contribute higher percentages of their own money. The "Catch-22" is typical of that in many cities: challengers have great difficulty raising money if they are not perceived as "serious," yet they are not taken seriously unless they demonstrate strong fundraising abilities.

D. Conclusions and Recommendations: Reforms May Be Necessary

Some political observers in San Rafael are concerned over increasingly expensive local campaigns that discourage competition for elective office. Local challengers' persistent lack of success substantiates that concern. While the \$20,000 to \$30,000 amounts now spent by some successful candidates are not outrageous sums for cities the size of San Rafael, these spending levels appear to have become a barrier to local challengers. It is too early to tell whether the maverick low budget success of Joan Thayer's 1987 campaign marks a change in challengers' potential for success, or whether future elections will simply revert to the spending battles of the past. San Rafael might well consider steps to slow the rising cost of local political campaigns and to ensure that campaign spending does not continue to inhibit local competition.



Contribution limits alone would not be an effective method for addressing the rising cost of campaigns, and they would be inappropriate because of San Rafael's previous contribution patterns. San Rafael's candidates do not depend on large contributions from a few sources. They draw the bulk of their funds in small amounts that would certainly fall below any limit deemed "reasonable" for a city of San Rafael's size. Since under-\$100 contributions are apparently used to conceal sources of financial support, improved disclosure may be beneficial.

Adequate reforms in San Rafael need to address a number of problems: increasing spending that limits competition, hidden sources of campaign funds and a perception of improper contributor influence over public policy.

1. Expenditure Ceilings

Concern over high campaign spending is best addressed with expenditure ceilings. For San Rafael, the Commission recommends an expenditure ceiling of no more than \$20,000 per candidate for city council.*

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds.

2. Stricter Disclosure

Some San Rafael residents believe that campaign contributors exert improper influence over city council decisions. Although it is difficult to substantiate these inferences, the perception of undue contributor influence might be eased by specific reforms. The Commission recommends a lowering of the contribution disclosure requirements to \$50, thereby disclosing more fully the sources of candidates' financial support. Although tougher reporting requirements mean more paperwork for candidates, the benefits of improved public information would seem to make the effort worthwhile.

Table 18.5

**INCUMBENT/CHALLENGER DATA PROFILE
SAN RAFAEL**

Percentage of Total Contributions Raised From Each Source

	<u>Incumbents</u>	<u>Challengers</u>
Business	42%	10%
Individual	48%	43%
Labor	4%	6%
Political	6%	4%
Candidate	0%	37%
Total	100%	100%

**Average Percentage of Contributions Given to
Incumbents and Challengers**

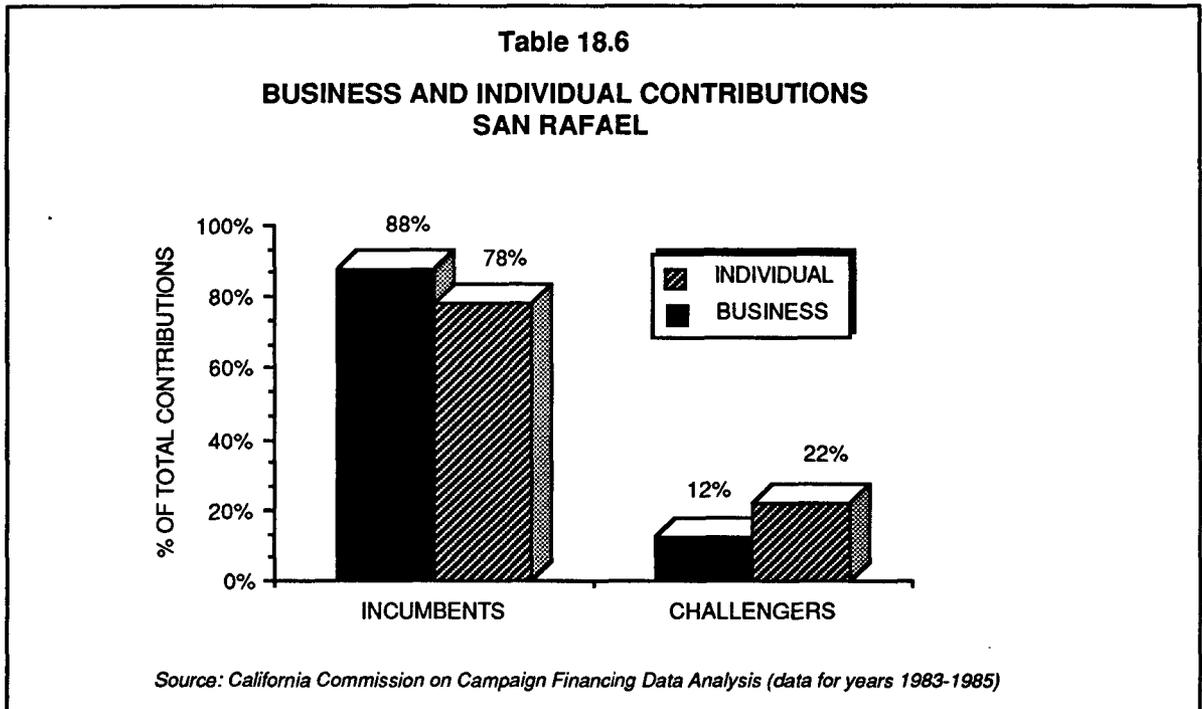
	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	88%	78%	39%	71%	0%
Challengers	12%	22%	61%	29%	100%
Total	100%	100%	100%	100%	100%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1985)

Buckley v. Valeo, 424 U.S. 1 (1976). (See Chapter 24, "Constitutionality.") With the voter's adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as San Rafael) and charter counties. The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, "Proposition 73.") If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure ceilings—public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure caps. Such incentives might include higher contribution limits for candidates accepting spending ceilings. (See Chapter 23, "The Commission's Model Ordinance," for discussion of this alternative.)

3. Ban on Contributions From City Contractors

Another way to discourage the perception of inappropriate contributor influence would be for the city to adopt a city contractor clause, similar to Gardena's. (See Chapter 7, "Gardena.") The clause would prohibit candidates from accepting campaign contributions from businesses that have entered into contracts (including businesses with development or redevelopment agreements) with the city requiring council approval. This excellent method can eliminate one source of potentially improper influence on the policymaking process, and the Commission believes it well worth consideration.



4. Contribution Limits

Although contribution limits may not appear necessary now, particularly with the limits of Proposition 73 applying to local races, contribution limits for all individuals, businesses and organizations could add to the usefulness of a comprehensive reform package and protect against future changes in contribution patterns. If comprehensive reform is deemed desirable, the Commission recommends that San Rafael adopt a limit of \$500 for all contributor categories.

5. Conclusion

In a community as wealthy as San Rafael, the potential exists for unrestrained campaign spending. The growing prominence of developer contributions early in the 1987 election may disclose a growing trend. Policymakers in San Rafael would be wise to watch campaign finance behavior in their community closely and to respond with needed reforms.

NOTES

1. San Rafael Chamber of Commerce brochure, 1985.
2. Interview with a San Rafael resident who wished to remain anonymous, May 1987.
3. Interview with Steve Kline, an unsuccessful 1985 candidate for city council, May 8, 1987.
4. *Id.*
5. *Id.*
6. Interview with Dorothy Breiner, Councilmember, City of San Rafael, May 5, 1987.
7. Renee Koury, *Upsets in Novato, San Rafael*, Marin Independent Journal, Nov. 4, 1987.
8. Renee Koury, *Clout in Elections*, Marin Independent Journal, Nov. 10, 1987.
9. San Rafael City Ordinance No. 1168, Adopted Oct. 16, 1974 (subsequently repealed).
10. The Political Reform Act was adopted in 1974 by a vote of the people. When enacted, it required all state and local candidates to report all contributions and expenditures of \$50 or more, but it imposed no contribution limits nor expenditure ceilings on local jurisdictions and thus did not preempt San Rafael's ordinance. In addition, it permitted cities and counties to adopt ordinances more stringent than its provisions. Cal. Gov't Code §81013 (West 1987).
11. Interview with Ed Duggan, former City Attorney, City of San Rafael, June 13, 1986.
12. Interview with Breiner, *supra* note 6.
13. Peter Muzio, San Rafael City Attorney, Report to Mayor and City Council, Mar. 21, 1984, and official minutes of the San Rafael City Council, Regular Session, Apr. 16, 1984.
14. Interview with a San Rafael resident who wished to remain anonymous, May 1987.
15. *Id.*

CHAPTER 19

Santa Monica: The War Between the Slates

"They can't stand the idea of giving up their [slate's campaign financing] abuses to get at our [slate's] abuses. On the other hand, I'm not willing to give up my abuses if their abuses continue."

— Christine Reed, Councilmember¹

Santa Monica has, according to one political observer, "the most interesting politics of any city in Southern California."² In 1982, Santa Monica became one of the few cities in the country to announce its own foreign policy. The city council adopted resolutions which supported Israel's right to defend itself against terrorism, endorsed a sovereign Lebanon and advocated peace in the Middle East. In 1984, city voters narrowly defeated a proposal to declare Santa Monica a "nuclear free zone" and prohibit research and manufacturing related to nuclear power or weapons within city limits. In 1987, the mayor, two councilmembers, the city attorney and other city officials were arrested for sitting in at Nevada nuclear test sites.³ One wag has suggested the city be renamed "The People's Republic of Santa Monica."

Yet despite these eccentricities, Santa Monica has developed a style of political campaigning and fundraising which is unique in California and which may set the pattern for many other cities in years to come. Since the late 1970s, the loyalties of the 90,000 residents of this affluent beachside community, located on the west side of the Los Angeles metropolitan area, have been polarized by intense warfare between two "slates," or political factions of candidates, in a manner almost unheard of at the local level.⁴ This struggle has profoundly affected the city's political processes, the nature of its campaigns, the extent of its electoral competition and the overall amounts of money its candidates raise and spend in local races.

Santa Monica's competition between *slates of candidates*, instead of individual candidates, is a pattern that might easily develop in other cities. What apparently is required for such a pattern to develop is a single, intensely emotional issue capable

of capturing and holding the attention of local voters. In Santa Monica, that issue was and is *rent control*.

The struggles between competing slates of rent control candidates have subjected Santa Monica's campaign finance laws to considerable stress. Since 1974, the city's campaign finance ordinance has imposed limits on all contributions to candidates. The ordinance also directs the city to pay for the printing and mailing of a statement by each candidate which is included in a voter information pamphlet sent to all registered voters prior to each election—an unusual provision which saves each candidate several hundred dollars per election. Yet despite these measures, campaign spending in Santa Monica *has risen by approximately 1,300%* during the past decade.

Several factors have contributed to this jump in campaign spending. First, Santa Monica's contribution limit is the highest of any city or county in the state—\$1,491 per candidate per year from individuals, businesses and organizational contributors⁵—and it has not significantly reduced the flow of money to recipients. Second, contributors are allowed to make additional large contributions to “slates” of candidates by multiplying \$1,491 (the maximum contribution) by the total number of candidates on the slate (up to ten), thereby occasionally generating individual contributions exceeding \$14,000 a year. Third, lax enforcement of existing laws has undermined the ability of the local campaign finance ordinance to stem the gush of campaign dollars into local elections. The principal factor contributing to rapidly escalating campaign costs, however, has been intense competition between candidate slates.

A. Competition Between Rent Control Slates Has Significantly Affected the Nature of Political Competition in Santa Monica

Apart from the political anomalies of slates and rent control, Santa Monica's governmental structure is straightforward. (See Table 19.1, “Santa Monica Data Profile.”) The city uses a council-manager form of government, with seven councilmembers elected at-large to staggered four-year terms. Council positions are part-time and earn a maximum of \$2,400 a year.⁶ Since 1984, elections have been held in November of even-numbered years. As a first item of business following each election, the council selects a mayor from its own membership to serve a two-year term. There are no restrictions on the number of consecutive terms a mayor or councilmember may serve. The city manager, city attorney and city clerk all are appointed by the council.

Although the city's elections are nonpartisan as required by the the California Constitution, Santa Monica has developed a unique brand of party-style politics. For more than a decade, battles over rent control have sparked local residents to organize vigorous campaigns on both sides of this polarizing issue. The growing rent control debate has spilled over into other areas of city policy, leading the opposing rent control slates to sponsor their own candidates for city council. These slate organizations quickly grew into professional political organizations that should be the envy of Republican and Democratic organizers nationwide.

1. The Growth of “Slates”

Santa Monica's battle between the slates dates back to the rent control movements of the late 1970s and the success of state ballot Proposition 13. Part of Proposition 13's advertising pitch to voters promised that landowners' property taxes would be reduced and that these savings would be passed through to tenants in the form of reduced rents. To guard against the possibility that Santa Monica rents would continue to rise, despite the promises of Proposition 13's proponents, a group

of local tenants, mostly senior citizens, created the Santa Monica Fair Housing Alliance (SMFHA) to back a local rent control initiative.

The initiative was defeated in June 1978 (at the same time Proposition 13 passed). "It was a spontaneous, grassroots campaign," said longtime Councilmember Christine Reed. "It failed primarily due to a lack of sophistication . . . and a lack of money."⁷ The attempt was significant, however, in that it politicized traditionally inactive rental tenants, put property owners on the defensive and set the tone for a local battle that has lasted a decade.

Table 19.1

SANTA MONICA DATA PROFILE

Local Government

- STRUCTURE:** Founded in 1875, current charter drafted in 1946; weak mayor system; seven city councilmembers elected at-large; mayor appointed by council from its membership; city attorney and city clerk appointed by council and retained by contract.
- CITY BUDGET:** \$132.7 million (fiscal year 1988-89)
- CITY FACTS:** Population (1989): 96,600; Area: 8.1 square miles; Registered voters (Apr. 1989): 55,904; Voter turnout (Nov. 1988): 78%

Contributions

	<u>Santa Monica</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	39%	40%	52%
Individual	47%	45%	33%
Labor	2%	2%	4%
Political	11%	5%	6%
Candidate	1%	8%	5%
Non-Election Year	11%	6%	42%
Election Year	89%	94%	58%

Expenditures

	41%	57%	38%
VOTER CONTACTS			
Broadcast	0%	0%	7%
Literature	41%	48%	26%
Newspaper	0%	6%	2%
Outdoor	0%	3%	3%
OVERHEAD	59%	43%	62%
General	19%	17%	22%
Personnel	6%	5%	6%
Fundraising	4%	6%	13%
Survey	11%	5%	4%
Consulting	15%	8%	10%
Travel	0%	0%	1%
Candidate Transfer	4%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1983-1984)

In late 1978, SMFHA joined with (now Assemblyman) Tom Hayden's Campaign for Economic Democracy (CED) and the local Democratic Club to form the first local slate organization, Santa Monicans for Renters' Rights (SMRR). This slate sponsored a second rent control initiative and two candidates for city council. With Hayden and CED's financial backing, political savvy and numerous volunteers, SMRR conducted an aggressive 1979 campaign that successfully challenged the influence and wealth of local real estate interests, elected two progressive councilmembers and passed one of the strongest rent control laws in the country.

In response to the overwhelming (and threatening) success of the rent control slate, local business and Chamber of Commerce interests formed Santa Monica Good Government Inc. (SMGG) in 1980. Despite its intended goal to become the conservative alternative to SMRR, SMGG was described as a non-profit research and education organization. Leaders of the project planned to support conservative candidates for city council, but they discovered prior to the 1981 election that the group's non-profit status legally prohibited SMGG from supporting candidates. This discovery was not made, however, before thousands of potential campaign dollars had been diverted into SMGG coffers—and away from the conservative candidates it organized to support.

In 1981, as the SMGG project foundered, a more moderate conservative slate, Santa Monica Citizen Congress, grew out of a "coalition of strange bedfellows" who were disillusioned with both SMRR and SMGG. Santa Monica Citizen Congress took a strong anti-rent control stance—and collected large contributions from real estate interests—yet it was unable to elect any of its sponsored candidates to the city council.

The failures of SMGG and the Citizen Congress in the 1981 election were disastrous for local conservatives and marked the height of political power for SMRR. When the votes were counted, SMRR had taken control of the council by a 5-to-2 margin.⁸ This margin was particularly significant because a coalition of five council votes has the authority to make major staffing changes in high level municipal posts, including city manager and city attorney. By using its five-vote majority, SMRR was able to make a greater impact on the tone of city government than would have been possible with only a simple majority.

Because of leftist campaign rhetoric and the appearance of a textbook liberal-conservative confrontation, the results of the 1981 election attracted national media attention. Publications as far removed from Santa Monica as the *Wall Street Journal* ran stories analyzing the election's significance. Headlines in New York City's *Village Voice* announced a "Revolution in Reagan's Backyard" (referring to the city's proximity to the President's family home in nearby Pacific Palisades). CBS' *60 Minutes* ran an infamous piece entitled "Left City" that cried:

*"The radicals, or progressives as they call themselves, haven't renamed Santa Monica 'Ho Chi Minh City,' but if they did, the people who used to rule here, the conservatives, the landlords, the developers, the businesspeople, wouldn't be at all surprised."*⁹

Despite such exaggerated media claims, Santa Monica was not witnessing a "Marxist class struggle" between the proletariat and the bourgeoisie. Instead, progressive liberals, moderates and businesses continued to wage a traditional although often bitter struggle for political power in a predominantly affluent community.

A year after the 1981 SMRR landslide, the All Santa Monica Coalition (ASMC), inspired by the success of the All Berkeley Coalition against a radical pro-rent

control adversary, made a third attempt at developing a conservative slate. The membership of ASMC was composed of dissatisfied business and real estate interests, the leadership of Concerned Homeowners, disgruntled former members of the Citizen Congress and moderate-conservative minority Councilmembers Christine Reed and William Jennings. In the 1983 election, ASMC promoted its anti-rent control agenda by supporting established political figures Reed, Jennings (previously aligned with SMRR) and David Epstein (formerly of the Citizen Congress), and it developed strong contributor and voter networks of homeowners and businesspeople. The ASMC strategy was successful. It scored a surprising upset by electing all three of its candidates. It defeated controversial SMRR-sponsored Mayor Ruth Yannatta Goldway and reduced SMRR's majority on the council to 4-to-3—a change that greatly diminished the authority available to the progressive majority.¹⁰

With its election victory, ASMC became the established conservative slate in Santa Monica. Despite its anti-rent control rhetoric and promises to constituents, however, ASMC-sponsored councilmembers did little to derail rent control. In fact, rent control quickly became the accepted reality in Santa Monica. In elections following 1983, both slates began to quarrel over which side would *best protect* local tenants.

Santa Monica business and real estate interests—not yet recovered from setbacks they suffered at the hands of slates—have not formed a cohesive challenge to either coalition. Political compromises have diminished ASMC's credibility in the conservative community, yet business interests give lukewarm support to ASMC as the lesser of two unattractive evils. The business community's relative absence from the political arena makes Santa Monica a unique city where traditional conservative business interests have little political influence or representation.

Each election since 1979 has been characterized by high-energy battles for dominance between progressive and moderate slates. In 1981, the progressives dominated the council. In 1983, the moderate All Santa Monica Coalition defeated all SMRR candidates. In 1988, the two competing slates were at a standoff. Each controlled three of the seven competing seats. The seventh council seat was held by self-described independent Alan Katz, who often cast the deciding council vote. When Katz declined to run for reelection in 1988, the SMRR faction won his seat and regained a 4-to-3 majority.

2. Intensified but Narrowed Electoral Competition

“All that we have that unites us is our dislike for the other side.”

— Christine Reed, Councilmember¹¹

The ferocious war between the slates has introduced fierce competition to Santa Monica elections. A series of brutal battles and close races has removed any assurance that incumbents will be reelected easily. Competing factions watch each other so closely that missteps or off-the-cuff remarks can escalate into major campaign issues and severely threaten otherwise secure incumbents.

In 1981, for example, ASMC Councilmember Reed made an *anti-rent* control television commercial for a Minneapolis group and later received a \$1,000 campaign contribution from one of the group's leaders. Although Reed's activity received some attention when it occurred, it became part of a major attack against Reed's 1983 reelection bid. Reed maintained the commercial was a way to share with another city her dissatisfaction over the realities of rent control. Her opponents claimed the commercial (and the subsequent campaign contribution) proved Reed was actually “pro-development” and that she had misrepresented herself as pro-rent control to

local voters. The controversy generated a significant struggle for Reed in 1983, but she was able to overcome it to win reelection.

Former SMRR-sponsored Mayor Ruth Yannatta Goldway was not as fortunate when her own 1981 activities returned to haunt her during the 1983 campaign. The All Santa Monica Coalition obtained a recording of comments made to the 1981 National Conference on State and Local Alternative Policy by Mayor Goldway and her husband, then-Planning Commissioner Derek Shearer, as they described SMRR's methods for seemingly manipulating public opinion to further progressive goals. ASMC edited the tape and mailed abbreviated versions on audio cassettes to 15,000 Santa Monica households. Although Goldway and Shearer contended their comments were vindictively edited and taken out of context, the tapes apparently contributed to Goldway's surprising 1983 defeat.

Since election tallies are generally close—the difference between winning and losing can be as few as several hundred votes¹²—the slates have devoted considerable effort to campaigns that confuse and blur the distinctions between candidate blocs. These practices hit a new low in the 1986 campaign, one that rivaled many of the ugliest big city elections. Each side distributed inflammatory direct mail “hit pieces” intended to undermine the credibility and reputation of rival slates, and each side accused the other of stealing campaign slogans, hijacking campaign paraphernalia and misrepresenting facts and positions.

Santa Monicans for Renters' Rights, for example, had long used a slogan promoting the slate as being “For a Special City, Not Special Interests.” The All Santa Monica Coalition used the all-but-identical phrase, “For a Special City—Not Special Interest.” SMRR trumpeted its record of complete dedication to rent control, yet ASMC candidate Bill Jennings stated in a slate mailer, “As a founder of SMRR I can assure you that there is only one real renters' rights team in Santa Monica [ASMC].”¹³ In one well-publicized “dirty tricks” incident near election day, ASMC campaign workers dressed in “Support the Renters' Rights Team” T-shirts were diverted by an SMRR worker, dressed in a stolen ASMC T-shirt and masquerading as an ASMC organizer who sent ASMC workers “on a wild goose chase” for most of a day.¹⁴

Although the slates have generated vigorous competition, their dominance has closed effectively the political system to candidates wishing to run without slate support. “Even the losing slate beats the independents,” said former Councilmember Alan Katz.¹⁵ Ken Edwards, an SMRR-sponsored candidate for council (since deceased) remarked, “You either run on a slate with other candidates, or you won't get the money to run a decent campaign.”¹⁶ To further deter outsiders, the slates draw candidates from their own ranks and neither slate actively recruits new candidates from the community. “It's incestuous,” commented one activist, “you always see the same faces—they just trade jobs.”¹⁷

Women have played a significant role in Santa Monica slate politics. Since the 1970s, Christine Reed has been an influential local activist, councilmember, mayor and key figure in the development and operation of the All Santa Monica Coalition. Ruth Yannatta Goldway was an original SMRR organizer, an outspoken representative of the progressive movement and one of SMRR's first two councilmembers and mayor. Both slates vigorously have supported numerous women as candidates and decisionmakers in their organizations.

Racial minorities, however, have not fared as well. Although a substantial minority population lives in the city, only one minority candidate, SMRR's Julie Lopez Dad in 1986, has been sponsored by either slate for a council seat. Citing economic barriers¹⁸ and other deterrents for minority candidates, one activist's

comment summarized the attitudes heard from decisionmakers from both slates: "It's not that we don't want one [minority candidate], we just can't find one."¹⁹

3. *Slates and Local Campaigns*

"I support slates because of the interest and excitement they lend to Santa Monica politics."

— *David Finkel, Councilmember*²⁰

"Excitement is not a measure of the political health of elections."

— *Alan Katz, then-Councilmember*²¹

The slate system effectively has eliminated individual candidate campaigns and fostered candidate dependence on slate committee organizations and funding. Although some candidates set up separate campaign committees, their committees often are used as fundraising vehicles to transfer proceeds to their slates' treasuries. In Santa Monica, candidates run campaigns as a bloc, encouraging voters to elect them as a philosophical unit and discouraging consideration of the merits and qualifications of each individual. Slate techniques allow candidates effectively to remove themselves from fundraising and the nuts and bolts of campaign organization and to depend on the professional campaign staffs employed by each slate. Few candidate debates or public forums take place. Although many candidates still walk precincts, they do not need to campaign actively. Instead, they rely on slate mailers for widespread community exposure.

Despite the controversy they generate, slates continue to thrive. Some feel they help citizens participate in local politics. "A small-contributor slate is the only way for the average guy, who doesn't have big bucks, to have a say in government," philosophized SMRR Councilmember Dennis Zane.²²

Yet the key to slate strength and longevity is rent control. "It's a motherhood issue," said Christine Reed.²³ "We don't consider rent control a *fait accompli*," said SMRR Councilmember David Finkel, "it's a living, breathing thing."²⁴ More than any personality or other issue in Santa Monica, rent control commands votes. The city has an unusually high level of renters (80%), and the rent control movement has mobilized renters to the degree that election success now depends on tenant support.²⁵ "This is a single issue city," said Geoffrey Strand, a landlord spokesperson. "Renters vote for the candidates who show that they are the most hated by the landlords."²⁶

The rent control issue has dominated elections so completely that decisionmakers avoid modifying the current law even to correct problems inherent in the system, fearing that they will be labeled "anti-rent control." Rent control has an emotional impact that provides candidates with tremendous exposure and voter attention. Slates have consistently chosen to react to each other's rent control agenda instead of developing separate and distinct philosophies.

Proponents of slow growth for Santa Monica have launched a drive to make future development and local growth policies central to campaigns. It remains to be seen whether the broader issues of development policy will catch fire with Santa Monica voters as effectively as the emotional "pocketbook" issue of rent control.

The slates also have thrived because competing business interests have been relatively quiet since the failure of the Santa Monica Good Government project (SMGG). Although local businesses once strongly opposed SMRR as threatening "socialism," SMRR-sponsored councilmembers have moderated their views over time and have come closer to the business community on economic and development issues. "The business community is doing okay under the circumstances," said

reporter Alan Citron of the *Los Angeles Times*. "They aren't unhappy enough to launch a strong campaign of their own."²⁷ Landlords have made some attempts, albeit unsuccessful, to gain representation. In the June 1986 election, when no council members were on the ballot, landlords formed a committee to support a city initiative intended to modify rent control. *All* the incumbent councilmembers (none of whom were up for reelection at the time) and *both* slate organizations opposed the initiative and vigorously campaigned against it throughout the community. The proposition failed at the polls.²⁸

4. Alan Katz: The Independent's Hope

Despite the domination by slates, former Councilmember Alan Katz showed that it was possible for an independent candidate, not aligned with any slate, to retain political office—so long as that candidate was amply funded and avoided concerted slate opposition. In 1985, following the death of then-Mayor Ken Edwards, the city council appointed Katz to the vacant council seat. Because the council was evenly divided between representatives of the SMRR and ASMC slates, they compromised on Katz, an avowed independent. His newfound position as swing vote between slate partisans thrust him into a prominent decisionmaking role as the most powerful member of the council. Yet his independence and the very nature of his campaign were heavily influenced by slate politics.

In 1986, Katz ran a "confirmation" campaign to win voter approval to complete the two years remaining in his appointed term. By his own admission, Katz spent "way too much"—\$40,000 versus his relatively unknown opponent's \$1,000. Katz says he maintained a high level of spending against a weak opponent in order to protect himself from a last-minute challenge by a well-funded slate candidate. "My level of spending was a response to my lack of trust in the current system."²⁹

In any other city, Katz' resources and connections (at that time Chief of Staff to State Lieutenant Governor Leo McCarthy) would have made him nearly unbeatable. But in Santa Monica, he was able to run successfully outside the slate system only because he ran in a separate election to complete his appointed term. As an independent, Katz maintains he was not perceived as a threat, so neither of the slates chose to sponsor a candidate against him. "Clearly, I would have lost money and public support if I had to run in the mob [the slate-dominated at-large elections]."³⁰

Without slates, Katz believes council seats would become more accessible to independent challengers, although Santa Monica would continue to have highly competitive elections. "Ballot accessibility does not guarantee the success of independents. That is dependent on a number of other factors: name identification, money, issues, philosophy and community support. But it would provide more opportunities for independents than the current system."³¹

To provide greater accessibility for independent candidates, Katz proposed that Santa Monica replace its present at-large system, in which all city council candidates run together across the whole city and the candidates with most votes occupy the open seats, with a non-geographical council district system. Under this system, each candidate would have to declare and run for one of seven numbered seats. Candidates thus would be forced to compete only against the other candidates seeking that one position. All Santa Monica voters would select candidates for each seat. Katz believes his proposal would allow candidates to challenge individual incumbents instead of all candidates running at-large, would open the system to new candidates, and would drastically improve the chance of candidates who do not want to align with either slate. The plan was defeated in the June 1988 ballot.³²

In his struggle for independence from the slates, Katz managed to make political foes on both sides, particularly among the SMRR supporters. Had Katz stayed in the race, it is almost certain that SMRR would have run a full slate of council candidates in 1988, with the intent of increasing their strength by defeating Katz. ASMC also might have followed suit with its own challenger for Katz' post.

To win, Katz would have had to draw on all his financial and political resources and run an expensive, high visibility campaign to compete with the slate candidates. Katz estimated that a competitive bid for reelection in 1988 would have cost between \$80,000 and \$100,000.³³ Yet his ability to raise such large sums would have been impaired by the presence of the two slates, each raising money for its own candidates. Katz concluded that, in light of slate dominance over local elections, his candidacy in an at-large election would probably have been "futile," despite his position as a visible incumbent councilmember.

B. Campaign Contributions and Expenditures Have Been Magnified by Competition Between Santa Monica's Slates

"Everybody agrees that there's too much money being spent."

— Herb Katz, Councilmember³⁴

"The spending in the [1986] election was obscene. I felt terribly guilty after the campaign."

— David Finkel, Councilmember³⁵

Although its population of almost 97,000 places it with "small cities" for the purposes of the Commission's analysis, Santa Monica's sophisticated political environment creates campaigns much like those in large cities.

1. Rising Costs

"In my first campaign in 1975, I spent about \$4,600," said Councilmember Christine Reed.³⁶ Reed's campaign expenditures (about \$1 per vote) were quite average for Santa Monica campaigns in the 1970s. With the advent of slate campaigns, however, election expenditures increased rapidly.

In 1979, the first election for city council in which a slate submitted candidates, the average expenditure per candidate was about \$13,000. By the 1983-84 election cycle, the average expenditure had increased to \$51,000. In the 1986 election, the average spent per candidate nearly reached \$60,000 (\$4 per vote)—*thirteen times* the amount spent by Chris Reed and her counterparts eleven years earlier.³⁷ (See Table 19.2.)

2. Contribution Trends

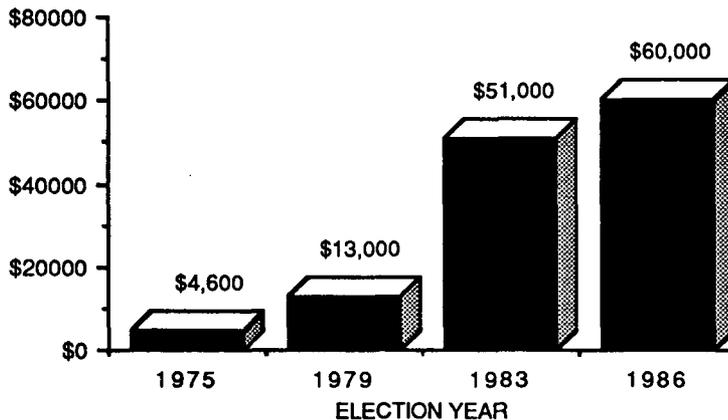
Santa Monica sets itself apart from other small cities by registering higher levels of contributions from political organizations (11% versus 5%). These higher percentages of political contributions are a direct result of large contributions received by SMRR from such political groups as CED, Campaign California and the Tom Hayden PAC.

Another unusual Santa Monica trend is the low level at which candidates contribute to their own campaigns. While candidates in cities of all sizes contribute about 5% of their own campaigns' funds, candidates in Santa Monica contribute only 1%. This low percentage reflects the security of slate campaigns in which candidates can rely on party-like organizations that insulate them from the risks of individual fundraising. Candidates personally have less at stake than individuals

running solo campaigns, and they are less likely to contribute their own funds to a group effort. Contributions over \$5,000 (usually a reliable indicator of candidates' own contributions if contribution limits are in place) are very low in Santa Monica compared to other small cities studied by the Commission.

A higher percentage of contributions in Santa Monica falls in the \$1001-\$5000 range compared to small cities overall (22% versus 13%). (See Table 19.3.) This is partly a consequence of the city's unusually high contribution limit (\$1,491). But the ability to give larger contributions in Santa Monica is magnified by the tendency of local political groups and wealthy individuals to give slates the maximum contribution for each candidate the slates represent (\$1,491 per election *multiplied* by the number of candidates on a slate).

Table 19.2
AVERAGE EXPENDITURES PER CANDIDATE
SANTA MONICA

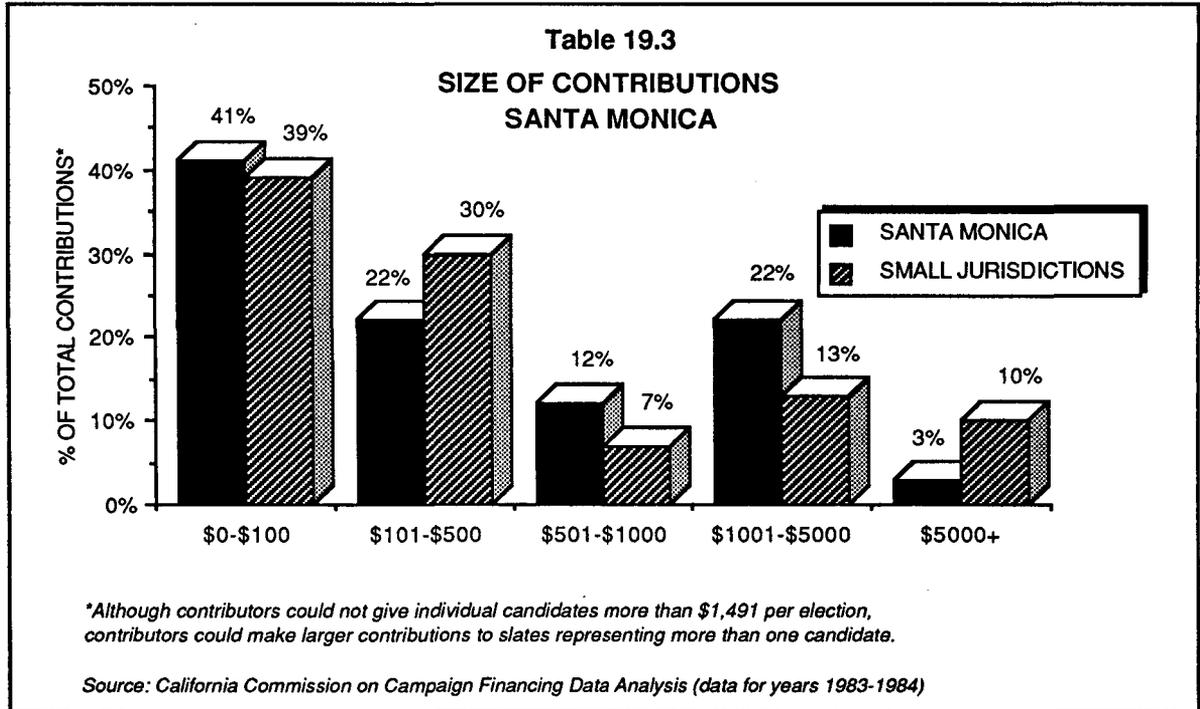


Source: California Commission on Campaign Financing Data Analysis (data for years 1975-1986)

3. Expenditure Trends

Expenditures by Santa Monica candidates on overhead have taken on the characteristics of big city campaigns. Of approximately \$1 million spent by Santa Monica candidates and their slate committees in the 1983 and 1984 election cycles, only 41% was spent on direct voter contacts compared to 57% in other small cities studied. (See Table 19.4.) Overhead is used to cover general campaign costs and yearly expenses for maintenance of slate organizations. Rare in many small cities, paid consultants are a regular fixture in Santa Monica. Slates employ year-round political consultants, an expense reflected in the substantially higher 15% consulting expenditure figure. (See generally Table 19.1, "Santa Monica Data Profile.") Candidate transfers are slightly higher than in other small cities because individual candidate committees transfer funds to the slates that act as their primary campaign committees. Slates in Santa Monica have taken on many of the organizational functions performed by national party organizations on the large city and legislative levels, including get-out-the-vote drives and promotional advertisements. The resulting group campaigns supported by slates often are more efficient than individual campaigns. A slate campaign on behalf of several candidates can achieve strong voter contacts through literature, newspaper and

outdoor advertising at a lower proportional cost per candidate than can individual campaigns.



Nearly all Santa Monica voter contact spending goes to defray printing and mailing expenses for campaign literature. As in other small cities, no money is spent on television or radio. While candidates in other small jurisdictions studied devoted at least 3% of their expenditures for outdoor advertising, signs and billboards, Santa Monica candidates spent approximately only \$1,100, or *one-tenth of one percent*, on outdoor ads during the 1983 and 1984 elections. Similarly, while other small city campaigns spent an average of 6% on newspaper advertisements, Santa Monica campaigns spent less than 1%. Such low newspaper expenditures are particularly unusual because the *Santa Monica Evening Outlook* has a significant local circulation and the ability to reach city voters efficiently. Because the *Outlook* has provided thorough coverage of candidates and campaigns in recent elections, candidates may view this free media as sufficient and prefer to bypass paid newspaper advertisements for spending in other categories.

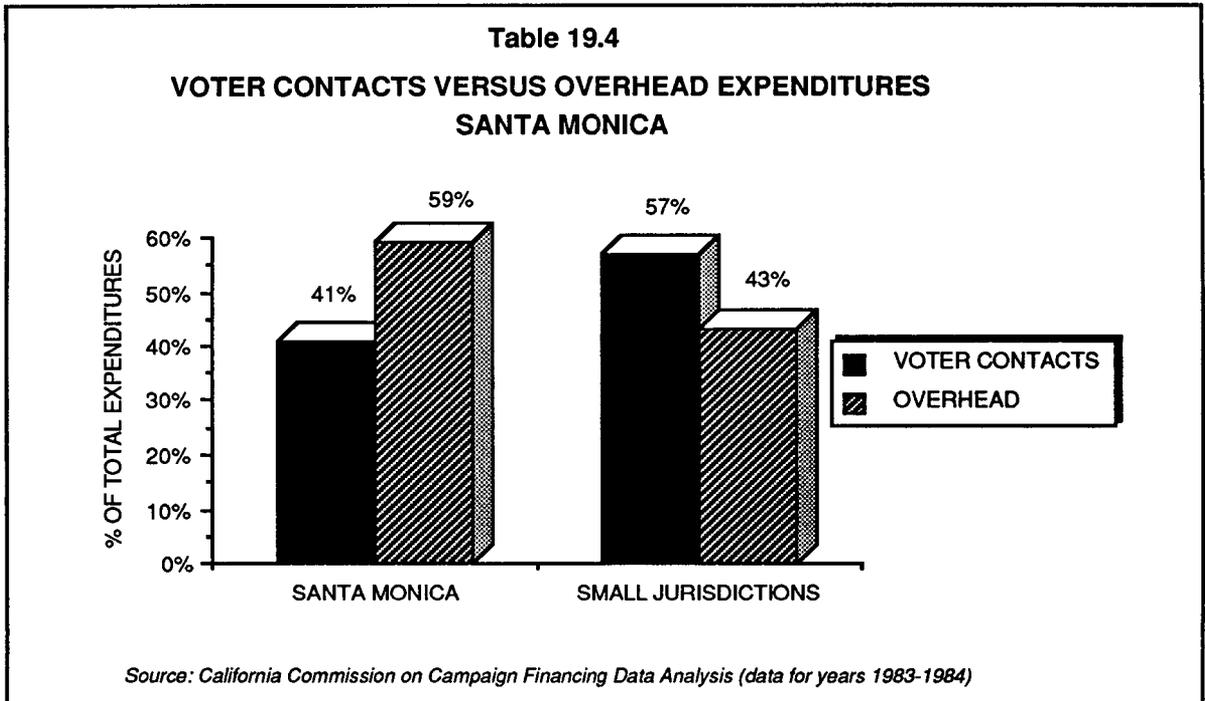
4. Impact of Slates on Contributions and Spending

Santa Monica's slates have magnified the fundraising frenzy and "arms race mentality" toward campaign financing that has appeared in many other cities. Each slate faces constant pressure to keep up with or exceed the other slate in money raised and spent because each risks losing *several* seats and thus much influence in each election.

Slate competition also has increased campaign spending in Santa Monica's local elections. In the 1970s, when Councilmember Reed and her colleagues regularly spent less than \$5,000 in successful campaigns, money was not critical to electoral success. With the advent of slates, however, the political rules in Santa Monica changed and money became essential. The catalyst for this change was the creation of SMRR and the substantial funds that CED contributed toward rent control candidates. The 1978 race, according to Councilmember Reed, was the turning point. The threat of rent control alarmed landlords who poured money into

campaigns against the local rent control initiative. The entrance of Tom Hayden and CED into the fight “upped the ante”³⁸ and slate competition pushed spending higher in subsequent elections.

The increasing level of campaign sophistication also has driven up expenditures. Most candidates (through slates or by themselves) now hire professional campaign staffs and utilize state-of-the-art election techniques, computerized data bases and intricate software that sorts information on local constituency groups and targets campaign literature. Both slates rely heavily on expensive literature and deluge Santa Monica voters with political mail each election season.



Although the slates spend money in similar ways, each has developed distinctive contribution patterns. The All Santa Monica Coalition relies on conventional fundraising sources—primarily businesses and individuals—for the bulk of its financing. In 1984, 37% of ASMC’s campaign fund was provided in amounts of \$1,000 or more. Less than 20% of total contributions came in amounts between \$100 and \$250. The bulk of ASMC’s 1984 funds came from contributions in the \$300-\$500 range—standard contributions for most metropolitan campaigns and reflective of the traditional homeowner/business base ASMC claims to represent.

Santa Monicans for Renters’ Rights has a very different financial base. SMRR receives significant large contributions (several thousand dollars each) from a few political organizations and individuals, notably CED and Tom Hayden. A substantial percentage of its contributions is accepted in increments below \$100. Moderate-sized contributions to SMRR (\$300-500) are negligible. About 10% comes from individual contributions between \$100 and \$250. SMRR generally does not collect a significant portion of its money from businesses, although the frequency of business donations is increasing with the incumbency of SMRR councilmembers. “The business people are starting to give to us because they identify me as ‘the guy who is revitalizing the [Santa Monica-3rd Street Pedestrian] Mall,’” said Mayor Zane. “They see that we have some common goals for the city.”³⁹

Consultants and professional managers in both camps have brought a new emphasis to fundraising. Instead of the usual fundraising potluck dinners, Santa Monica politicians now stage creative and elaborate events, often exotic meals or concerts, that offer contributors a chance to rub elbows with celebrity guests like chef Wolfgang Puck, singer Bonnie Raitt and actress Jane Fonda. Celebrities abound in Santa Monica, and their availability provides local political groups with attractive bait to lure new contributions.

The high emotional level of Santa Monica political competition encourages candidates and their slates to work themselves into a fundraising and spending frenzy. "People are going to spend everything they can get their hands on to win," commented then-Mayor James Conn.⁴⁰ The two slates' preoccupation with surpassing each other has caused unnecessary stockpiling of funds, wasted money in the heat of battle, generated unprincipled campaign tactics and diverted attention from other serious issues.

C. Santa Monica's Ordinance Contains the Highest Contribution Limits in the State

Santa Monica adopted its first campaign finance ordinance in 1974. The original ordinance was proposed after a competitive 1973 election, with 30 candidates for city council and "lots of money being thrown around."⁴¹ The management of the local newspaper initiated the local campaign law, according to one councilmember, after all the candidates it endorsed lost. The ordinance was intended to "ensure against a candidate being elected or a measure being passed based primarily on the amount expended in a campaign."⁴² The original ordinance limited contributions to \$100 per candidate per election, limited expenditures for candidates and independent committees, and prohibited non-individual contributions to candidates.

The law also included two unusual provisions. In addition to paying the printing and postage expenses for short candidate statements to be included in the voter information pamphlets mailed to registered voters with a sample ballot, the city also agreed to distribute a package containing one piece of literature from every candidate to all Santa Monica households—either by enclosing them in a plastic bag and hanging them on every doorknob, or by directly mailing them to every household. This provision, an early form of public financing, could have saved candidates hundreds of dollars each. Finally, the law mandated the establishment of a citizen-staffed Fair Election Practices Committee (FEPC) to monitor campaign financing and ethics in local races.

Over the years, the ordinance was amended to accommodate court decisions and council preferences. Expenditure ceilings by themselves were dropped after courts held they were unconstitutional. Contribution limits were adjusted across a broad spectrum according to a population-based formula that, at its highest point, allowed contributions of *\$2,800 per candidate per election*. Because city councilmembers disagreed on how to implement the city funded distribution of political brochures, the council refused to appropriate the necessary funds and soon after eliminated the provision altogether. The local FEPC was dissolved for being powerless, inappropriately political and incapable of providing impartial oversight.

Santa Monica's current campaign financing ordinance is a mere ghost of the original. The city continues to pay the printing and mailing costs for short candidate statements in voter information and sample ballot packets. This unusual gesture saves each candidate several hundred dollars every election. The law still contains contribution limits, set at two cents per voter, but with increases in the voting population they have risen to far higher levels than those set in the original

ordinance. Santa Monica currently has the *highest contribution limit of any county or city in California*—\$1,491 per candidate per election. Although Proposition 73 will reduce this amount to \$1,000 for individuals and other contributors who are not committees.

Tracking contributions under Santa Monica's unstructured campaign finance law is often difficult. The All Santa Monica Coalition, for example, created a joint "Committee to Re-Elect Reed, Jennings and Epstein" for the 1986 campaign. Each candidate also had individual "Friends of . . ." committees for individual fundraising, yet they relied on the joint "Committee to Re-Elect . . ." for most of their actual campaign activity. The "Committee to Re-Elect . . ." also received transfers from its parent, the All Santa Monica Coalition. A maze of transfers among *five* ASMC-controlled committees was the result.⁴³

ASMC's disclosure forms do not provide specific itemization of funds spent in support of each sponsored candidate. It is therefore difficult to tell whether the city's contribution limit is followed, although available campaign statements suggests that ASMC candidates contribute to and benefit equally from their collective campaigns. Although some contributors give to one ASMC-related committee and others to several, most appear to have abided by the limits.⁴⁴

SMRR candidates also rely on multiple candidate-controlled committees to transfer funds to their collective slate committees. SMRR receives thousands of dollars from candidate-controlled committees, Campaign California and its predecessor CED, and other PACs. Slates accept money up to the contribution limit, multiplied by the number of candidates the slate supports in a given election.

A random sample of 1986 SMRR campaign literature indicates that while SMRR accepts maximum contributions, ostensibly to support candidates for council, rent board, school board and college board, SMRR funds are spent primarily in support of *council candidates*. Candidates for other offices (*e.g.*, educational boards) receive significantly less attention on slate mailers and appear to have minimal slate funds spent directly on their behalf. Without more specific accounting of expenditures, it is impossible to determine whether Santa Monica's contribution limits are being observed by the slates.

The use of multiple candidate-controlled committees and transfers may downplay the amount of money spent in each campaign and camouflage sources of financial support. Yet as the slates battle vigorously in elections, each side tends to attack the other on such superficial issues as the content of mailers, posters and slogans, while ignoring the questionable campaign finance activity of their opponents.

Reporting inconsistencies and possible problems with the city's contribution limits for both slates are easy to recognize upon review of candidates' disclosure statements. That no statement is questioned by the city clerk indicates that the forms have not been given close review. Santa Monica City Clerk Ann Shore (now retired) said that she makes sure individual candidate disclosure forms are filed on time but does not examine any statements for content, completeness or accuracy. In addition, "I don't monitor the coalitions," she said when interviewed in 1986. "I see it as their own responsibility."⁴⁵

Santa Monica's ordinance is also toothless. Outside of a general misdemeanor provision that applies to all ordinances, *the law prescribes no penalties for violations and designates no local enforcement authority.*

D. Conclusions and Recommendations: Comprehensive Reforms Are Desirable

Santa Monica is faced with a number of campaign finance problems, including runaway campaign spending, particularly in categories unrelated to voter outreach, and a breed of “competition” that excludes challengers unrepresented by the dominant slates. Although the city’s original campaign finance ordinance was well-intended and appropriately structured at the time of its adoption, the law has been changed considerably over time. The provisions that remain do not adequately address Santa Monica’s current political realities.

Simple reforms probably will not redress two campaign finance problems: rapidly increasing campaign spending and a decline in competition from candidates not backed by slates. Even if Santa Monica amended its contribution limit ordinance to close all possible loopholes and provide adequate “paper trails” to trace sources of funds, such an ordinance would not have the capacity to improve *competition* from non-slate candidates. Slates have sparked competition in Santa Monica elections, but that competition has little place for candidates who wish to run as independents. The challenge for Santa Monica decision-makers is to develop a campaign finance reform package which slows the increases in campaign spending and increases competition between all candidates without dismantling slate organizations. A balanced solution is necessary.

1. Expenditure Ceilings

Expenditure ceilings would limit rising campaign spending. By designating a reasonable spending cap, the city could free candidates from the constant pressure to outspend their opponents. While caps would not interfere with the existence of the slates, independent candidates would have confidence that they could run an adequate campaign outside the slate system. For a city of Santa Monica’s size and sophistication, \$60,000 per city council candidate per election year, with a built-in inflation adjuster, may be reasonable.⁴⁶ The city might wish to designate considerably lower expenditure ceilings (about \$25,000 per candidate) for the offices of rent board, school board and college board.

2. Limited Matching Funds

Limited public matching funds are constitutionally necessary to allow expenditure ceilings* and could relieve some of the fundraising pressures felt by

*The United States Supreme Court has ruled that expenditure ceilings are unconstitutional unless candidates accept them voluntarily. The court upheld the constitutionality of expenditure ceilings, however, when candidates accepted them voluntarily in exchange for limited public matching funds. *Buckley v. Valeo*, 424 U.S. 1 (1976). (See Chapter 24, “Constitutionality.”) With the voter’s adoption of Proposition 73 in June 1988, the use of public matching funds in exchange for expenditure ceilings may not be possible, since the new law specifically bans the use of public funds in election campaigns. Proposition 73, however, may not apply to charter cities (such as Santa Monica) and counties. The State Constitution grants to counties the right to conduct their own affairs, and recent court cases have upheld the right of charter cities to conduct their own elections. Moreover, Sacramento County has recently filed suit against Proposition 73, arguing that charter counties are exempt from its ban on public financing. (See Chapter 22, “Proposition 73.”) If charter jurisdictions are exempt, the city is free to offer the most effective incentive for candidates to accepting expenditure ceilings—limited public matching funds. If Proposition 73 is found to apply to charter jurisdictions, the city could consider other possible incentives for candidates accepting expenditure ceilings. Such incentives might include higher contribution ceilings for candidates accepting spending ceilings. (See Chapter 23, “The Commission’s Model Ordinance,” for discussion of this alternative.)

local candidates. Candidates could be required to qualify for matching funds by first raising a threshold amount in small contributions. One local observer has suggested that candidates be required to raise threshold amounts *and* meet expanded signature requirements for petitions to qualify for matching funds. Money raised by qualified candidates in specified amounts would be matched in fixed increments up to the expenditure ceiling. Slate committees would not be eligible for matching funds.

3. Lower Contribution Limits

Santa Monica will have to lower its current contribution limit of \$1,491, if only to conform it to Proposition 73's individual limit of \$1,000. An even lower contribution limit could moderate the influence of dominant contributors, renew emphasis on small and medium-sized contributors and broaden the supporter base that each candidate must cultivate. In conjunction with expenditure ceilings, a contribution limit of \$500 per candidate per election year (for individuals, businesses and organizations) would be reasonable. To increase the strength of small contributions, the city could permit contributions of \$1,500 per election from "small contributor PACs" which receive all their contributions under \$50. Because of the unusual role slates play in Santa Monica politics and the impact they make on local competition, decisionmakers may wish seriously to consider caps on contributions to slate organizations. Contributions to slates could be limited to \$500 or to \$1,500 if a slate supported more than three candidates. A slate cap could encourage the reintroduction of individual campaigns to Santa Monica elections.

A ban on non-election year contributions also would help relieve the unrelenting pressures to raise funds and allow new or independent challengers to begin their campaigns on equal footing with incumbent and/or slate candidates. Because many Santa Monica residents are affluent, the city might wish to consider rules regarding candidates' use of personal wealth. Personal wealth has not played a role in recent elections, but the potential for abuse exists and moderate safeguards may prove useful in the future. Under U.S. Supreme Court rulings, however, actual limits on wealthy candidates may be imposed only if the wealthy candidate accepts limited matching funds.

4. Enforcement

Any reform measure adopted by Santa Monica should include stringent enforcement provisions to monitor campaign contributions and reporting procedures. Campaign ordinances have proven most effective when responsibility for enforcement of the law is given to citizens who can file civil actions. In addition, candidates should themselves be held liable if their campaigns receive contributions in excess of the limitations. (Currently, only the contributor and the campaign treasurer violate Santa Monica's law if an excessive contribution is made and received.)

The ordinance should designate a specific enforcement authority and provide fixed penalties—neither of which is done by the current ordinance. Because the city attorney is appointed and retained by the city council, the city attorney should not be the specified enforcement authority, although that office can play a significant role in educating candidates about the law. The City of Poway, for example, has developed a creative solution to the political problems that hamper effective enforcement. It hires a private law firm to act as the enforcement authority for the local campaign ordinance.

Regardless which authority is charged with enforcement of the ordinance, the city would be wise to define the role of the city clerk's office in very specific terms. The office of the city clerk has not closely reviewed candidate disclosure statements

even though state law requires such a review. The city council should direct the clerk to undertake a thorough and immediate review of all future statements, thus facilitating prompt enforcement in the event of violations.

5. Conclusion

Santa Monica's elections are among the most exciting in the state—competitive, well-financed and spirited. But the campaign financing process should be improved so that candidates not backed by slates have at least an opportunity to compete.

NOTES

1. Alan Citron, *Santa Monica Elections Rated Too Costly, Too Exclusive*, Los Angeles Times, Mar. 17, 1988.
2. Interview with Alan Citron, reporter, Los Angeles Times, Mar. 31, 1987.
3. Ted Vollmer, *Public Officials Arrested at A-Test Site*, Los Angeles Times, Dec. 14, 1987.
4. The City of Berkeley has had its own form of slate politics since the early 1970s. In Berkeley, Berkeley Citizens Action (BCA) is a year-round organization and the only group that runs campaigns for slates of candidates for local office. Other issue-related, more politically moderate groups oppose BCA candidates in local elections, but they generally endorse or oppose candidates rather than running their own slate of candidates.
5. This sum is based on an equation within the ordinance that allows contributions of 2¢ per voting age population. It is adjusted after each election.
6. Council salaries are \$50 per month maximum (\$25 per meeting), less if meetings are not attended. In addition, councilmembers are eligible for payment for attendance of meetings of three committees: Housing Committee, Redevelopment Committee and Parking Committee. The cap for payment of councilmembers from all of these sources is \$2,400 per year.
7. Interview with Christine Reed, Councilmember, City of Santa Monica, Mar. 23, 1987.
8. The council's two moderate-conservative members, Christine Reed and William Jennings (not aligned with any slate in 1981), were not subject to reelection in 1981 and remained on the council as minority members.
9. Quoted in Mark E. Kann, *Middle Class Radicalism in Santa Monica*, p. 3 (1986).
10. SMRR blamed its 1983 defeat on poor voter turnout. Shortly after the 1983 election, SMRR initiated a drive to change the scheduling of municipal elections, known as Ballot Proposition Y. Coalition leaders were convinced that Proposition Y's change in election scheduling from April of odd-numbered years to November of even-numbered year would hurt ASMC and help SMRR. SMRR leaders agreed. Both slates spent considerable amounts of money to win their preferred election date, and although Prop. Y passed, "it turns out that it hasn't made much of a difference to either side," said Councilmember Reed. However, voter turnout naturally increased from 52% in April 1983, the last regular election prior to consolidation, to 76% in November 1984, because the election is now consolidated with the presidential or gubernatorial elections. Voter turnout in November 1986 was 65%.
11. Telephone interview with Christine Reed, Councilmember, City of Santa Monica, Feb. 5, 1988.
12. In 1983, for example, challenger David Epstein won the last council seat with 13,133 votes. Incumbent Ruth Yannatta Goldway narrowly missed reelection (by 323 votes) when she garnered a respectable but unsuccessful 12,810.
13. As President of the Santa Monica Democratic Club, Jennings was part of the original SMRR organization. Elected in 1979 on the SMRR slate, he split from SMRR in 1980 and joined ASMC as a council candidate in 1982-83.

14. Mark Fabian, *SMRR Seeks Campaign Investigation*, Santa Monica Evening Outlook, Jan. 21, 1987.
15. Telephone interview with Alan Katz, then-Councilmember, City of Santa Monica, Apr. 3, 1987.
16. Kenneth Fanucchi, *Unknowns Line Up for Santa Monica April Elections*, Los Angeles Times, Jan. 1, 1981.
17. Interview with a Santa Monica official who wished to remain anonymous.
18. For example, several observers have claimed that potential minority candidates cannot afford the time away from their regular jobs that is necessary to campaign for and hold elective office in Santa Monica.
19. Interview with anonymous Santa Monica official, *supra* note 17.
20. Statement of David Finkel, Councilmember, City of Santa Monica, at a meeting of the City Council, Mar. 17, 1987.
21. Statement of Alan Katz, then-Councilmember, City of Santa Monica, at a meeting of the City Council, Mar. 17, 1987.
22. Interview with Dennis Zane, then-Councilmember, now Mayor, City of Santa Monica, Mar. 27, 1987.
23. Interview with Reed, *supra* note 7.
24. Interview with David Finkel, Councilmember, City of Santa Monica, Mar. 26, 1987.
25. A position on the city's Rent Control Board is considered the best springboard to higher office in Santa Monica.
26. *Quoted in* Alan Citron, *Election Bodes Ill for Landlords in 'Single Issue' City*, Los Angeles Times, Oct. 19, 1986.
27. Interview with Citron, *supra* note 2.
28. Alan Citron, *Landlords Try New Twist in Game of Politics*, Los Angeles Times, May 15, 1987.
29. Telephone interview with Katz, *supra* note 15.
30. *Id.*
31. *Id.*
32. Latino and black groups opposed the Katz proposal on the grounds that the new system would make it more difficult for minorities to be elected. Katz denied his plan would be discriminatory. Tracy Wilkinson, *Minorities Oppose Bid to Revamp Elections*, Los Angeles Times, Mar. 10, 1988.
33. Telephone interview with Alan Katz, then-Councilmember, City of Santa Monica, Dec. 15, 1987.
34. Interview with Herb Katz, Councilmember, City of Santa Monica, Mar. 31, 1987.
35. Interview with Finkel, *supra* note 24.
36. Interview with Reed, *supra* note 7.
37. The 1979-1986 candidate expenditure figures are estimates made by the Commission after reviewing the available information for those elections. Because of the multiple committees used by candidates and the reporting ambiguities contained in disclosure forms filed by slate organizations, exact determinations of candidate spending levels cannot be made.
38. Interview with Reed, *supra* note 7.
39. Interview with Zane, *supra* note 22.
40. Telephone interview with James Conn, Mayor, City of Santa Monica, Apr. 9, 1987.
41. Interview with Reed, *supra* note 7.
42. City of Santa Monica Ordinance No. 979, Dec. 12, 1974.
43. The All Santa Monica Coalition dissolved itself in late 1987 by filing a petition to withdraw the organization. "The political linkage of the group still exists," commented Christine Reed on Feb. 5, 1988. "We'll probably use the same people and the same techniques in future elections, but we'll reorganize under a different name." See Telephone interview with Reed, *supra* note 11. To

avoid confusion, the Commission will continue to refer to the moderate-conservative slate as "ASMC" in this report, even though that name has been formally retired.

44. Only one contributor exceeded the limits (by over \$400) by contributing \$4,900 to the Committee to Re-Elect Reed, Jennings and Epstein during the 1986 campaign (3 x \$1,491 = \$4,473).
45. Interview with Ann Shore, then-City Clerk, City of Santa Monica, May 8, 1986.
46. Despite Alan Katz' estimated 1988 election expenditures of \$80,000-\$100,000, much of the recent election spending has been the result of dollar-for-dollar competition between the slates which is not based on actual campaign costs. Not one local politician interviewed felt the spending levels in the 1986 election were justified. If elections can be freed of one-upmanship spending, candidates could run thorough campaigns on far less. The Commission therefore believes that an expenditure ceiling of \$60,000 per candidate would be appropriate for Santa Monica.

CHAPTER 20

Signal Hill: Land of Missing Reports

Signal Hill is one of the smallest cities in California to enact a campaign finance law, a law which includes some of the strictest disclosure requirements in the state. Signal Hill's small size, however, has apparently not prevented its city clerk's office from losing most of the city's campaign disclosure reports filed by candidates since the 1974 election.

The simplicity of Signal Hill's small town elections has not made enforcement of its campaign law automatic. In fact, the loss of the campaign reports highlights the need to oversee any campaign law, and demonstrates that poorly-defined enforcement policies can render even the strongest ordinances ineffective.

Signal Hill is a sleepy industrial town of 8,100 residents covering a bare two square miles in southwestern Los Angeles County. The hill for which the town is named once provided native Indians with excellent views of surrounding areas, and was frequently used for signal fires to communicate with neighboring tribes on the mainland and nearby Catalina Island. Spanish land grants replaced native communities with huge rancheros, whose mansions and grazing lands dominated the area for decades.

Pastoral Signal Hill was thrust into the modern world in 1921. Local wildcatters struck one of the richest oil reserves in the west, and hundreds of oil wells were erected almost overnight. What was once a loosely organized community of ranches became an oil boom town that attracted thousands of people with the promise of employment. To maintain a level of control over the development of their

community in the midst of tremendous growth, residents of Signal Hill incorporated the town in 1924 under the leadership of Mrs. Jessie Nelson, possibly the first female mayor in California.¹

Surrounded by the prosperous port city of Long Beach, Signal Hill has long struggled to distinguish itself beyond its oil fields. Although Signal Hill today barely resembles the oil boom town of the 1920s, a drive through the two square miles of town still illustrates the dominance of the industry on the town's development. Oil wells cover the landscape while machine shops and petroleum-related businesses dot the area. Few businesses serve the needs of residents, and there is no distinct town center.

Seventy percent of Signal Hill's residents are white, 15% Latino, and 12% black. The median household income is 10% lower than the Los Angeles County average, while unemployment is 10% higher.² Most of Signal Hill's residents live in apartments and condominiums clustered around the base of the hill. While residents are most frequently employed in local blue collar jobs, the city's inexpensive housing has recently attracted an influx of young professionals who work in nearby cities. Seventy-three percent of the city's inhabitants rent the homes in which they live. Most of the local housing stock is over 20 years old, although many condominiums have been developed in the past decade.³

A. Reform-Oriented Council Works to Overcome Tumultuous Past

Signal Hill decisionmakers' primary goal is to change the character of Signal Hill from a one-dimensional oil town to an attractive multifaceted community. Accordingly, land use decisions dominate the local agenda. In recent years, city leaders have made strong moves to diversify the local economy, stimulate the growth of housing and steer the city away from industrial dominance. Business and civic leaders have mounted a concerted effort to attract new commercial and retail commerce to the city. New banks and businesses are under construction. Land vacated by the oil companies has been earmarked for housing developments.

Signal Hill uses a council-manager form of government. (See generally Table 20.1, "Signal Hill Data Profile.") The five-member city council is elected at-large to four-year terms. The council then nominates the mayor and mayor pro tempore from its ranks to serve two-year terms. The city has a pool of knowledgeable political talent available for elected office. Several of Signal Hill's current elected officials hold administrative or managerial jobs with the governments of neighboring cities. One former councilmember is a professor of public administration at a local university.

Signal Hill government has a definite small town feel that has not been diminished by the city's urban location. Elections consistently generate a strong voter turnout (30-40% of registered voters) that reflects an active community of senior citizens. Because the total number of registered voters is small, success in city council elections often requires only 500 or 600 votes. Winners and losers may be separated by as few as 40 votes, a condition that magnifies the impact of each single vote on the election's outcome.

Recent campaigns in Signal Hill have been competitive but low-key. Candidates rely on precinct walks and get-out-the-vote efforts as the heart of their campaigns. Some may print one or two mailers or paint lawn signs. Paid campaign consultants are rarely used, and few campaigns employ computers or high-tech methods. In 1986, most winning or losing candidates spent less than \$2,000 each to campaign for Signal Hill City Council. Candidates tend to fund their own campaigns or accept

small contributions (below \$100) from a handful of supporters. Candidate fundraisers are held infrequently and used primarily to organize and rally local supporters rather than solicit campaign contributions.

Table 20.1

SIGNAL HILL DATA PROFILE

Local Government

STRUCTURE: Charter drafted in 1924; weak mayor system; five city councilmembers elected at-large to four-year terms; mayor and mayor pro tempore appointed by council from its membership to two-year terms; city clerk elected; city attorney appointed by council and retained by contract.

CITY BUDGET: \$8 million (1988)

CITY FACTS: Population (1989): 8,150; Area: 2.0 square miles; Registered voters (Apr. 1989): 4,004; Voter turnout (Apr. 1988): 35%

Contributions

	<u>Signal Hill</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	Not available*	40%	52%
Individual	N/A	45%	33%
Labor	N/A	2%	4%
Political	N/A	5%	6%
Candidate	N/A	8%	5%
Non-Election Year	N/A	6%	42%
Election Year	N/A	94%	58%

Expenditures

VOTER CONTACTS	N/A	57%	38%
Broadcast	N/A	0%	7%
Literature	N/A	48%	26%
Newspaper	N/A	6%	2%
Outdoor	N/A	3%	3%
OVERHEAD	N/A	43%	62%
General	N/A	17%	22%
Personnel	N/A	5%	6%
Fundraising	N/A	6%	13%
Survey	N/A	5%	4%
Consulting	N/A	8%	10%
Travel	N/A	0%	1%
Candidate Transfer	N/A	2%	6%

*The Signal Hill city clerk's office was unable to provide campaign statements.

Source: California Commission on Campaign Financing Data Analysis (data for years 1979-1986)

B. Allegations of Voter Fraud Encourage Reform Movement

Low-key, "clean" elections are a new pattern for Signal Hill. Its current stability is the result of a struggle by local citizens to overcome a tarnished past. For years, local government was dominated by an unethical bloc of city officials. "They were councilmembers and developers at the same time, voting on projects where they had an interest," says current Councilmember Jessie Blacksmith.⁴ There were a number of conflict of interest scandals, one of which ended with a district attorney's investigation.

Local corruption also included voter fraud, which culminated in a Grand Jury investigation. The local "machine" would, for example, register numerous residents of local homes for the physically and mentally disabled and would submit requests for absentee ballots on their behalf. The city clerk would subsequently visit the nursing homes and fill out the ballots for incapacitated residents, marking the names of machine-supported candidates. The 150 or so votes gained through this procedure (25% of those necessary to win) could easily change the outcome of an election. "In 1978, I won all precincts but lost in nursing home absentee ballots," said former Councilmember David Bellis, now a professor of public administration at California State University, San Bernardino, "That's how they [the machine] kept me out of office."⁵

Concurrent with the council scandals of the 1970s, Signal Hill had widely-publicized problems with local police conduct. In addition to various charges of nepotism and on-the-job misconduct, one incident brought national attention to local troubles. In 1978, Ron Settles, a California State University, Long Beach football player, was arrested by Signal Hill police for a traffic violation. A few hours later he was found dead in his jail cell. The police claimed Settles committed suicide. Settles' family claimed he had been murdered by police. After formal investigation of the incident, no criminal charges were filed against the Signal Hill Police Department.

Law enforcement problems and political scandals prompted local activists to initiate a reform campaign in 1980. A group of citizens led by David Bellis mounted a grassroots effort to elect new city councilmembers. Using voter registration drives to overcome the superior financial resources of incumbent officials and the perceived threat of voter fraud, the challengers appealed to local voters who had tired of the problems that plagued the city. The reform candidates led by Bellis were successful and became minority members of the council.

Subsequent elections in 1981, 1982 and 1984 were "marked with real turmoil," according to Councilmember Blacksmith.⁶ Vigorous competition between establishment and reform candidates and almost yearly special elections to fill vacancies opened by resignations or death marked the period. In addition to conflicts between local officials, the residents of Signal Hill were faced with a number of controversial local initiatives that introduced high stakes politics to the small town. One initiative proposed the legalization of gambling card clubs within city limits. Another upheld the legal sale and use of fireworks. Both initiatives were introduced by local politicians but received financial support largely from interests outside the community.⁷

The card club initiative may have marked a turning point in local campaign finance reform politics. According to several sources, club supporters were able to qualify an initiative for the ballot and subsequently poured thousands of dollars into the campaign. The city council unanimously opposed gambling card clubs in the town. Although citizens rallied to defeat the initiative by an estimated 3-to-1 margin, the experience made members of the city council acutely aware of the potential influence of money on elections. Fireworks interests also contributed large sums to uphold the legal sale and use of fireworks, which survived the electoral challenge.

Officials and residents became alarmed at the way well-financed outside interests could sweep into Signal Hill and dramatically influence the character of local politics. Participation by local oil interests in city politics was expected, but the influx of outside political money, especially in light of the small number of votes necessary to carry a city election, was surprising. This vigorous intrusion of non-local interests motivated Signal Hill officials to initiate greater local control over elections and consider adoption of a local campaign finance ordinance. "The city is so small that every dollar and every vote counts," said City Attorney David Aleshire. "It magnifies the impact of campaign contributions."⁸

In response to the perceived improper influence of money on elections and local decisionmaking, Councilmember Gerard Goedhart proposed a campaign finance ordinance in 1984. His proposal was not supported by all councilmembers, however, and the council session expired before debate was concluded.

In 1985, with a majority of reform-minded councilmembers solidly in place, a campaign finance reform ordinance was reintroduced. The council voted in principle for an ordinance, to be written at a later time, which would limit the potential influence of outside money in local elections without unnecessarily inhibiting routine city campaigns. "We wanted to ensure grassroots control of the council and allow council voices to compete with special interests," said City Attorney Aleshire.⁹ "We all had similar ideas for reform," said former Councilmember Bellis. "There was no controversy."¹⁰

In order to adopt the specific language of the city's new law, the council instructed City Attorney Aleshire to make recommendations based on his analysis of campaign finance ordinances from other jurisdictions. The provisions that Aleshire recommended and the council later adopted limit contributions to \$250 per candidate per 48-month period, with individuals, businesses and organizations all subject to the limit. The law has a built-in inflation adjustment to increase the contribution limit every four years. Candidates, their spouses and their parents are all exempt from the contribution limits.

Candidates must inform the clerk's office of their campaign account location and number, and keep records "in sufficient detail to permit auditing of the account."¹¹ Candidates are also required to file periodic disclosure reports "on a form prescribed by the city clerk."¹²

Although the law itself mandates no specific reporting requirements, the city clerk's office took full advantage of the authority granted it by the law. It developed a form that requires the strictest accounting of campaign receipts and expenditures of any jurisdiction in California. Candidates are required to provide itemized records of *all* account activity, including dollar amounts received below the \$100 state disclosure requirement. Candidates must be prepared to provide copies of all checks received upon request from the Clerk. Candidates must also submit *alphabetical and chronological lists* of contributors and contributions received over the previous 48 months at prescribed intervals—monthly for all candidates during the campaign season, and yearly for incumbents in non-election years. The penalty for intentional violation of any provision of the law is automatic loss of office and loss of eligibility for office for a period of five years.

C. The Realities of Reform Fall Short of Original Goals

While according to Nancy Camio, Senior Administrative Assistant to the City Clerk, Signal Hill's ordinance worked "splendidly" in the March 1988 election, one councilmember encountered difficulty in a recent special election. Councilmember Louis Dare ran for council in a 1985 special election and lost. In 1986, he ran in another special election to complete the final year of a resigning member's term.

This time he won. In 1988, Dare ran again for reelection—a situation that put him in the unusual position of being a candidate *three* times in a four-year period. “My regular contributors [were] tapped-out,” said Dare, because they had already given the maximum contribution under limits which apply to a four-year period, rather than for each election.¹³ Partially as a result of his unique contributor situation, Dare ran a successful low-cost door-to-door campaign—although his opponents were able to raise significantly more funds. “[Dare’s] situation is something we didn’t anticipate,” said City Attorney Aleshire. “It’s something we should address.”¹⁴

Councilmember Dare also has expressed some reservations about the city’s additional disclosure requirements, although the problems he has encountered (“too time-consuming”¹⁵) may be remedied by greater familiarity with the system and routines for logging contributions. Councilmember Sara Dodds, the other incumbent councilmember with direct experience under the new law, used her home computer to meet the disclosure requirements. “I can’t imagine doing the lists manually,” she said, “especially with last minute additions.”¹⁶ Former Councilmember Bellis said he anticipated added accounting hassles for candidates to comply with the new requirements, but, he continued, “[T]hey’re absolutely necessary for enforcement. I love the reporting requirements. We wanted them to be stronger than the state’s and they are.”¹⁷ Councilmember Goedhart agrees. “Voters have a right to know the source of contributions and the people who support candidates because of the impact on the decisionmaking process. No one should have anything to hide, and no one should be ashamed of the source of [his or her] campaign contributions.”¹⁸

The law’s provision that exempts a candidate’s spouse and parents from contribution limits also has been the subject of some discussion. “Some of us didn’t care for it when it was proposed,” said Dare, “but we didn’t want to rock the boat.”¹⁹ Dodds comments, “Obviously it’s there to protect certain candidates that rely on family money to win.”²⁰ Bellis disagrees, stating, “It’s okay if someone wants to dump a lot of money into his own campaign. We felt that family would not have a corrupting influence.”²¹

One of the most unsettling enforcement aspects of Signal Hill’s new campaign law is the apparent total lack of review and recordkeeping by the city clerk’s office. At present, the clerk’s office fails to meet even minimum standards necessary for adequate enforcement. Kris Beard, the city clerk, has another full-time job as an administrator for a neighboring city, and leaves day-to-day management of the Signal Hill City Clerk’s Office to Assistant Camio. Camio admitted that when candidates file their disclosure forms her staff “doesn’t really look at them. This is a small town.”²²

When Commission staff members requested copies of candidate disclosure forms filed from 1974 to 1984 for the purposes of statistical analysis, the City Clerk’s office was able to find only a few disclosure forms for the 1984 election and no forms for any other elections prior to the Fall 1986 special election. Government Code Section 81009 of the Political Reform Act of 1974 clearly states that campaign statements filed by incumbents are to be stored by “filing officials” indefinitely, and that statements filed by unsuccessful candidates are to be retained no less than five years. Camio maintained that the disclosure forms were “in the files someplace,”²³ but she was unable to provide a sufficient number of forms from past elections on which to base an adequate statistical review of Signal Hill’s campaign finance practices.

D. Conclusions and Recommendations: Reporting Mechanisms Need Improvement

Because Signal Hill's ordinance is relatively new, major modifications would be inappropriate at this time. Lessons from recent special elections indicate, however, that lesser adjustments may be desirable. Considering Councilmember Dare's difficulties in raising funds for three elections in four years, the Commission recommends the council amend its ordinance to allow separate or additional fundraising for special elections, or simply to apply the existing contribution limits to each election cycle rather than "per 48 month period."²⁴

The Commission also recommends that the council remove the parent and spouse exemption from contribution limits. While families may not pose a potentially "corrupting" influence on candidates, the exemption unfairly increases the economic advantage held by wealthy candidates. To be sure, the current low cost pattern of Signal Hill elections now makes access to elected office available to residents of all economic classes. Yet the unavoidable advantage of wealthy candidates, if boosted by access to additional family money, can lead to abuse in more competitive (and thus expensive) elections.

To restrain the economic power of outside interests, the Commission recommends the enactment of limits on the amount of money contributors can give to independent expenditure committees. This would prevent a wealthy individual or well-financed single interest organization from overwhelming grassroots campaigns with independent expenditures. Independent committees should be subject to the same contribution limits and reporting requirements as individual candidates. The Commission also recommends that the city consider rules requiring independent committees to identify themselves clearly in any advertising that they fund. Although these provisions would not prohibit the activities of independent committees, they would take significant steps toward ensuring their accountability and increasing public awareness of their activities.

The current Signal Hill ordinance also contains a provision allowing candidates personally to retain surplus campaign funds following the election. This provision is illegal under state law.²⁵ The Commission recommends that Signal Hill officials revise this provision to conform to acceptable legal methods by which campaigns can dispose of surplus funds.

Finally, if Signal Hill's ordinance is to have any impact on local elections, and if the city's residents are to have access to information on local campaign contributions and spending, the Commission suggests that the procedures in the city clerk's office must be improved. Although the city clerk's office has adopted a strict disclosure policy, none of the adopted steps are specified in the existing campaign law. Until they are so specified, it is safe to assume that these policies could be changed by the city clerk at any time. In order to be fair to candidates and to ensure consistent policy from administration to administration, the Commission recommends that city officials amend Signal Hill's law to spell out the exact disclosure requirements, including filing dates. The city council must also clearly articulate the responsibilities of city officials, including the city clerk and city attorney, concerning record retention and enforcement of its local ordinance.

NOTES

1. Persons without voting rights are not eligible to hold elective office, and the 19th Amendment to the U.S. Constitution only gave women the right to vote in 1920. Because Nelson's election in 1924 fell shortly after the institution of women's voting rights, she may have been the first woman mayor in California, and possibly the United States. Commission researchers contacted experts at the League of California Cities, the California State Library, the *Los Angeles Times* and the California Secretary of State's office. None were able to confirm or refute our belief that Jessie Nelson was California's first woman mayor.
2. Signal Hill Chamber of Commerce Economic and Development Trends (1985).
3. *Id.*
4. Interview with Jessie Blacksmith, Councilmember, City of Signal Hill, Apr. 15, 1987.
5. Telephone interview with David Bellis, former Councilmember, City of Signal Hill, Apr. 21, 1987.
6. Interview with Blacksmith, *supra* note 4.
7. Local newspaper accounts of the conflicts were unavailable because Signal Hill does not have a daily newspaper and relies instead on the Long Beach Press-Telegram for infrequent local news reports. In addition, the city clerk's office does not keep up-to-date campaign finance records.
8. Interview with David Aleshire, City Attorney, City of Signal Hill, Apr. 14, 1987.
9. *Id.*
10. Telephone interview with Bellis, *supra* note 5.
11. Signal Hill Ordinance No. 85-10-962, Nov. 19, 1985.
12. *Id.*
13. Interview with Louis Dare, Councilmember, City of Signal Hill, Apr. 14, 1987.
14. Interview with Aleshire, *supra* note 8.
15. Interview with Dare, *supra* note 13.
16. Telephone interview with Sara Dodds, Councilmember, City of Signal Hill, Apr. 21, 1987.
17. Telephone interview with Bellis, *supra* note 5.
18. Telephone interview with Gerard Goedhart, Councilmember, City of Signal Hill, Apr. 21, 1987.
19. Interview with Dare, *supra* note 13.
20. Telephone interview with Dodds, *supra* note 16.
21. Telephone interview with Bellis, *supra* note 5.
22. Interview with Nancy Camio, Senior Administrative Assistant to the City Clerk, City of Signal Hill, Apr. 21, 1987.
23. *Id.*
24. *Id.*
25. Cal. Elec. Code §§12400 *et seq.* (West Supp. 1988).

CHAPTER 21

West Covina: Campaigns Over Toxic Waste

Residents' concern over the location of a large toxic dump operated by the BKK Corporation became the overriding issue in West Covina government and elections during the early 1980s. Proponents and opponents of an initiative spent hundreds of thousands of dollars on a failed ballot measure to close it; citizens unsuccessfully attempted to recall four councilmembers who defended it; and BKK and its allies spent over \$100,000 in independent expenditures to preserve it. Initial inadequate newspaper coverage of BKK's spending helped perpetuate low voter information. When the dump was closed to toxic waste in 1985, spending in the 1986 city council election returned to more normal levels, although recent elections show sharp jumps in candidate spending.

West Covina is a middle class suburban city located in Los Angeles County nineteen miles east of Los Angeles City Hall. It is known as both "The Headquarters City," because it is home to many state and county governmental agencies, and as the "Regional Shopping Area" of the San Gabriel Valley. The city's population is 93,000.

West Covina's largest industrial employers are Honeywell Training and Control Systems (1,000 people) and the *San Gabriel Valley Tribune* (400 employees), the area's newspaper. BKK Corporation, owner of a large "sanitary landfill," was once the largest employer in West Covina, but since the toxic part of the dump was closed it employs about 200 persons. In the 1970s, renters became an important part

of the city's population. The number of renters increased 876% during this period while the number of homeowners declined by 23%.

West Covina holds its elections in the second week of April during even-numbered years when either two or three city council seats are up for election. Candidates are not elected by district; they run citywide. The turnout for these elections has varied between 9% and 31%, depending on the interest and intensity of the campaigns. (See generally Table 21.1, "West Covina Data Profile.")

A. Candidate Spending Has Not Increased Dramatically Compared to Other Cities

In 1968, the three candidates for the West Covina city council spent an average of \$1,473. In 1984, sixteen years later, the average candidate spent \$6,829. Two year later, median spending dropped to the lowest point in 18 years—an average of only \$1,850 for the three candidates. (See Table 21.2.) While cities of the same size such as Irvine and Santa Monica commonly hold elections in which individual candidates spend more than \$50,000, no West Covina candidate has ever spent more than \$20,000.

For much of its recent history, West Covina has witnessed low cost, small town campaigns. Most candidates use their own money to pay for a large portion of their campaigns or receive a high percentage of their funds in under \$100 contributions. Large contributions are uncommon; when they have surfaced, controversy has resulted. In 1980, challengers Betty Joyce and Joseph Eischen each received \$1,500 from the city firemen's association. Councilmember Herb Tice also received \$500 from the firemen's association but he returned the money after the publisher of the *San Gabriel Valley Tribune* warned him that the paper would not endorse him if he retained the contribution.¹ Councilman Kenneth Chappell charged, "You don't take \$1,500 from any organization without having some conflict of interest." He added that it was "a huge sum of money for a city campaign."² Dr. Forest Tennant, who contributed \$9,000 of his own money to his campaign, announced that he had limited contributions to \$100 from any one contributor.

In 1966, reporter Bob Christensen of the *San Gabriel Valley Tribune* noted that council incumbents "for the most part spend less than their challengers" [emphasis added] because, in his opinion, they have a built-in advantage as incumbents. He also reported that candidates commonly financed the largest share of their campaigns themselves and spent most of their money on direct mail and newspaper advertising.³ Over the years, as campaign costs rose, however, office seekers began to receive more outside contributions.

By 1970, Christensen began to change his view, observing that campaign contributions were coming increasingly from outside sources rather than from candidates themselves. His article concluded, "Many people don't put much faith in the campaign expense reports, especially since no one ever challenges them."⁴

In the 1974 election, Chester Shearer—who remained a councilman until his death in early 1988—announced that he was personally financing his own reelection campaign. "[O]ver the past four years, I have set aside some of the \$250 per month salary paid me as a councilman. This money is being used to cover my campaign expenses. I have respectfully declined to accept offers of financial support and have returned contributions."⁵

Not until 1980 did a West Covina candidate break the \$5,000 barrier. That year, Forest Tennant, a doctor and former president of the West Covina Chamber of Commerce who ran several health clinics, spent nearly \$10,000 to win an open city council seat. Most of the money was Tennant's. He commented that a candidate

should not be considered "serious" unless he is able to put up at least one-third of what is needed for a campaign.⁶

Despite these *candidate* figures, overall spending in West Covina campaigns increased markedly between 1968 and 1984. This increase in spending, which occurred largely in the early 1980s, was attributable almost solely to *independent expenditures* by the BKK Corporation, owner of the local toxic landfill. West Covina is thus unusual for being of the few smaller cities to experience large independent expenditures.

Table 21.1

WEST COVINA DATA PROFILE

Local Government

STRUCTURE: Founded in 1923; general law city; weak mayor system; five city councilmembers elected at-large; mayor appointed by council to a one-year term; city attorney appointed by council and retained by contract.

CITY BUDGET: \$40 million (fiscal year 1988-89).

CITY FACTS: Population (1989): 94,200; Area: 17 square miles; Registered voters (Apr. 1989): 42,455; Voter turnout (Apr. 1988): 17%

Contributions

	<u>West Covina</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
Business	70%	40%	52%
Individual	11%	45%	33%
Labor	5%	2%	4%
Political	5%	5%	6%
Candidate	9%	8%	5%
Non-Election Year	5%	6%	42%
Election Year	95%	94%	58%

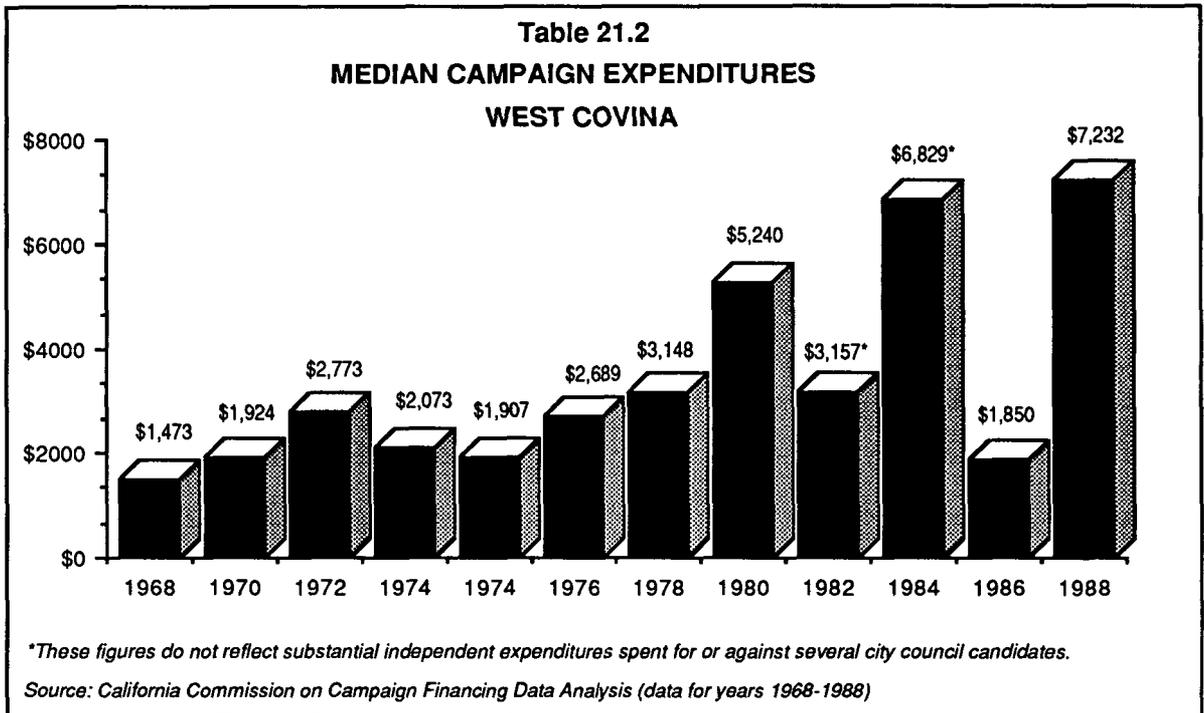
Expenditures

	<u>West Covina</u>	<u>Small Jurisdictions</u>	<u>All Jurisdictions</u>
VOTER CONTACTS	67%	57%	38%
Broadcast	0%	0%	7%
Literature	57%	48%	26%
Newspaper	6%	6%	2%
Outdoor	4%	3%	3%
OVERHEAD	33%	43%	62%
General	13%	17%	22%
Personnel	12%	5%	6%
Fundraising	2%	6%	13%
Survey	5%	5%	4%
Consulting	1%	8%	10%
Travel	0%	0%	1%
Candidate Transfer	0%	2%	6%

Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

B. Large Independent Expenditures From BKK Are Injected Into an Election

Unlike many other cities, the major issue in West Covina has not been development but the operation of a toxic waste dump. Although the BKK Corporation began operating its 535 acre dump in West Covina in 1962, it was not until 1980 that the operation of the landfill ignited controversy and surfaced as a campaign issue. By then, BKK was dumping over 100,000 tons a year of waste at its West Covina cite. The city had allowed a large amount of residential development around the dump. The new residents strongly opposed the continued dumping of toxic waste so near their homes.



In his 1980 campaign, city council candidate and attorney Joe Eischen questioned the integrity of the city council by linking a delay in a misdemeanor trial against BKK to the April election. Eischen charged that the delay in the trial was designed to save councilmembers up for reelection the embarrassment of certain facts which would emerge in the trial. Eischen also called for elimination of all odors from the landfill. Councilman Nevin Browne replied, "You will never eliminate all the odors coming from the landfill because the solid rubbish from residential and commercial sources will smell when it arrives and smells as it decomposes."⁷ Councilman Browne opposed closing the dump because there would be no persons left at the landfill to repair the fissures which prevent the odors from escaping. He added, "We make the garbage and must provide a place for all our waste products to go."⁸

Later in the 1980 campaign, Eischen accused members of the council of receiving donations or loans from the president of BKK, Ben Kazarian, Jr. "The odors coming from BKK are not just decaying chemicals, but they are political odors as well," Eischen charged.⁹ However, no contribution from BKK was listed on any candidate's 1980 campaign finance report.

In the spring of 1981, the BKK controversy boiled over. A coalition of homeowners sponsored an initiative to ban disposal of toxic waste in the city by

closing BKK and rezoning 400 acres of land within 2,000 square feet of the dump to prevent new residential construction. This measure would have stopped Ponderosa Homes, a subsidiary of Aetna Life and Casualty, from proceeding with its proposed \$20 million housing project. The city council had already approved the Ponderosa Homes tract maps, and model homes had been constructed on the housing project's proposed site.

Responding to intense pressure, the council voted to place the initiative—Proposition K—on the November 1981 ballot, along with a city council-backed measure to increase taxes to make up for lost revenues from closing BKK. Although nearly all the political pundits assumed the measure banning toxics would pass overwhelmingly, the initiative lost. “If they weren’t flabbergasted, they were at least surprised,” was the lead of one story the day after the election.¹⁰

Immediately before the election, newspapers reported that BKK had spent \$33,000 against the ballot measure and Ponderosa Homes had spent \$110,000. These stories were not prominently featured and voters received only perfunctory notice that the two entities most directly affected by the proposition were spending large sums of money. Later stories revealed that opponents of Proposition K had spent well over \$160,000 to defeat the measure while proponents spent only \$1,482.

Among other tactics, opponents sent out mailers linking supporters of the measure to Tom Hayden, Jane Fonda and Hayden’s Campaign for Economic Democracy. The opposition campaign spent the bulk of its money on mailings—including a letter purporting to be an official notice from the city announcing increases in trash fees if the measure passed, a mailer appearing to be an official letter from the chief of police, and correspondence from a PTA official predicting lost tax revenues if the proposition were enacted.¹¹

C. An Abortive 1981 City Council Recall Sparks Expensive Election

Controversy over the dump did not end with the defeat of the ballot measure. During the 1981 ballot measure campaign, citizens groups opposed to the BKK toxic dump served four of the five sitting councilmembers (all but Dr. Tennant, who was elected to his first term in 1980) with recall petitions. The recall petition stated that the councilmen:

“[F]ailed to preserve and protect the health, safety and welfare of the citizens of West Covina . . .

“[D]isregarded the present and future effects of toxic, hazardous waste on the adults and children of West Covina and neighboring communities by taking the position that toxic poisons being dumped in West Covina will produce no long-term detrimental effect . . . [and]

“[C]apitulated to the special interest of toxic dump operators and land developers”

Two weeks before the recall petitions were circulated, the council had passed an urgency ordinance prohibiting further disposal of toxic waste transferred from other abandoned dumps outside West Covina, many of which were being forced to close. Recall proponents continued their drive, however, and gathered sufficient signatures to place the recall on the March 1982 ballot, just a month before the city’s regularly scheduled election. Two of the councilmen subject to recall were also running for reelection in the April election.

The recall turned bitter and expensive. One week before the election, the press reported that the committee against the recall had raised \$73,000, most of it (\$45,000) coming from BKK. Recall proponents had raised only \$12,000. Recall opponents claimed in a brochure that the proponents who were suing the city for damages in

connection with the dump would receive \$50 million in settlements if the recall succeeded in bringing in more sympathetic councilmembers. The pro-recall group charged the city council with "trying to poison the voters' drinking water by not closing BKK to toxic waste."¹²

As with the measure on the November 1981 ballot, the recall failed. The four councilmembers beat back the challenge by a 3-to-2 margin. The voter turnout for the recall was light—24% of the registered voters voting compared to 31% for the November ballot measure. Three weeks later, the two incumbents up for reelection handily defeated their challengers.

Although BKK spent over \$100,000 combined in the recall and the election, very few voters could have been aware of BKK's substantial monetary involvement. The local newspaper printed two news stories on campaign contributions before the election, but both buried references to BKK's contributions in the middle of the story. No article highlighted the enormous sums of money being pumped into the election.

D. BKK Corporation Wages Last-Ditch Effort in 1984 Election

In the 1984 election, BKK again was accused of hiding its contributions by channeling money through several committees which funded massive independent expenditures on behalf of several candidates. Individual candidate campaign statements did not reflect the enormous amount of money being spent in the campaign. A majority of the independent expenditures paid for phone bank operations which called individual voters and urged them to support five chosen candidates—even though only three could be elected. (BKK apparently sought to ensure the defeat of two candidates who vigorously opposed their operations and did not particularly care which three of the five candidates they supported won.)

One of the five candidates (Mary Lewis, a challenger) demanded that BKK stop the expenditures on her behalf. In a letter to the BKK-backed independent expenditure committee, Lewis wrote, "It is my firm policy to maintain complete authority and final approval over all activities associated with my campaign. I have not sought nor would I condone campaign activities on my behalf by unauthorized third parties. I do not want to be part of your campaign activities."¹³ Even though these expenditures lacked her authorization, she enclosed a check for \$557.20 to the committee to cover its expenditures made toward her candidacy. BKK then stopped spending on behalf of Lewis (who was not elected).

Another candidate who received BKK's unsolicited support, Councilmember Tennant, stated, "I don't understand why they are involved. For them to support me is amazing. If anyone has given them a hard time on the council, it has been me."¹⁴

In stark contrast to 1982, the local papers focused their 1984 election coverage on BKK's involvement in the city council race. Headlines trumpeted, "BKK-Backed Group Aiding City Council Candidates" (*San Gabriel Valley Tribune*, March 21, 1984); "Big Bucks from BKK" (*San Gabriel Valley Tribune* editorial, March 25, 1984); "BKK Works Behind Scenes in West Covina Election" (*San Gabriel Valley Tribune*, March 31, 1984); "Candidate for Council 'Returns' Money Spent by BKK Committee" (*San Gabriel Valley Tribune*, April 3, 1984); and "BKK Landfill Firm Spending More Than \$55,000 to Influence West Covina City Council Election" (*Los Angeles Times*, April 5, 1984).

The *San Gabriel Valley Tribune* editorialized, "We are appalled when one corporate entity doing business in a community pours more than \$75,000 into that city's election in an effort to determine the results. That is what BKK has done through a series of political action committees it has used to funnel funds into the West Covina municipal election."¹⁵

Despite the negative press attention, the election was again a triumph for BKK. The two incumbents BKK supported plus the newcomer on which it spent the most money all won. One defeated candidate charged, "BKK still owns West Covina."¹⁶ But Nancy Manners, the newly elected councilmember, stated, "I don't think they (BKK) had any influence as far as I could tell."¹⁷ For the third time in two years, BKK had spent over \$100,000 on West Covina elections.

In contrast to West Covina's 1982 and 1984 elections, the city's 1986 election was the quietest in years. Only one challenger ran against the two incumbents who were easily reelected. BKK no longer dominated West Covina politics since the dump was closed to toxic waste. Campaign spending returned to pre-1970 levels. The median amount spent by 1986 candidates was only \$1,850, the lowest amount since 1968. In addition, the 1986 election was run under a contribution limits ordinance newly passed by the council. Because of the lack of competition, however, the ordinance's impact was minimal.

The 1988 election reversed this trend. Final 1988 election figures indicate that candidate spending has increased dramatically over 1986. One candidate, William Tarozzi, spent a recordbreaking \$18,375. In addition, two incumbent city council members were ousted from office by the two top spenders, Tarozzi and Brad McFadden, who spent \$13,752.¹⁸

E. Campaign Finance Statistics Are Skewed by BKK's Involvement

BKK's huge independent expenditures made in the 1982 and 1984 campaigns were substantially greater than all the contributions received directly by the 18 candidates combined in those elections. (See Table 21.3.) Consequently, West Covina data is heavily skewed towards large contributions from business. Approximately 70% of the contributions made in the 1982 and 1984 campaigns came from business interests, the highest business percentage for any of the cities and counties studied in the Commission's survey of 17 jurisdictions throughout the state. In addition, the average business contribution of \$2,191 was three times the average business contribution in all other jurisdictions (\$620) and over twice the average in the next largest jurisdiction (Los Angeles County, \$979).

When the BKK money is removed from the data, the figures change dramatically. Instead of 70% of the money coming from business interests, 47% of the contributions come from business, still the second highest percentage of business contributions to small cities. The average business contribution drops from \$2,191 to \$591, much lower than large cities and counties but the highest of any small city. In addition, candidate contributions to their own campaigns amount to 13%, one of the highest figures for a small city but not dramatically large given the intense competition caused by the huge independent expenditures in 1982 and 1984.

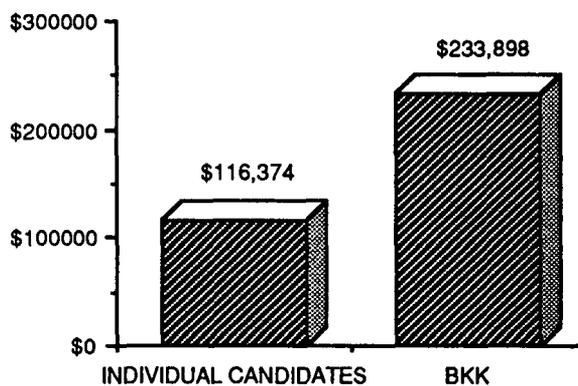
Candidates and independent committees in West Covina spent large percentages on contacting the voter. They spent 57% of their funds on literature, 6% on newspaper ads and 4% on outdoor advertising—a total of 67% on voter outreach. Candidates and independent expenditure committees spent no money on television or radio spots. They spent a small amount on fundraising (2%) and a modest amount on general operating expenses (13%). In general, West Covina campaigns raise and spend money very efficiently. (See Table 21.4.)

F. The City Council Adopts a Campaign Finance Ordinance as the BKK Controversy Ends

The city council adopted a contribution limitations ordinance on April 8, 1985. As originally proposed by Mayor Robert Bacon, the ordinance would have restricted contributions to \$250 per year. Bacon introduced the measure to limit outside

influence in West Covina elections and reduce candidate spending. At the urging of Councilmember Tennant, however, the council voted for a higher limit of \$500. (Actually, Tennant opposed any limitations unless approved by the voters but was able to convince three of the five city council members to double Bacon's proposed limits.) Tennant argued that the city "shouldn't restrict people who want to do more for their government" and contended that incumbents would benefit by the limitations. He said, "I have never seen one shred of evidence in any form of government that limits have ever worked. There are always loopholes people work around."¹⁹

Table 21.3
TOTAL EXPENDITURES BY BKK
VERSUS CONTRIBUTIONS RECEIVED BY CANDIDATES
WEST COVINA



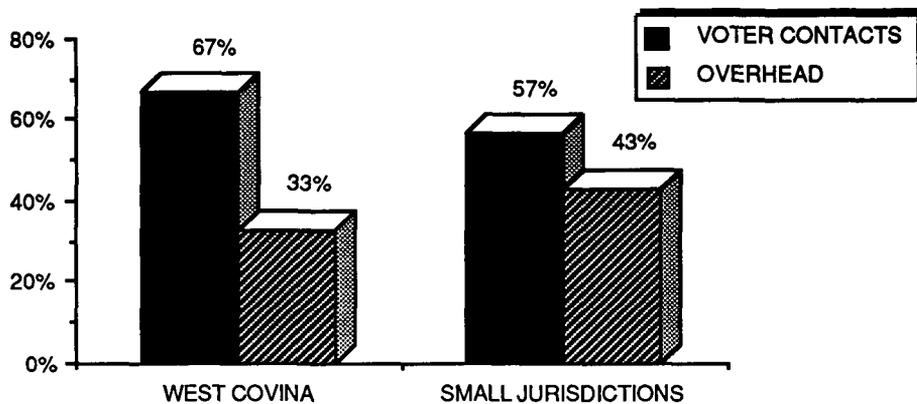
Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

In response to BKK's independent expenditure campaign in 1984, Councilmember Nancy Manners proposed preventing individuals and PACs from campaigning without a candidate's permission. Instead, the council adopted a provision which requires campaign ads to indicate whenever endorsements are made without the permission of the candidate.

The ordinance, as adopted, limits contributions from individuals and political action committees to \$500 per candidate per calendar year. It also limits contributions from organizations to \$1,000 per candidate per calendar year. In addition, candidates may not receive more than \$1,500 per calendar year in total aggregate contributions from all political action committees. There is no limit on the aggregate contributions candidates may receive from any corporation or other organization.

The ordinance further places restrictions on campaign materials. All literature, mailings or radio and television ads must contain the name of the sponsor of the material. The sponsor's name may not include the candidate's name without the candidate's written consent. All literature, mailings and television or radio ads sponsored by a PAC must have a disclaimer that "[t]his political endorsement is made without the authorization of [the candidate's name]."

Table 21.4
VOTER CONTACTS VERSUS OVERHEAD EXPENSES
WEST COVINA



Source: California Commission on Campaign Financing Data Analysis (data for years 1982-1984)

G. Conclusions and Recommendations: West Covina Should Revise Its Contribution Limits Ordinance

It would be worthwhile for the West Covina City Council to analyze local candidates' 1988 campaign statements to determine whether it should enact expenditure ceilings. In past elections, candidates spent little money on campaigns. But statements for the 1988 elections indicate that candidate spending is on the rise. If expenditure ceilings are deemed necessary, it is the suggestion of the Commission, based on the data it has obtained, that the amount be set at \$15,000 per candidate. Since West Covina is a general law city, it is prohibited by the provisions of Proposition 73 from offering public matching funds to those candidates who voluntarily accept expenditure ceilings. The Commission has developed an alternative: variable contribution limits. Those candidates who agree to expenditure ceilings would be allowed to receive larger contributions than those who decline the expenditure ceilings. (For further discussion regarding the Commission's alternative proposal, see Chapter 23, "The Commission's Model Ordinance.")

The city apparently interprets its new law to allow unlimited loans, even from third parties. In the 1988 city council election, candidate Brad McFadden received a \$7,500 loan from Donald McFadden, well over the \$500 limit for individuals. Because the law does not specifically state that loans are covered by the limitations, the city permits candidates to circumvent the law by accepting large loans. A careful reading of the ordinance indicates that loans are covered since they are "payments." Payments are defined in the Political Reform Act to include loans, and the city law indicates that the definitions in the Political Reform Act apply. The Commission's staff made several attempts to talk to the City Attorney about this incorrect interpretation of the law but received no reply.

Despite the city council's best intentions, the new law does not address the problem of massive independent expenditures—such as those poured into past campaigns by the BKK Corporation. While independent expenditures cannot be limited under the U.S. Supreme Court decision in *Buckley v. Valeo*,²⁰ contributions to them can be regulated. The Commission recommends that West Covina amend its ordinance to limit contributions to independent expenditure committees to no more than \$500 per contributor. With such a limitation, BKK would not have been able to funnel money into several committees created to disguise its involvement in the campaigns. BKK would have had to make all its independent expenditures in its own name. Its role would have been revealed directly.

It is suggested that West Covina also revise its ordinance to correct the following problems:

- The city's ordinance currently permits contributions from organizations (\$1,000) to be larger than contributions from PACs (\$500), but an "organization" is defined only to include corporations and partnerships. Thus, the ordinance may unintentionally discriminate against labor unions by restricting them to \$500 while allowing corporations to give \$1,000.
- Aggregate PAC contributions (how much a candidate can receive from all PACs) are restricted, but the ordinance does not restrict aggregate *corporate or partnership* contributions.
- There is no restriction on the size of donations which contributors can give PACs or committees which in turn give to candidates. Thus, committee A, which supports but is not controlled by candidate B, can receive unlimited contributions, although committee A can only make a \$500 contribution to candidate B.
- The disclaimer on independent ads ("This political endorsement is made without the authorization of [the candidate's name].") is only required of PACs. Thus, a corporation could send out a mailer and not have to insert the disclaimer. The disclaimer should apply to independent advertisements by all parties.
- The contribution limitations apply per year rather than per election. An incumbent can raise up to the limit each year for four years. This disadvantages challengers who typically do not start raising money until the election year. The contribution limitation should thus apply to each election.

West Covina experienced unprecedented political turmoil in the early 1980s. Independent expenditures by the BKK Corporation completely dominated local campaigns, although voters were left substantially in the dark about the company's involvement until the 1984 election. When BKK closed its toxic waste dump, West Covina campaigns returned to relative quiescence in 1986—although the 1988 elections indicate spending is on the rise. The campaign finance ordinance adopted by the city council in 1985 was tested for the first time in the 1986 and 1988 elections. Even as drafted, however, its limited provisions would not have affected BKK's massive independent expenditures. To address that potentially recurring problem, consideration of the recommended changes is believed to be critical.

NOTES

1. Mike Ward, *Campaign Funds to Landfill: There's a Candidate for Every Issue in West Covina*, Los Angeles Times, Apr. 6, 1980.
2. *Id.*
3. Bob Christensen, *Campaign Costs Bared*, San Gabriel Valley Tribune, Apr. 21, 1966.
4. Bob Petersen, *Cost of Council Races Rockets in Valley*, San Gabriel Valley Tribune, Apr. 26, 1970.
5. *Councilman Campaigns With His Own Money*, San Gabriel Valley Tribune, Feb. 17, 1974.
6. Interview with Forest Tennant, Councilmember, City of West Covina, June 6, 1986.
7. Dan Aznoff, *Candidates' Charges Against Council Declared Unfounded*, San Gabriel Valley Tribune, Mar. 24, 1980.
8. *Id.*
9. Dan Aznoff, *Challenger Says Landfill Owners Influences Past, Present Council*, San Gabriel Valley Tribune, Mar. 27, 1980.
10. Steve Fetbrandt, *Many Surprised by Proposition K Vote*, San Gabriel Valley Tribune, Nov. 5, 1981.
11. Jeffrey Perlman, *Surprise Landfill Vote Linked to Detailed Poll*, Los Angeles Times, Mar. 9, 1981.
12. Steve Fetbrandt, *Four West Covina Councilmen Face Recall Election Tuesday*, San Gabriel Valley Tribune, Mar. 20, 1982.
13. *Candidate for Council "Returns" Money Spent by BKK Committee*, San Gabriel Valley Tribune, Apr. 3, 1984.
14. Mike Ward, *BKK Landfill Firm Spending More Than \$55,000 to Influence West Covina City Council Election*, Los Angeles Times, Apr. 5, 1984.
15. Editorial, *Big Bucks From BKK*, San Gabriel Valley Tribune, Apr. 6, 1984.
16. Mike Ward, *BKK Choices Elected to Council*, Los Angeles Times, Apr. 12, 1984.
17. *Id.*
18. Steven Eames, *Tarozzi Top Spender in Election*, San Gabriel Valley Tribune, Aug. 10, 1988.
19. *Campaign Spending Lid Sought*, San Gabriel Valley Tribune, Jan. 30, 1985.
20. *Buckley v. Valeo*, 424 U.S. 1 (1976).

PART III

The Commission's Recommendations

CHAPTER 22

Proposition 73: Its Impact on Cities and Counties

On June 7, 1988, California voters approved *two* sweeping campaign finance reform ballot initiatives. Proposition 68, based on recommendations of the Commission in its first published report, received 53% of the vote. Proposition 68 contained a comprehensive package of reforms for state legislative campaigns, including expenditure ceilings, contribution limits, partial matching funds, bans on transfers and a number of other provisions affecting legislative campaigns. Proposition 73, which received 58% of the vote, only enacted contribution limits and a ban on transfers, but it also imposed a ban on any public financing for any statewide, legislative, city or county campaign. Many of the provisions of Proposition 73 are currently being challenged in court. (See Section B below for a discussion of pending litigation.)

Propositions 68 and 73 diverge in a number of areas. State law provides that the provisions of a proposition receiving the most votes—in this case, Proposition 73—prevail over provisions of a proposition which also passed but received fewer votes if they are in conflict.¹ The California Fair Political Practices Commission (FPPC) ruled in an opinion that six relatively minor sections in Proposition 68 should go into effect but that none of Proposition 68's contribution limits should prevail.²

Because Proposition 73 prohibited the expenditure of “any public moneys” to assist candidates,³ it may prevent any local jurisdiction from utilizing partial public matching funds as an incentive for candidates voluntarily to accept expenditure ceilings, although other incentives for expenditure ceilings may be possible. (See Chapter 23, “The Commission’s Model Ordinance.”) It is also possible, however, that Proposition 73's ban on public financing may be voided for charter cities and charter counties as a result of a lawsuit brought by Sacramento County. (See the more detailed discussion in Sections B and C, below.)

A. Proposition 73 Limits Contributions to All State and Local Candidates and Prohibits Mass Mailings Sent at Government Expense

Proposition 73—sponsored by three state legislators, Assemblyman Ross Johnson (R-Orange County), Senator Quentin Kopp (I-San Francisco) and Senator Joseph Montoya (D-Los Angeles)—imposes contribution limits on all statewide, legislative and local candidates of not more than \$1,000 per fiscal year from individuals and corporations, \$2,500 from committees and \$5,000 from broad-based political action committees. Although Proposition 73 invalidates any higher local contribution limit, it allows cities or counties to adopt lower contribution limits.⁴

Nearly all the cities and counties which have adopted contribution limits will thus remain unaffected by Proposition 73's higher contribution limits. One exception is Santa Monica which limits contributions to \$1,491 per candidate. This limit is higher than Proposition 73's limit for individuals and corporations that do not qualify as committees. The actual impact of Proposition 73 on Santa Monica may prove problematical. As a result of an unfortunate drafting error, Proposition 73 appears to permit any two persons to form a PAC, which can then give \$2,500 to any candidate. If this happens, a PAC can easily give Santa Monica candidates \$1,491 each.

The current limits for mayoral and other citywide candidates running in the City of Los Angeles may also fail to survive Proposition 73. Proposition 73 limits contributions up to \$1,000 *per fiscal year*, but Los Angeles allows citywide candidates to accept contributions up to \$1,000 *per election*. Since Los Angeles conducts its primary and general election in the same fiscal year and therefore permits contributions of \$2,000 per fiscal year to candidates for citywide offices, its ordinance as applied to certain contributors may conflict with Proposition 73.

Some provisions of Proposition 73 will affect all cities and counties, even those with stricter contribution limits. Proposition 73, for example, requires all state and local candidates to file a statement of intention to run before they can collect any contributions.⁵ This statement of intention must designate the office the candidate is seeking. Thereafter, money collected for that office can only be used for the office indicated and the funds cannot be transferred to any other committee controlled by the candidate or any other candidate.⁶ This provision forces candidates to name the office they seek much earlier than they might wish. In the past, candidates—particularly officeholders—would raise substantial funds and hold them for any office later sought. Proposition 73 attempts to eliminate the option of collecting funds for some unknown future office, but a recent federal court decision has invalidated this provision.⁷ (See discussion in Part B of this chapter.) The measure also limits each candidate to one campaign committee so that "Friends" committees in San Francisco and the City of Los Angeles may no longer be used as tools to circumvent state limitations.

Proposition 73 also prohibits local officeholders from receiving gifts or certain types of honoraria of more than \$1,000 per fiscal year from a single source.⁸ This section will also prevent local officials from setting up "Friends" committees to receive large donations (exceeding \$1,000) not deemed campaign contributions. The "Friends" committees of officeholders in San Francisco and the City of Los Angeles will be severely crimped by this new limitation.

Finally, Proposition 73 prohibits all governmental mailings to the public.⁹ The FPPC has issued a regulation which only applies this provision to governmental mass mailings that refer to an elected public official.¹⁰ This interpretation seeks to conform the mass mailing provision to the intent of the initiative's proponents, *i.e.*, to prevent elected public officials from sending out any mass mailings at public

expense at any time. (Even before this section was adopted, elected public officials were not allowed to distribute mass mailings at public expense between the time they filed for election and the date of the election.) This provision has been challenged in court on the ground that an initiative cannot prohibit governmental officials from communicating with their constituents.¹¹

The California Fair Political Practices Commission is given the authority to administer, interpret and enforce the provisions of Proposition 73. By the operative date of January 1, 1989, the FPPC had issued several regulations interpreting Proposition 73.¹²

B. Several Lawsuits Have Challenged the Provisions of Proposition 73

Since the passage of Propositions 68 and 73 in June 1988, a number of lawsuits have challenged various sections of Proposition 73 or have attempted to make the two measures compatible with each other. These lawsuits were filed in the California Supreme Court, U.S. District Court, state appellate courts and county superior courts. As of the date of this publication, no final decision has been issued in any of these suits, except for a dismissal of one by the California Supreme Court. This suit, however, has been re-filed in U.S. District Court.

The pending lawsuits can be divided into three types: litigation challenging Proposition 73's ban on public financing of campaigns, litigation attempting to ensure that the contribution limits of Proposition 68 are made effective and litigation challenging the constitutionality of certain provisions of Proposition 73.

1. Litigation Challenging Proposition 73's Ban on Public Financing of Campaigns

Three lawsuits have been filed which seek to eliminate Proposition 73's ban on public financing of campaigns: *County of Sacramento v. FPPC*, *Center for Public Interest Law v. FPPC* and *Common Cause v. FPPC*. Each has been filed in an appellate court, and each questions whether the ballot measure can constitutionally prohibit the use of taxpayers money to fund campaigns.

a. Sacramento County v. FPPC¹³

Sacramento County, by a vote of the people in November 1986, enacted a charter amendment which permitted the county board of supervisors to enact a measure limiting expenditures in exchange for partial public financing of campaigns. Following the public's approval, the board adopted a comprehensive campaign reform measure which included contribution limits, expenditure ceilings, a limit on non-election year fundraising and partial matching funds to those candidates accepting expenditure ceilings.

Since Sacramento County is a charter county, it has taken the position in litigation that its local public financing ordinance is unaffected by the ban in Proposition 73. First, it argues that the State Constitution authorizes charter counties to govern the conduct of their own elections. Second, it argues that the State Constitution gives charter counties the authority to spend their own tax money as they see fit. (An expanded description of Sacramento County's lawsuit is provided in Section C below.)

b. Center for Public Interest Law v. FPPC¹⁴

The Center for Public Interest Law, a non-profit San Diego organization, has filed a lawsuit claiming that Proposition 73 does not affect the provisions of Proposition 68 because Proposition 68 does not propose public financing of campaigns. Robert Fellmuth, the Center's principal attorney on the case, asserts that Proposition 68 allows taxpayers voluntarily to place their own money into a

Campaign Reform Fund and to claim a 100% tax credit. Accordingly, the suit argues, these funds are not “public moneys” and their use to underwrite campaigns does not violate Proposition 73’s ban on public financing. The lawsuit was rejected by the Fourth District Court of Appeal in San Diego.

c. California Common Cause v. FPPC¹⁵

This suit, filed on behalf of California Common Cause in the Third District Court of Appeal by San Francisco attorney Jerry Falk, argues that Proposition 73’s ban on public financing of campaigns is invalid as it applies to legislative campaigns because it unconstitutionally prevents the legislature from appropriating money. The suit notes that a measure scaling back legislative spending by one-third (Proposition 24, enacted by the voters in June 1984) was declared unconstitutional. There, the Third District Appellate Court ruled that the California State Constitution prevents a statutory measure (of which Proposition 73 is one) from tying the hands of the legislature in its power to appropriate funds.¹⁶ Only an amendment to the State Constitution can restrict legislative appropriations, the lawsuit argues.

2. Litigation Affecting the Contributions Sections of Proposition 68—Taxpayers to Limit Campaign Spending v. FPPC¹⁷

Following the June 1988 state election, the Fair Political Practices Commission ruled that none of Proposition 68’s contribution limits remained. The FPPC argued that because Proposition 73 received more votes than Proposition 68 and because Proposition 73 included a limitation on contributions, it should preempt all of Proposition 68’s contribution limits.

The proponents of Proposition 68, “Taxpayers to Limit Campaign Spending,” challenged the FPPC’s interpretation. Attorneys for Taxpayers, Brad Phillips and Mark Epstein of Los Angeles, argued that existing case law required both propositions to be given the maximum effect unless there were an irreconcilable conflict between the two. They contended that the following provisions of Proposition 68 should become law: the ban on off year fundraising, overall limits on how much can be given by a person or PAC to all legislative candidates, aggregate limits on how much legislative candidates can receive in non-individual contributions, provisions on how contributions from a spouse and dependent children are to be treated, requirements for the treatment of loans and a few other provisions.

3. Litigation Challenging the Constitutionality of Various Proposition 73 Provisions

Several organizations have filed lawsuits arguing that one or more provisions of Proposition 73 violate the state or federal constitutions. This litigation has had mixed success.

a. Service Employees International Union et al. v. FPPC¹⁸

Several labor unions along with the Democratic leadership of the legislature have joined forces in an attempt to invalidate many of the provisions of Proposition 73 on constitutional grounds. The lawsuit challenges four provisions of Proposition 73: the prohibition on carryover funds collected prior to the measure’s operative date, the contribution limits applied to communications by labor unions to their members, the prohibition of funds collected for one office used for another office and the contribution limitations based on a fiscal year basis. After the California Supreme Court dismissed the complaint without a hearing, the lawsuit was re-filed by Joseph Remcho of San Francisco in U.S. District Court which has issued a preliminary

injunction declaring portions of Proposition 73 invalid. The judge found that candidates could carry over funds received prior to January 1, 1989, if the funds were collected within the limitations of Proposition 73. (This ruling conflicts with a Superior Court opinion which stated that no funds received before January 1, 1989, could be used in future elections.) (See *California Common Cause v. FPPC*, discussed below.)

The federal court also invalidated the provision in Proposition 73 which prohibits candidates from transferring funds from one of their committees to another. This provision was unconstitutional, the plaintiffs contended, because it denied a candidate the right to change his or her mind once the candidate has collected funds. If a candidate raised campaign money for a race for lieutenant governor, after which the incumbent governor died, the candidate would not be allowed to use any of his or her funds in a race for the governor's seat.

Finally, the court ruled in favor of the unions' claims that they were impermissibly denied the right to spend more than \$1,000 in expenditures communicating with their membership. The FPPC had concluded that expenditures coordinated with a candidate were "in-kind" contributions subject to Proposition 73's limits and could not exceed \$1,000.

This lawsuit also claimed that Proposition 73's contribution limitations were invalid because they applied to each fiscal year rather than to each election. A challenger, therefore, who began to collect money in January of the election year would only be able to collect \$2,000 from a person (\$1,000 before July 1 and \$1,000 after), whereas an incumbent who began raising campaign funds immediately after his or her election could receive up to \$4,000 per person for the same election. The federal court has not yet ruled on this provision.

b. Watson v. Senate Rules Committee and Watson v. FPPC¹⁹

This lawsuit, filed in the Los Angeles County Superior Court by three Democratic State Senators (Torres, Watson and Lockyer), charges that the section in Proposition 73 which prohibits mass mailers from being sent out at government expense is unconstitutional. The trial court originally ruled that the section as written covered all mass mailers, not just those sent out under the name of the elected official (as the FPPC had ruled), and therefore violated First Amendment freedoms of speech. In a rehearing of the matter with a different defendant, the judge declared the section valid. Both rulings have been appealed. The Senate Rules Committee appropriated legislative funds to pay the costs of plaintiffs' attorney Alan Browne of Los Angeles.

c. California Common Cause v. FPPC²⁰

Common Cause, in a Los Angeles County Superior Court action filed by Josephine Powe of Los Angeles, alleged that the FPPC's interpretation of Proposition 73's limitation on carry-over of surplus funds is incorrect. The measure prohibits any candidate from carrying over any campaign funds collected before January 1, 1989, for use in a future election, but the FPPC ruled that the use of funds collected before January 1, 1989, was proper as long as these funds had been collected in compliance with Proposition 73's contribution limits. The FPPC's rationale was that the Proposition 73 provision prohibiting any carry-over violated First Amendment freedoms of speech. The court ruled that the FPPC interpretation was invalid and ordered the Commission to rewrite the regulation. The Commission has appealed the decision. In a similar lawsuit filed in U.S. District Court by the Service Employees International Union, discussed above, a federal judge ruled that the FPPC regulations were valid.

C. Proposition 73's Prohibitions Might Not Preclude Charter Cities and Counties From Adopting Public Matching Fund Provisions

Proposition 73 seeks to prohibit the use of any public money to fund statewide, legislative, city and county campaigns. The applicable section states, "No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office."²¹ Other sections of the Political Reform Act define the terms "candidate" and "elective office" to include local candidates.²²

Despite this express ban, some local officials have argued that a prohibition on public funding adopted not by an amendment to the State Constitution but by a statutory amendment cannot apply to *charter* cities or counties. They base their argument on two theories: (1) the State Constitution gives charter cities and counties the power to control their own elections, and this includes the expenditure of public funds; and (2) case law gives cities and counties the power to determine how to spend their own taxpayer funds, a power which cannot be taken away by state legislative action. On January 6, 1989, Sacramento County filed a lawsuit challenging Proposition 73's authority to supersede that county's charter provisions on these grounds.²³

Charter cities and counties are given more power by the state Constitution to control their municipal affairs than general cities or counties. Generally, the largest cities and counties in California are chartered—for example, Los Angeles, Los Angeles County, San Diego, San Diego County, San Francisco, Long Beach, Sacramento and Sacramento County—although small cities may also opt to become chartered.

Most cities and counties in California are general law jurisdictions which do not have a local charter or constitution and are thus bound by the general laws enacted by the state legislature. The legislature, for example, sets the date for local city council elections and has determined that no runoffs should be held even though the winning candidate receives less than a majority of the votes. Charter cities and counties, on the other hand, set the dates for their own elections. General law cities and counties are presumably not exempt from Proposition 73's prohibition on public funding. These cities (see, for example, Agoura Hills and West Covina, in Chapters 5 and 21, respectively) may not offer candidates the carrot of matching funds in exchange for caps on expenditures.

1. Charter Counties

Two sections of the California Constitution may give charter counties authority to adopt partial public matching funds despite the prohibition in Proposition 73. First, Article XI, Section 3, of the State Constitution provides, "County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith." Second, Article XI, Section 4(e), states, "County charters shall provide for . . . [t]he powers and duties of governing bodies and all other county officers"

The purpose of these charter sections was to give the local electorate the authority to control all matters affecting the administration of county government. In *Reuter v. Board of Supervisors*, the Supreme Court quotes with approval the following statement: "The main object of this amendment is to place the local government of each county in the hands of its citizens—in other words it is designed to give 'home rule' to counties."²⁴ The power to control the administration of the county would be meaningless if state legislation enacted either by the legislature or by initiative could void the county's control over the processes by which supervisors and other officials are elected.

2. Charter Cities

The State Constitution allows charter cities to adopt their own rules for elections. Article XI, Section 5(b), states, "It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State, for the . . . conduct of city elections . . ." Court decisions interpreting this constitutional section have held that these local charter provisions supersede any state law which purports to regulate local elections. In one appellate case, the court was asked to overrule a Los Angeles City Charter Amendment which said that no occupation could be listed on the city ballot except a designation whether the candidate was an incumbent. State law, on the other hand, required occupations to be listed on all election ballots, including those of charter cities. The court ruled that the charter amendment prevailed over state law (but then ruled that the charter amendment was unconstitutional because of the equal protection clause).²⁵ The court cited a prior California Supreme Court decision holding that "California courts have already determined that the conduct of municipal elections is a municipal affair and subject to municipal control."²⁶

The State Constitution gives charter cities express authority to regulate "municipal affairs," and city charters "with respect to municipal affairs supersede all laws inconsistent therewith."²⁷ Although the State Constitution does not give charter counties this same authority explicitly, Sacramento County argues that it derives this power over elections through judicial precedent.

What constitutes a "municipal affair," however, has been debated since the early days of statehood. Although the definition is unclear, the courts have clearly stated that the concept cannot be arbitrarily defined by the legislature. In *Bishop v. City of San Jose*, the California Supreme Court announced, "[T]he legislature is empowered neither to determine what constitutes a municipal affair nor to change such an affair into a matter of statewide concern."²⁸ The legislature, nonetheless, has regularly passed legislation attempting to preempt local laws, and frequently the court is asked to determine whether such attempted preemptions supersede local charter provisions.

3. Use of Local Taxpayer Money

The courts have ruled that the state may not regulate how charter cities and counties spend their own money. In 1981, for example, the California Supreme Court ruled that a state law prohibiting cities from giving their employees a cost of living raise greater than that given by the legislature to state employees was invalid, even though the state law only prohibited such cost of living increases to those cities which wished to receive state bailout funds.²⁹ In another case, an appellate court ruled that the state's prevailing wage law was superseded by city law governing the expenditure of city funds on city public works.³⁰ In still another case, the court ruled that state law requiring the highest bidder for a refreshment stand automatically to receive a contract was superseded by a City of Los Angeles decision allowing the city to use its discretion and award the contract to someone else.³¹

4. FPPC Response

The Fair Political Practices Commission argues in its reply brief to the Sacramento County lawsuit that the provisions of Proposition 73 apply to all cities and counties, including those which are chartered. It contends that the State Constitution does not give charter counties the authority to regulate campaign financing in county elections. It notes that Sacramento County's argument that the conduct of election is a municipal affair and thus not subject to state statutes has been applied by the courts only to charter cities, not charter counties. It further

argues that since the subject of campaign financing is a matter of statewide concern, state law prevails over Sacramento County's charter.

5. Conclusion

Whether charter cities and counties will be able to use their constitutionally granted powers to override Proposition 73's specific prohibitions on public financing remains a close question. On the one hand, the state measure is designed to cover all elections in the state, including local elections. On the other hand, charter cities and counties have been given the authority to conduct their own elections and to spend their funds without state interference. Sacramento County's suit may provide the first court ruling on this question, although a decision against the county would not necessarily mean that the courts would also rule the same way for charter cities. If the court rules in favor of Sacramento County, all charter counties and cities should be able to adopt campaign financing reforms which include the use of expenditure ceilings and partial matching public funds.

NOTES

1. Proposition 68 received 2,748,305 yes votes (53%) and 2,458,250 no votes (47%). Proposition 73 received 3,081,798 yes votes (58%) and 2,235,996 no votes (42%). The California Constitution (Article II, Section 10 (b)) states, "If two or more measures approved at the election conflict, those of the measure receiving the highest affirmative vote shall prevail."
2. In the matter of Opinion Requested by Charles H. Bell, Jr., 11 FPPC Opinions 1, No. 88-002, Nov. 9, 1988.
3. Government Code Section 85300, added by Proposition 73, states: "No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office." (West Supp. 1989.)
4. New Government Code Section 85101 states: "(a) Nothing in this chapter shall affect the validity of a campaign contribution limitation in effect on the operative date of this chapter which was enacted by a local governmental agency and imposes lower contribution limits. (b) Nothing in this chapter shall prohibit a local governmental agency from imposing lower campaign contribution limitations for candidates for elective office in its jurisdiction."
5. Cal. Gov't Code §85200 (West Supp. 1989).
6. Cal. Gov't Code §85202(b) (West Supp. 1989).
7. SEIU v. FPPC, Case No. 89-0433, United States District Court Eastern District of California (1989).
8. Cal. Gov't Code §85400 (West Supp. 1989).
9. Cal. Gov't Code §89001 states: "No newsletter or other mass mailing shall be sent at public expense." (West Supp. 1989).
10. 2 Cal. Admin. Code §18901 (West Supp. 1989).
11. Watson v. Senate Rules Committee, Case No. C691676, Los Angeles County Superior Court (1988); Watson v. FPPC, Case No. C722189, Los Angeles County Superior Court (1989).
12. See Regulations 2 Admin. Code 18432, 18502-23, 18536 and 18536.1.
13. Case No. C0005848, Third District Court of Appeal (1989).
14. Case No. D008786, dismissed by Fourth District Court of Appeal, returned to the Court of Appeal by the Supreme Court for further review (1988).
15. Case No. C005458, Third District Court of Appeal (1988).
16. People's Advocate, Inc. v. Superior Court, 181 Cal. App. 3d 316 (1986).
17. Case No. B039177, Second District Court of Appeal (1988).

18. Case No. CIVS 89-0433, United States District Court Eastern District of California (1989).
19. *Watson v. Senate Rules Committee*, Case No. C691676, Los Angeles County Superior Court (1988); *Watson v. FPPC*, Case No. C722189, Los Angeles County Superior Court (1989).
20. Case No. C709383, Los Angeles County Superior Court (1989).
21. Cal. Gov't Code §85300 (West Supp. 1989).
22. Cal. Gov't Code §§82007, 82023 (West 1983).
23. *County of Sacramento v. FPPC*, Case No. 0005848, Third District Court of Appeal (1989).
24. *Reuter v. Board of Supervisors*, 220 Cal. 314, 326 (1934).
25. *Rees v. Layton*, 6 Cal. App. 3d 815 (1970).
26. *Socialist Party v. Uhl*, 155 Cal. 776, 788 (1912).
27. Cal. Const. Art. XI, §5(a) (West 1983).
28. *Bishop v. City of San Jose*, 1 Cal. 3d 56, 63 (1970).
29. *Sonoma County Organization of Public Employees v. County of Sonoma*, 23 Cal. 3d 296 (1979).
30. *Vial v. City of San Diego*, 122 Cal. App. 3d 346 (1981).
31. *R & A Vending Services v. City of Los Angeles*, 171 Cal. App. 3d 509 (1985).

CHAPTER 23

The Commission's Model Campaign Finance Ordinance: A Proposal for Local Governments

The Commission's Model Campaign Finance Ordinance offers a comprehensive list of solutions to the fundamental campaign finance problems that have plagued local governments for two decades. It includes a series of options, including expenditure ceilings, contribution limits, bans on transfers, limits on off year fundraising, limits on gifts and honoraria, aggregate limits on overall giving, limited matching funds and other techniques for securing expenditure ceilings, auditing of statements, strong enforcement provisions and other measures. The Model Law is offered in two drafts: a comprehensive ordinance for larger cities and counties which will allow them to choose the remedies best suited to their problems; and a short-form ordinance for smaller local governments. Adoption of a new law, however, does not mean that future problems will never arise. All campaign finance laws should be reviewed every five years to determine whether they are still meeting their goals and objectives.

The Commission has thoroughly examined a wide range of local campaign finance ordinances adopted by cities and counties in California and throughout the nation. It has constructed an extensive computer data base of over 100,000 contributions and nearly 30,000 expenditures made to and by city and county

candidates. (See Appendix D, "Data Analysis Project.") And it has interviewed hundreds of local candidates, officeholders, journalists, lobbyists, contributors, reformers, developers, activists, city attorneys, district attorneys and others interested in campaign finance concerns. (See Appendix C, "Consultants.")

Based on its extensive research, the Commission has concluded that *a comprehensive approach, including expenditure ceilings, contribution limits and limited public matching funds, is necessary to solve the rapidly worsening campaign finance problems experienced by many local California jurisdictions.* To address these many local campaign financing problems, the Commission recommends a comprehensive Model Ordinance which each jurisdiction should tailor to its own circumstances, including:

- Voluntary ceilings on expenditures;
- Limits on contributions;
- A ban on transfers of money between candidates;
- A prohibition of (or strict limits on) off year fundraising;
- A prohibition on contributions from persons contracting with the local government;
- Limits on the amount any one contributor can give to any independent committee;
- Limited public matching funds for candidates who accept expenditure ceilings, raise minimal threshold amounts of funding and face a serious opponent; or variable contribution limits to candidates who accept expenditure ceilings;
- Limits on gifts and honoraria; and
- Strong enforcement and auditing provisions to discourage violations.

Not all jurisdictions will need to adopt every proposed reform. Some smaller cities and counties (see, for example, Chapter 6, "The City of Alturas and Modoc County") may require no campaign finance reforms, since local candidates run low-cost grassroots campaigns. Other smaller jurisdictions needing only modest reforms may enact partial remedies—such as limits on contributions or lower disclosure thresholds. Local governments seeking a simplified comprehensive approach might well consider adopting the shortened version of the Commission's proposed Model Ordinance. (See Appendix B, "Model Local Campaign Finance Ordinance, Short Version.") Communities needing specialized amendments to their existing ordinances will only need to consider those parts of the detailed Model Ordinance which best fit their needs. Others may go beyond the Commission's recommendations and develop new measures to redress currently unforeseen problems.

In the long run, however, the Commission believes that most cities and counties, especially the larger ones, will not adequately solve their escalating campaign finance problems without seriously considering the comprehensive approach proposed in the Commission's Model Ordinance. For this reason, and for the convenience of local governments, the Commission has drafted its Model Ordinance to incorporate into one comprehensive document the many proven ideas and suggestions already utilized by local communities, as well as new proposals researched by the Commission. This comprehensive Model Ordinance appears in Appendix A. A shortened and simplified version of the Model Ordinance appears in Appendix B.

A. The Commission Recommends a Comprehensive Approach to Campaign Financing Problems in Many Cities and Counties

Local governments in California face a complex and rapidly changing mosaic of campaign financing problems. The enormous variety of problems faced by the state's diverse jurisdictions—large and small, urban and rural, high and slow-growth—makes a single, uniform solution for all cities and counties impossible.

In the City of Alturas (population 3,000), for example, located in the northeasternmost portion of the state (Modoc County), candidates campaign by knocking on doors, appearing in town hall meetings and seeing their platforms reported in the local newspaper. No Alturas candidate has ever raised more than \$500, and local voters are suspicious of candidates who raise any money at all.

By contrast, candidates for the board of supervisors in Los Angeles County (population 8.6 million) raised over \$8 million during one recent four-year period. Some of the supervisorial candidates spent large sums on campaign consultants, direct mail, and other media; and some accumulated huge war chests to deter competition or to assist like-minded candidates. One incumbent supervisor gave a \$100,000 contribution to another candidate.

Alturas and Los Angeles County obviously face different campaign financing problems. Los Angeles County incumbents outraise their challengers 480-to-1, yet incumbents in Alturas occasionally raise *less* money than their challengers because those incumbents feel little need to raise any money at all. In Los Angeles County, large developers follow the unsettling practice of giving sizeable campaign contributions to supervisors and then appearing before them to request and receive favorable zoning rulings. Voters in Alturas would appear to view such conduct as tantamount to bribery.

Drafting a single campaign finance reform ordinance for all California cities and counties, therefore, is clearly not practical. Some jurisdictions are experiencing rapidly rising campaign spending, large transfers of money between candidates, allegations of undue legislative influence and inadequate competition from challengers. Others are experiencing only isolated problems, such as the influence of a few large contributors, a single high spending campaign or a dominant incumbent.

Nevertheless, the first of the Commission's two draft ordinances (see Appendix A) presents a broad and comprehensive local campaign finance ordinance. In this draft, the Commission has sought to achieve a balance between the following policy objectives:

- To lower campaign costs or slow the rise in spending;
- To decrease the perception that local officials are unduly influenced by large contributors with financial or other interests in pending governmental actions;
- To decrease the amount of time spent by candidates on fundraising and increase the time spent on policy and legislation;
- To increase the flow of accurate and relevant information to the voters;
- To increase competition between candidates for local office, recognizing that on average, incumbents will always have a large advantage;

- To offer all individuals and interest groups regardless of wealth a fair opportunity to participate in local electoral and legislative processes; and
- To restore or enhance public confidence in local governmental institutions.

The Commission recommends that cities and counties experiencing rapidly growing campaign financing problems adapt and tailor the Model Ordinance to their own local exigencies. Cities and counties which do not believe that excessive campaign spending is a problem, for example, may not need expenditure ceilings. Local entities which have experienced little or no off year fundraising may decide not to restrict non-election year contributions. Cities and counties which believe they cannot afford partial funding of local campaigns may turn to contribution limits, disqualification measures or other remedies. Nonetheless, the Commission believes that a comprehensive local campaign finance ordinance offers the best long-term approach to jurisdictions confronting widespread and worsening campaign finance problems.

1. Inadequacy of Many Local Contribution Limit Ordinances

Most California cities and counties adopting campaign finance reforms have chosen only to limit contributions. (See Appendix E, "Summary of Existing Local Ordinances.") Although these cities and counties hoped to reduce high campaign costs, diminish excessive contributor influence and increase competition, few have succeeded. Contribution limits have not reduced campaign costs in many jurisdictions; campaigns are no more competitive than before; and the influence of large contributors has been lessened more in appearance than reality.

Ironically, many local jurisdictions seeking to restrain campaign spending through contribution limits have seen spending increase. In San Francisco, for example, residents recently voted to halve the city's contribution limit from \$1,000 to \$500, hoping to curtail campaign spending. Yet in the first election following the reduction, each of the three mayoral candidates spent over \$1 million—all of them breaking the \$1 million mark for the first time in San Francisco's history. In the City of Sacramento, the contribution limit failed to prevent dramatic spending increases in mayoral and city council campaigns. In the City of San Diego, the strictest contribution limit of any large city in the nation has not affected campaign costs; the perception persists that contributors affect officeholder decisions. And in Contra Costa County, Supervisor Tom Powers comments, "Our main reason for adopting a county [contribution limitation] ordinance was to limit campaign spending. We have to admit it didn't work."¹

Other less-than-comprehensive solutions have achieved mixed results. Santa Barbara County, for example, adopted voluntary expenditure ceilings without the accompanying inducement of limited public matching funds. (As noted in other sections of this study, the U.S. Supreme Court has ruled that expenditure ceilings cannot be imposed on candidates involuntarily but has allowed the provision of matching funds to encourage candidates to accept them voluntarily.²) Santa Barbara County set its voluntary expenditure ceilings for supervisorial candidates at \$50,000 for primary elections and \$100,000 for primary and general races combined. In the first election after the ordinance was adopted, only half the Santa Barbara candidates accepted the voluntary expenditure ceilings. One candidate who initially agreed to accept the caps changed his mind when his opponent spent nearly double the ordinance's expenditure ceilings. Experience in other jurisdictions show that had matching funds been in effect, all or nearly all candidates would likely have agreed to the limits. Santa Barbara County's ordinance also contains no

contribution limits, thus allowing candidates to accept huge contributions—in one case, \$7,500 from one source.

Local jurisdictions with contribution limits have tinkered with their ordinances for years. They have lowered or raised the limits; they have prohibited designated groups (e.g., corporations) from giving; and they have required additional disclosures. Although these amendments have sought to redress growing voter frustration over high spending campaigns and excessive contributor influence, few have had their intended impact.

2. Success of Comprehensive Solutions in Local, State and Federal Jurisdictions

On the other hand, comprehensive reforms which balance expenditure ceilings and contribution limits have met with increasing approval. Seattle, Washington, for example, has successfully implemented the oldest comprehensive local campaign financing ordinance in the nation. First enacted in 1978, the ordinance contains contribution limits, expenditure ceilings and public matching funds.

Seattle conducted two elections under this comprehensive campaign financing system, then allowed its law to sunset. It held one election without the comprehensive law and then compared the results of the two approaches. The study, conducted by the Seattle Elections Administrator, found that the comprehensive law increased the number of contributors, reduced the average contribution size, motivated candidates to seek smaller contributions and attracted more candidates into local races. Without the law, these trends had reversed. After reviewing this study, the city council reenacted Seattle's comprehensive law for its 1987 election. Although no incumbents were defeated in 1987, some challengers indicated that they would not have run had the law not been reinstated. Many of these were women and minorities.

In 1987, Tucson, Arizona, conducted its first election under a comprehensive new ordinance adopted by the voters in 1985. Covering candidates for mayor and city council, the new law contained voluntary expenditure ceilings, contribution limits and limited matching funds for candidates accepting expenditure caps. All but one candidate (who lost) stayed under the expenditure ceilings, and several received partial matching funds. Concerned that the voters might vote against candidates receiving matching funds, some of the major candidates refused to accept them. To their surprise, the voters did not object. One winning candidate's campaign manager said she would now recommend that her candidate accept matching funds at the next election.

In 1986, Sacramento County joined the ranks of local jurisdictions with comprehensive ordinances. Sacramento County voters approved a 1986 ordinance which included expenditure ceilings, contribution limits and partial matching funds. The ordinance was based on the California Commission on Campaign Financing's 1985 recommendations for legislative campaigns,³ and it took effect for the first time in the 1988 supervisorial elections.

In early 1988, New York City became the latest major city to adopt a comprehensive campaign finance ordinance. Its ordinance, which includes expenditure ceilings and partial matching funds, will go into effect in the 1989 city council and mayoral elections.

More and more states have passed similar legislation. Florida's new campaign finance law contains expenditure ceilings, contribution limits and partial matching funds for statewide candidates. Rhode Island voters approved a constitutional amendment mandating their legislature to adopt a comprehensive law by June 1988.

The legislature enacted a law covering statewide candidates. And Maryland will conduct its first election using public funding for statewide candidates in 1990.

The experience of local governments, both in California and in other states, has shown that contribution limit ordinances do not reduce escalating campaign costs. By contrast, comprehensive ordinances with expenditure ceilings and limited matching funds have reduced costs, diminished excessive contributor influence and increased competition from challengers. (Comprehensive local ordinances are discussed further in Chapter 3, "Local Ordinances.") These findings reinforce the Commission's basic conclusion that comprehensive ordinances offer the best long-range solution to serious local campaign financing problems.

B. Proposition 73 Has a Potentially Negative Impact on Effective Campaign Finance Reform

On June 7, 1988, California voters approved *two* sweeping campaign finance reform ballot initiatives. Proposition 68, a comprehensive reform measure based on recommendations of the Commission, received 53% of the vote. It contained expenditure ceilings, contribution limits, partial matching funds, bans on transfers and a number of other provisions, but it only affected legislative campaigns. Proposition 73, which received 58% of the vote, enacted only contribution limits and a ban on transfers, but it imposed these provisions and a ban on any public financing in connection with campaigns on all candidates—statewide, legislative, city and county. Many of the provisions of the measure are being challenged in court.⁴

Propositions 68 and 73 diverged in a number of areas. State law provides that the provisions of a proposition receiving the most votes—in this case, Proposition 73—prevail over a proposition which also passed but received fewer votes if they are in conflict.⁵ The California Fair Political Practices Commission (FPPC) ruled in an opinion that six relatively minor sections in Proposition 68 should go into effect but that none of Proposition 68's contribution limits should prevail.⁶ Taxpayers to Limit Campaign Spending, the proponent of Proposition 68, filed suit in December 1988 asking the Second Appellate District Court of Appeal to rule that several contribution limit sections of the proposition, including the ban on off year fundraising by legislative candidates, should also become law. The case is pending.⁷

Although Proposition 73 established contribution limits for all California campaigns, including city and county races, it also prohibited the expenditure of "any public moneys" to assist candidates.⁸ This unwise provision may eliminate the only incentive upheld by the United States Supreme Court to encourage candidates to accept expenditure ceilings.

The impact of Proposition 73's ban on public matching funds, however, may ultimately be voided or ameliorated in several ways. First, charter cities and counties in California may be exempt from the ban on public funding contained in Proposition 73. The California Constitution permits these jurisdictions to adopt their own rules for local elections,⁹ and case law allows them to spend their own tax funds on local matters without interference from the state. Sacramento County, a county whose charter calls for partial public financing of campaigns, has filed a lawsuit against the FPPC, arguing that the public financing provisions in the county's local campaign finance law should be valid despite the provisions of Proposition 73.¹⁰ The lawsuit is pending. (For a complete discussion of the power and rights given to chartered cities and counties, see Chapter 4, "City and County Government in California.")

Second, two lawsuits have challenged Proposition 73's attempt to prohibit the offering of public matchings funds. One argues that Proposition 73 does not actually

ban Proposition 68's limited matching funds because Proposition 68 should be interpreted as enacting a "tax credit."¹¹ The other argues that Proposition 73's attempt to limit the legislature's funding power violates provisions in the State Constitution.¹²

Finally, an alternative way to facilitate the adoption of expenditure ceilings without relying on the direct grant of public matching funds may be available. The Commission believes that variable contribution limits may be offered in exchange for acceptance of expenditure ceilings. (See discussion in Section F below.)

Proposition 73—sponsored by three state legislators, Assemblyman Ross Johnson (R-Orange County), Senator Quentin Kopp (I-San Francisco) and Senator Joseph Montoya (D-Los Angeles)—imposes contribution limits on all statewide, legislative and local candidates of not more than \$1,000 per fiscal year from individuals and corporations, \$2,500 from committees and \$5,000 from broad-based political action committees. Although Proposition 73 invalidates any higher local contribution limit, it allows cities or counties to adopt lower contribution limits.¹³ Nearly all the cities and counties which have adopted contribution limits will remain unaffected by Proposition 73's higher contribution limits. Santa Monica limits contributions to \$1,491 per candidate, however, which is higher than Proposition 73's limits for individuals and corporations that do not qualify as committees. The actual impact of Proposition 73 on Santa Monica may prove problematical. Under the language of Proposition 73, any two persons can form a PAC which can give \$250 to any candidate.

The current limits for mayoral and other citywide candidates running in the City of Los Angeles also may not survive Proposition 73. Proposition 73 limits contributions up to \$1,000 *per fiscal year*, but Los Angeles allows citywide candidates to accept contributions up to \$1,000 *per election*. Since Los Angeles conducts its primary and general election in the same fiscal year and therefore permits contributions of \$2,000 per fiscal year to candidates for citywide offices, its ordinance as applied to certain contributors may conflict with Proposition 73.

Some provisions of Proposition 73 will affect all cities and counties, even those with stricter contribution limits. Proposition 73, for example, requires all state and local candidates to file a statement of intention to run before they can collect any contributions.¹⁴ This statement of intention must designate the office the candidate is seeking. Thereafter, money collected for that office can only be used for the office indicated and the funds cannot be transferred to any other committee controlled by the candidate or any other candidate.¹⁵ This provision forces candidates to name the office they seek much earlier than they might wish. In the past, candidates—particularly officeholders—would raise substantial funds and hold them for any office later sought. Proposition 73 has eliminated the option of collecting funds for some unknown future office.

Proposition 73 also prohibits local officeholders from receiving gifts of more than \$1,000 per fiscal year from a single source.¹⁶ This section will prevent local officials from setting up "Friends" committees to receive large donations (exceeding \$1,000) not deemed campaign contributions. The "Friends" committees of San Francisco and Los Angeles city officials will be severely crimped by this new limitation.

The California Fair Political Practices Commission is given the authority to administer, interpret and enforce the provisions of Proposition 73. By the operative date of January 1, 1989, the FPPC had issued several regulations interpreting Proposition 73.¹⁷

C. Expenditure Ceilings Are Essential to Curtail the Fundraising Arms Race

Expenditure ceilings are the most effective reform available to local jurisdictions confronted with pressing campaign finance problems. Because many candidates raise far more money than they need out of fear that their opponents will outspend them or in order to deter any opposition, expenditure ceilings cap their spending and thus their need for funds. Expenditure ceilings curtail the campaign arms race, reduce the time candidates spend fundraising, encourage new candidates to run for office, stabilize campaigns, diminish the fear of last-minute spending attacks, reduce access by special interest contributors, ease incumbents' fundraising advantage over challengers and abate the political fundraising wars.¹⁸ Expenditure ceilings reduce the pressure on candidates to grant favors to special interest contributors in exchange for money because they reduce the candidate's underlying need for that money. Expenditure ceilings thus address the critical campaign finance problem facing many local governments: rapidly escalating and potentially unlimited candidate demand for money.

1. Arguments Against Expenditure Ceilings

The most frequently cited argument against expenditure ceilings is often made by political scientists who worry that challengers will be disadvantaged vis-à-vis incumbents. They argue that incumbents build up high name recognition with their constituents over time and that challengers cannot possibly compete if their campaign spending is limited.¹⁹ But Professor Gary Jacobson, one of the leading academicians in the campaign financing field, has told the Commission that nearly every expenditure ceiling he had seen has been set far too low. If expenditure levels are set high enough, incumbent advantage would not be of concern.²⁰ Jacobson approved the expenditure levels recommended by the Commission for state legislative races.²¹

Opponents also argue that expenditure ceilings are easy to evade, either by candidates who do not wish to agree to them or by outside groups which can make unlimited independent expenditures. The first argument is unsupported by the facts. Nearly all candidates have complied with expenditure ceilings in jurisdictions enacting them, even those candidates not accepting the matching funds.

Because of the U.S. Supreme Court decision in *Buckley v. Valeo*,²² wealthy candidates and independent expenditure committees cannot currently be limited in their spending. In those cities which have adopted expenditure ceilings, however, wealthy candidates have generally stayed within the limits. By contrast, in San Francisco, which only has contribution limits, one candidate, Roger Boas, spent over \$500,000 of his own money in a futile attempt to be elected mayor. His two opponents who received more votes each raised over a million dollars, despite San Francisco's strict \$500 limit on contributions.

Independent expenditure committees made their biggest splash on the American political scene in 1980 when Terry Dolan's National Conservative Political Action Committee (popularly known as NCPAC) spent millions of dollars to defeat liberal Democrats running for reelection to the United States Senate. Dolan and other groups attempted to repeat these efforts in following elections but met with little success. NCPAC spent most of the money it collected on administrative costs rather than campaign efforts.

In California cities, independent expenditures were used in two recent local races. Ruth Galanter, in her successful bid to oust veteran Los Angeles city councilmember Pat Russell, was the beneficiary of independent expenditures by

Campaign California and the League of Conservation Voters. Campaign California also mobilized its efforts in Sacramento's 1987 city council race on behalf of challenger Kim Mueller, who defeated incumbent Councilmember William Smallman. In both instances, however, the independent expenditures accounted for a small percentage of the overall money spent by winning candidates.

The Commission's Comprehensive Model Ordinance discourages wealthy candidates and independent expenditure committees from spending large sums of money. It releases opposing candidates from expenditure ceilings if a wealthy candidate or independent expenditure committee spends more than a specified threshold. It also makes it difficult for a single major donor to create an independent expenditure committee to hide its identity.

Finally, many political observers believe that the voters will never approve expenditure ceilings because of the public financing element that must accompany them. Yet, in every jurisdiction that has put such a proposal on the ballot (most recently New York City) the voters have voted in favor of a comprehensive system including public financing. The voters may be ahead of the politicians on this issue.

The Commission has carefully studied the arguments against expenditure ceilings and believes a comprehensive campaign finance ordinance can be drafted with appropriate ceilings which nullifies these arguments. The following provisions should therefore be evaluated by jurisdictions wishing to stem the escalation in local campaign costs.

2. Expenditure Ceilings (Model Ordinance Sections 400 et seq.)

California cities and counties vary in population from less than a 1,000 to over 8 million. Candidates in some cities spend only a few dollars; candidates in others spend millions. For this reason, the Commission's Model Ordinance does not specify one single recommended expenditure ceiling amount. Instead, cities and counties need to examine their past elections—particularly competitive races—to determine how much money their candidates need to run a competitive race, one in which challengers have at least a reasonable chance of winning. Local jurisdictions may wish to use zero-base budgeting, for example, perhaps by simulating a hypothetical campaign, to calculate how much their candidates need to reach voters with their messages.

In some cities and counties, such as San Diego and Los Angeles, candidates for mayor or supervisor may find television and radio cost efficient. In most jurisdictions, direct mail is the most effective way to communicate a candidate's message to the public. Campaign consultants often tell candidates to send at least six targeted mailings to voters if television and radio are also used. If no television or radio is available, then eight to ten mailings should be considered.²³

The Commission believes that no city or county should set its expenditure ceiling at less than \$10,000 per candidate per election. If candidates are currently spending less than \$10,000, then the jurisdiction may not need spending limits. On the other hand, candidates in several large California jurisdictions are already spending more than the maximum \$350,000 suggested by the Commission in its Model Law for state senatorial candidates in general elections.²⁴ In Los Angeles County, for example, a supervisor's district contains about three times as many people as a state Senate district. For Los Angeles County, the Commission recommends that supervisorial candidates be limited to not more than \$700,000-\$800,000, while candidates who face each other in the general election runoff (if one is necessary) be allowed to spend \$100,000 more than the primary election limit.

Some local candidates may need a higher expenditure ceiling than legislative candidates for an additional reason: local offices are nonpartisan. Candidates not

affiliated with a known party organization may need to spend more money establishing their identities and positions on issues and then communicating those positions to the voters.

Local decisionmakers are in the best position to determine expenditure ceilings. Yet because local officials are also incumbents, they may be tempted to set the limits too low, thus handicapping challengers. Moreover, merely because an incumbent spent \$30,000 in a recent reelection contest does not mean that the cost for an *open seat* contest would be equally low. Decisionmakers should bear those considerations in mind.

3. Comparisons With Other Jurisdictions

Four local jurisdictions currently limit candidate expenditures; the ceilings they have adopted appear to the Commission to be on the low side. Sacramento County limits expenditures to no more than \$75,000 a candidate per election, well below what candidates have spent in open seat contests (successful open seat candidates in 1986 spent twice as much). Seattle also limits spending for citywide candidates to \$75,000 although this figure is more consistent with past campaigns. Tucson limits expenditures to \$83,000 for mayoral candidates and \$42,000 for city council candidates, but this figure includes both primary and general elections (which are held within two months of each other) and applies to candidates who run as Democrats and Republicans. New York City limits city council candidates to a mere \$60,000 per election.

4. Provisions Dealing With Candidates Who Refuse Expenditure Ceilings (Model Ordinance Sections 401 and 402)

Despite the Supreme Court's *Buckley* decision, the Commission is satisfied that local governments can grant dispensations to the opponents of candidates who refuse to accept expenditure ceilings. The Commission's Model Ordinance allows a candidate to accept expenditure ceilings and then be relieved of that acceptance if that candidate's opponent spends over the ceiling amount. Without this safeguard, some candidates may be reluctant to accept expenditure ceilings, fearing that their opponent may blitz them with superior resources. Under the Model Ordinance, a candidate who exceeds the expenditure ceilings is required to notify all opponents and the local filing officer by telephone and confirming telegram the day the ceilings are surpassed. If this occurs, the Model Ordinance also permits opposing candidates to receive additional campaign funds in sums that exceed the applicable contribution limits. This provides another disincentive for candidates to exceed expenditure ceilings.

Other proposals, such as a bill introduced in the State of Washington, have provided that when one candidate exceeds the spending ceilings, all opponents should be permitted to exceed the ceilings by the same amount. The Commission doubts this alternative is workable since opposing candidates will be forced each day to calculate how much more they can spend. They may not be able to design long-range campaign strategies if their spending levels are dependent on their opponent's expenditures.

D. Contribution Limits May Be Useful to Mitigate the Appearance of Undue Contributor Influence

Forty-eight local California jurisdictions have adopted contribution limits, ranging from \$50 in Del Mar and Davis to \$1,491 in Santa Monica. (See Chapter 3, "Local Ordinances.") These jurisdictions advance two broad justifications for contribution limits: to reduce overall campaign spending and to curtail actual or perceived corruption from large givers.

Contribution limits in many cities have not successfully diminished campaign spending. Political reformers in San Francisco, the City of Sacramento and the City of Los Angeles were surprised at the continued growth in fundraising after they passed local contribution limits laws. In San Francisco, for example, mayoral spending sharply increased, breaking all records immediately after the city lowered its limit from \$1,000 to \$500.

Nearly all cities and counties enacting contribution limits also state that their laws will reduce the influence of big givers on governmental decisionmaking. Supporters of contribution limitations also believe that such limits lessen the public perception that large contributors influence city councilmembers or members of boards of supervisors.

Contribution limits have eased public concern over the influence of big contributors in some cities. (See Chapter 7, "Gardena," and Chapter 21, "West Covina.") In other local jurisdictions, however, contribution limits have failed to diminish the perception that big money influences elections and legislation. The City of San Diego, for example, has enacted the toughest contribution limitations law in the country, yet the mayor still alleges that big development interests dominate the council. Despite San Diego's strict law (\$250 from individuals and no contributions from PACs, corporations or labor), interest groups can, for example, bundle contributions by requesting employees to contribute \$250 checks and then transmit them to the candidate in a package.

1. Types of Contribution Limits

While contribution limits by themselves may not reduce excessive spending or eliminate corruption, they can be effective as part of a comprehensive law. Contribution limits work particularly well when combined with expenditure ceilings. Each contributor is limited in how much he or she may give, and the candidate is not under the pressure of being forced to raise virtually unlimited funds. Candidates know the maximum amount they need to collect—an amount defined by the expenditure ceiling. A combination of expenditure ceilings and contribution limits also reduces the potential for undue contributor influence over governmental decisions. The Commission's Model Ordinance contains a number of different contribution limits which local jurisdictions should consider. These include:

- Limits on individual contributions;
- Higher limits on organizational contributions;
- Higher limits on contributions from "small contributor PACs" (organizations which collect small amounts of money from a large number of donors);
- A ban on off year fundraising;
- A ban on transfers between candidates;
- A total contribution limit on how much individuals and organizations can give to all candidates in the jurisdiction;
- A limit on how much each candidate can receive from all non-individuals (corporations, PACs and unions) combined;
- A prohibition on contributions from businesses or individuals entering into contacts with the city or county;
- A seed money exemption allowing the first contributions received by a candidate to exceed the contribution limits;
- A disqualification provision prohibiting local officials from voting on matters affecting contributors; and
- A limit on gifts and honoraria.

2. Arguments Against Contribution Limits

Some political observers believe that contribution limits are unnecessary or even adversely affect the electoral process. Their opposition grows more intense, however, when contribution limits are adopted in isolation and not combined with expenditure ceilings. These observers contend that contribution limits force candidates to spend more time fundraising because they have to raise money in smaller amounts. Allowing candidates to raise large contributions, they feel, will allow them to spend more time walking precincts, talking with voters and addressing the issues.

Opponents also argue that contribution limits actually hide sources of money. If a large organizational contributor wishes to give a substantial sum of money to a candidate, and if its contributions are limited, it might encourage its top officers and employees to make donations, thereby disguising the true source of the money. Alternatively, the organization might hold a fundraiser or commit to selling a number of tickets for the candidate. In these instances, current law would not require the disclosure of the organization's involvement in raising the funds it would have directly contributed had there been no limitations.

Finally, opponents charge that contribution limits help incumbents and hurt challengers. Incumbents can still raise as much as they need in small amounts by soliciting contributions from the many interest groups that appear before them. Incumbents can also ask former large donors to collect contributions from employees, subcontractors and others on the incumbents' behalf. Challengers, on the other hand, must frequently rely on a few friends or relatives to mount a campaign against the incumbents. If challengers lack the opportunity to raise large sums, critics fear they may no longer be competitive.

These arguments may have some merit when contribution limits are adopted without expenditure ceilings. Combining contribution limits with expenditure ceilings, however, dilutes these arguments. Expenditure ceilings reduce the fear factor. Candidates not worried about being outspent do not need to ask donors to evade contribution limits. Matching funds (which are generally necessary to induce candidates to voluntarily accept expenditure ceilings) provide a substitute for large contributions and encourage candidates to solicit smaller (matchable) contributions. The Commission believes that the advantages of contribution limits, when combined with expenditure ceilings and matching funds, clearly outweigh their disadvantages.

3. A Range of Contribution Limits for Local Decisionmakers

Proposition 73, adopted by the voters in June 1988, imposes a contribution limit per fiscal year of \$1,000 from persons, \$2,500 from committees and \$5,000 from broad-based political committees to all candidates for local office. It allows cities and counties to adopt stricter contribution limits if they wish.

a. Individual Contribution Limits (Model Ordinance Section 300(a))

Cities and counties have adopted contribution limits in widely varying amounts. They bear some relationship to a city or county's size, but this factor is not determinative. Some of the smallest cities, such as Fountain Valley, have chosen a \$500 limit, while some of the largest, such as San Jose and San Diego, have chosen \$250. Most cities and counties, however, have set their limits at either \$250 or \$500. The Commission recommends that contribution limits for individual contributors be set between \$100 and \$1,000, depending on the jurisdiction's particular circumstances. At the low end, the \$100 level is the current threshold for disclosure established by the Political Reform Act although local jurisdictions can require disclosure of small contributions if they wish.²⁵ If cities and counties conclude that

under-\$100 contributions are affecting government policy, they should consider lowering the disclosure threshold. At the high end, the maximum limit of \$1,000 per individual contributor currently applies to all state and local races under the provisions of Proposition 73. It is also the limit under federal law for individual contributions to presidential and other federal candidates.²⁶

Some cities have set their limits per year rather than per election. A contributor in Irvine, for example, may give \$150 a year for each of four years up to the election. Unfortunately, such a system favors incumbents since challengers rarely raise funds in non-election years. Setting the thresholds *per election*—as under federal law, but unlike Proposition 73 which establishes limits per fiscal year—would create a more equitable fundraising system for all candidates.²⁷

b. Small Contributor PAC Contribution Limits (Model Ordinance Sections 201 and 301)

Federal election law, the Commission's Model Law for legislative campaigns, Proposition 68, Proposition 73 and some local California jurisdictions allow organizations to make larger donations than individual citizens. These laws typically define "organizations" as corporations, labor unions, businesses and other groups which have a minimal number of employees, members or contributors. Federal law defines an organization or PAC as having 50 members.²⁸

Proposition 73 limits individual and corporate contributions to \$1,000, yet allows committees of *only two persons* (or more) to contribute up to \$2,500 per candidate and PACs with at least 100 members to contribute up to \$5,000 per candidate. Some campaign finance laws allow organizations to give as much as five times the limit prescribed for individual contributors. Thus, federal law sets individual limits at \$1,000 but allows political action committees to give up to \$5,000.

The Model Ordinance defines small contributor PACs as groups which collect all their money in amounts under \$50. The Commission believes that such groups should be permitted to contribute higher amounts than individuals and other organizations. A higher limit recognizes a difference between a PAC with a few substantial contributors and a PAC which receives thousands of small contributions.

No local entity has enacted a provision allowing small contributor PACs to give larger contributions although such a provision was part of Proposition 68. On the other hand, Proposition 73 allows larger contributions of up to \$5,000 from "broad-based organizations" which receive contributions from more than 100 members and give to more than five candidates. Proposition 73 does not use size of contribution as a criterion.

4. Prohibition on Non-Election Year Contributions (Model Ordinance Section 303)

In many larger jurisdictions, incumbents collect the bulk of their money in non-election years. Incumbents in Los Angeles County, for example, raise nearly three-quarters of all their money in non-election years, while Orange County candidates raise 70% in the off year. In contrast, incumbents in most small jurisdictions raise little money in the off year—less than 5%. (See Chapter 1, "Campaign Contributions," for a discussion of problems caused by non-election year fundraising.)

The Commission recommends a ban on off year fundraising for those jurisdictions with candidates that raise substantial sums of non-election year money. Since incumbents raise 99.5% of all off year money raised by incumbents and challengers in the Commission's data base, such a provision would allow challengers to compete more equally. Of equal importance, contributors would not be

allowed to give at a time when important governmental decisions are being made but no election is in sight. A ban on off year contributions would substantially reduce the appearance of corrupting contributions tied to special interest legislation.

Among California cities and counties, only Sacramento County limits fundraising in non-election years. In non-election years, incumbents and candidates may only receive \$250 per contributor (in elections years, the contribution limit ranges from \$500 to \$1,000 depending on the type of contributor) up to a total of only \$10,000. A few other states, such as Minnesota and Texas, limit non-election year contributions, but no jurisdiction yet prohibits such fundraising.

5. *Transfers Prohibited (Model Code Section 304)*

At the state level, transfers of contributions from one candidate to another are a major source of funding for many candidates. Many contributors believe that transfers are the worst abuse of the campaign finance system. Transfers are important in only a few cities and counties since most local officials do not build up large financing bases to fund other candidates. The one major exception is Supervisor Pete Schabarum of Los Angeles, who perhaps aspires to be the Willie Brown of local politics. Schabarum and his many controlled committees have funded dozens of local politicians as well as judicial candidates; yet he has not received the press attention or the criticism that the Speaker has in doling out his millions to Democratic candidates.

The Commission recommends that transfers by local incumbents and candidates be prohibited; in California, such transfers are already prohibited by Proposition 73. This will reduce the temptation by any local incumbent to feel compelled to raise a war chest to assist other local candidates. It will also force candidates to raise their own money, rather than relying on another leader for funds.

6. *Aggregate Limits on Non-Individual Contributions (Model Ordinance Section 302)*

The Commission's Model Ordinance recommends that candidates be permitted to receive no more than a total of one-third of the overall expenditure ceiling from "non-individuals" (corporations, unions, PACs, partnerships). This provision will encourage candidates not to depend upon special interests for the bulk of their contributions. It will tend to counteract the perception that candidates collecting large amounts from businesses, labor unions and PACs are especially beholden to those organizations. Thus, if a city council adopts a spending cap of \$30,000 for a council race, a local candidate under the Commission's recommendation would be allowed to raise no more than \$10,000 from non-individual contributors.

A few local jurisdictions now prohibit *any* contributions from non-individuals. Authors of campaign reforms in San Diego City and County and Santee believe that candidates should only receive campaign funds from living human beings. Interestingly, some businesses in these jurisdictions are delighted with the prohibition since it saves them money and the aggravation of constant solicitations. But experiences with these prohibitions have not been entirely favorable, and the Commission has questioned its desirability. For example, businesses wanting to avoid this restriction can simply bundle contributions from their employees.²⁹

7. *Prohibition on Contributions From Persons Contracting With the Local Jurisdiction (Model Ordinance Section 312)*

The Commission recommends that local jurisdictions prohibit contributions from persons negotiating, or involved in a contract, with the local entity. This provision should only apply to contracts approved or scheduled to be approved by the

elected body, but it should not extend to merchants who furnish small amounts of supplies such as stationery to the local entity.

The City of Gardena has enacted the toughest restriction on city contractors. Its ordinance forbids anyone doing business with the city from making any contributions to councilmembers or city council candidates. Political observers in Gardena agree that the provision successfully eliminates the perception that contractors receive business from the city because of their campaign contributions. Gardena cable companies dramatically felt the ordinance's impact while bidding on a franchise in the early 1980s. Unlike operators in other cities, cable companies in Gardena were unable to make any campaign contributions to officials. The process of selecting a cable company took place in an atmosphere free of public suspicion that campaign contributions had unduly influenced council decisionmaking.

8. Disqualification on Decisions Affecting Campaign Contributors (Model Ordinance Section 1005)

The Commission recommends a disqualification rule which would state that if a contributor makes a donation which exceeds the applicable contribution limit, then the candidate or officeholder receiving the contribution may not vote on any matter affecting the contributor. Disqualification provisions which parallel contribution limits would be useful as an enforcement tool. If a contributor exceeds the contribution limit and the local enforcement official refuses to bring a criminal or civil action against the contributor or the official, disqualification of the recipient will serve as a self-enforcing remedy.

While disqualification without generally applicable contribution limits apparently works well in Orange County, even its strongest proponents acknowledge the potential difficulty of achieving similar results in other jurisdictions. Without a strong and efficient monitoring system to track votes affecting contributors, a stand-alone disqualification ordinance could very well be ineffective.³⁰ (See Chapter 12, "Orange County.")

9. Honoraria and Gift Limits (Model Ordinance Section 305)

The Commission recommends that any local entity adopting contribution limits should also restrict gifts and honoraria. Under contribution limits, contributors wishing to influence officials will search for other ways to achieve an additional impact. Some give gifts or honoraria for speeches. Recent news stories concerning the U.S. Congress reveal the variety of occasions used to justify honoraria to senators and members of the House of Representatives, including attendance at industry breakfasts.

Proposition 73 only imposes a \$1,000 cap on gifts and honoraria for publications or speeches on the "governmental process." A local jurisdiction should close this obvious loophole by limiting gifts and honoraria *for any purpose*. In addition, consideration might be given to an aggregate limit on total honoraria received or to an aggregate limit on all contributions, gifts and honoraria by each contributor.³¹

10. Presumption That Any Expenditure From a Campaign Account Is for Local Election (Model Ordinance Section 311)

In two of California's larger local jurisdictions, incumbents have deliberately attempted to avoid contribution limit laws by establishing separate "non-campaign" committees to solicit and receive funds in excess of the contribution limits. In San Francisco, incumbents use these so-called "Friends" committees to raise substantial sums of money which, they argue, are not subject to the San Francisco ordinance. Incumbents contend that these "Friends" committee can raise money in excess of the local contribution limits so long as the money is used to pay not for campaign

expenses but for such officeholder-related items as lunches, dinners, flowers and salaries for staff members. While the state Attorney General has issued an opinion stating that contributions to "Friends" committees should not exceed San Francisco's contribution limits,³² neither the city attorney nor anyone else has filed suit against the supervisors for violations.

In the City of Los Angeles, councilmembers have established what they call "PACs." Officeholders hold "PAC" fundraisers to solicit substantially larger contributions than the city's \$500 limit. In some cases, incumbents use their PAC contributions to pay off old debts incurred prior to the effective date of the city charter's contribution limit. Some incumbents channel their PAC funds to statewide or national campaigns. And some use PAC moneys to pay salaries for the councilmember's staff, make donations to charities within the councilmember's district and fund other disbursements traditionally paid by councilmembers' campaign committees. Because these PAC expenditures could easily be construed as benefiting the officeholder's reelection, they should not be made with money received in violation of the local contribution limit laws.

Other cities and counties with contribution limits have not faced similar attempts to evade local laws. As news of the practices in Los Angeles and San Francisco spreads, however, other officeholders in these jurisdictions may also try to set up such committees, particularly those in jurisdictions with very low contribution limitations.

The Commission recommends that local jurisdictions quickly close these loopholes by providing that any donations not identified as a personal gift to the local official should be deemed a contribution subject to the local ordinance, except for donations used solely for campaigns outside the jurisdiction. In addition, all candidate expenditures, including donations to charities and officeholder-related expenses, should be required to be made from contributions subject to the ordinance.

The provisions of Proposition 73 apply to all committees established by local officials, even those which are not covered by the local ordinance. But the limitations in Proposition 73 are much higher than those of most local ordinances. In the City Los Angeles, for example, Councilman Hal Bernson has formed a committee supporting his bid for lieutenant governor not in 1990, but in 1994. He thus is permitted to raise as much as \$5,000 from some committees, as opposed to only \$500 from such committees under the Los Angeles city ordinance.

11. Seed Money (Model Ordinance Section 302)

The Commission recommends that local jurisdictions allow candidates in the early stages of their campaigns to raise a certain sum of money in contributions exempted from contribution limits. This "seed money" concept is particularly important to challengers who may have friends or relatives eager to give the candidate substantial support at the beginning of his or her campaign. Larger contributions, given early, tend to encourage participation by challengers who typically have trouble starting their campaigns. By contrast, incumbents usually enter elections with an accumulated war chest of funds or can raise funds quickly by using the power of their incumbency.

Sacramento is the only city examined by the Commission with a seed money provision. Sacramento allows city council and mayoral candidates to raise the first \$10,000 of their campaign contributions in amounts above the contribution limits. In a recent mayoral campaign, mayoral candidate Patrick Melarky, a former Sacramento County Supervisor, used the seed money provision to receive a number of \$3,000 loans from close friends. (Loans are treated as contributions under the ordinance; the contribution limit for individual contributions is normally \$1,000.) In

its Model Law for the California Legislature, the Commission recommended that a legislative candidate's first \$35,000 be free of the contribution limits. For local jurisdictions, consideration might be given to a limit of 10%—20% of the expenditure ceiling, if one is provided.

A seed money section not carefully drafted may, however, run afoul of Proposition 73, which establishes maximum contribution limits but allows local jurisdictions to enact stricter limits. In order to avoid conflict with Proposition 73, a local jurisdiction's seed money provision could be drafted to allow candidates to receive contributions over the local limits up to a certain aggregate, but no more than \$1,000 per fiscal year from persons, \$2,500 from committees and \$5,000 from broad-based political action committees (all as defined in Proposition 73).

12. Loans (Model Ordinance Section 308)

Local jurisdictions should treat loans to candidates in the same manner as contributions, unless the loan is from a commercial lending institution and lent to a candidate on terms available to the general public. In this circumstance, the loan should be secured by property or guaranteed personally by the candidate.

In the past, candidates have frequently used personal loans from friends or noncommercial lending institutions as a way to circumvent existing contribution limits. In Gardena, for example, a candidate received a \$10,000 loan even though contributions were limited to \$500.

The Commission also recommends that all loans be made by written agreement to be filed with the candidate's next required campaign statement. Any guarantor of a loan should be subject to the contribution limits at the time the guarantee is made and up to the time the loan is paid off.

13. Candidate and Family Contributions (Model Ordinance Sections 309 and 501(c))

The Commission recommends that local jurisdictions limit the money candidates give to *their own* campaigns as a condition for receiving any matching funds. Local entities which only adopt contribution limits, however, may not directly limit a candidate's own contributions to his or her campaign under the U.S. Supreme Court decision in *Buckley v. Valeo*. These latter jurisdictions should consider adopting Kentucky's recent approach which limits how much a candidate can *lend* to his or her own campaign. The limitation on candidate loans may meet the *Buckley* standard and would prohibit wealthy candidates from lending money to their campaigns and then be repaid—if they won—by private donors who wish to give to the winner.

Contributions from a spouse should be subject to the basic contribution limits. Some cities and counties exempt contributions from a candidate's spouse. The *Buckley* decision, however, did not exempt contributions from family members and local ordinances should not enlarge the Supreme Court's ruling. Contributions from husbands and wives should be calculated separately for each and not aggregated.

Local campaign finance laws could allow dependent children under 18 to make campaign contributions within the contribution limits but attribute half of their contributions to each of their parents. The City of San Diego's ordinance fails to attribute minors' contributions to their parents and in a recent election one candidate listed contributions from seven-year-old children. Dan Stanford, then-Chairman of the Fair Political Practices Commission, noted wryly: "San Diego must have the most politically sophisticated children in America."

14. Contributions to PACs, Slates or Independent Expenditure Committees (Model Ordinance Sections 300(b), 301(b) and 600)

Local jurisdictions should impose limits on contributions to all political committees based in the local jurisdiction in the same manner as they limit contributions to a candidate's own controlled committee. For practical reasons, however, it is suggested that contributions to slate committees or committees involved in more than one jurisdiction's campaign should not be limited unless these committees make independent expenditures in the local jurisdiction.

E. Limited Matching Funds Can Encourage Acceptance of Expenditure Ceilings and Ease Fundraising Pressures

Since *Buckley v. Valeo* (discussed in Chapter 24, "Constitutionality") most federal, state and local expenditure ceilings have been linked to the availability of partial public matching funds. "Voluntary" expenditure ceilings with no public matching funds have been tried in a few local jurisdictions but have not met with significant success. (See Chapter 3, "Local Ordinances," which discusses the voluntary expenditure ceilings in Santa Barbara County.)

In *The New Gold Rush*, published in 1985, the Commission recommended adoption of expenditure ceilings tied to limited public matching funds for state legislative campaigns. After four years of additional study, the Commission believes even more strongly that expenditure ceilings backed by partial matching funds constitute the most effective solution available to local governments. If a city or county's campaign ordinance includes expenditure ceilings, it must also provide candidates with an incentive to accept them voluntarily—such as partial matching funds. Limited matching funds also have the additional benefit of encouraging non-incumbents to seek public office by providing them with some of the funds necessary to mount a competitive campaign.

Proposition 73 prohibited the expenditure of "public money" in connection with election campaigns. If upheld by the courts and strictly construed, it may prevent local jurisdictions from adopting partial matching fund measures and deprive them of the only court-tested justification for imposing expenditure ceilings. If so, local governments may have to develop alternative techniques for encouraging candidates voluntarily to consent to expenditure ceilings. (See discussion of alternative techniques below.) *Charter* cities and counties, however, may be exempted from the public financing restrictions provisions of Proposition 73 under provisions of the State Constitution. (See discussion in Chapter 4, "City and County Government.")

1. Arguments Against Limited Matching Funds

The strongest argument against providing candidates with public matching funds asserts that government should not spend precious taxpayer money on political candidates or involve itself in political campaigns at all. This argument is more philosophical than monetary, however, since in most instances the tax monies involved are a tiny percentage of the jurisdiction's overall budget and, in any event, governments already spend millions to conduct elections.

Others argue that matching funds are not needed at the local level since local candidates raise and spend so little. To be sure, this argument has merit in small jurisdictions, such as Alturas, since local candidates rarely need supplemental funds. These jurisdictions probably do not need to limit expenditures. But once a local entity determines that its campaigns are too costly, it may then need to enact expenditure ceilings and matching funds to assist its candidates. In borderline jurisdictions, matching fund formulas can be set at less than 50% of the total expenditure ceiling.

2. Matching Fund Amounts in a Wide Range of Cities and Counties (Model Ordinance Sections 502 and 504)

Entities which have adopted expenditure ceilings typically provide partial matchings funds in amounts up to half the expenditure ceilings. Sacramento County, for example, offers candidates up to \$37,500 in matching funds out of a total of \$75,000 that they can spend on a supervisorial campaign.

Other formulas can be used. A city or county might even provide free services to candidates, such as paying for two mailings to all voters, as a substitute for matching funds. This approach might create a sufficient incentive to encourage candidates to accept the expenditure ceilings, even though the costs are relatively minor.

Jurisdictions with high campaign spending might consider higher matching ratios, but for most cities and counties a one-to-one match should be most appropriate. Any matching ratio should encourage small contributions by only matching contributions up to a certain amount—for example \$250. In addition, local entities might allow the matching of funds only within specific time periods—such as the year of the election—or only for contributions from individuals. Finally, some jurisdictions may wish to provide incentives for individuals who reside in the jurisdiction. Proposition 68, for example, gave candidates a bonus match of \$5 for every \$1 received from individuals who resided in the legislative candidate's *own district*.

3. Qualification Threshold for Matching Funds (Model Ordinance Section 501)

Jurisdictions will undoubtedly want to require candidates to meet several qualifications before becoming eligible for matching funds. First, and most important, candidates will need to accept the jurisdiction's applicable expenditure ceilings.

Second, candidates will need to raise a minimum threshold amount in small contributions (contributions of \$100 or less are suggested for small jurisdictions and \$250 or \$500 for large local entities) before they qualify. This threshold will depend upon the level set for expenditure ceilings, but 10-20% of the expenditure ceiling would seem appropriate. If, for example, the expenditure ceilings are \$25,000, then the provision could require the candidate to raise at least \$2,500 in small donations to qualify for matching funds. Such a provision will serve the important purpose of ensuring that matching funds are not provided to frivolous candidates.

A third important element of the proposal would require that candidates be faced by at least one "serious opponent" before they qualify for matching funds. A serious opponent is one who is also eligible for matching funds or has raised or spent a specified amount of campaign money. Generally, it is suggested that this amount be slightly more than the qualifying threshold for public funds. If the threshold for receiving matching funds is \$2,500 in a small city, for example, then in order to receive matching funds, the candidate should have an opponent who has raised or spent at least \$4,000.

A "serious candidate" provision is easier to draft for jurisdictions which elect their local officials district-by-district—where candidates run directly for a specific seat and only one can win. In district-by-district elections, at least two candidates will have to be serious before either can qualify for matching funds. In an at-large election, where all voters pick the candidates, it is harder to formulate a workable serious candidate provision. In these locales, a serious candidate provision could state that candidates are not eligible for matching funds until the number of candidates qualifying for matching funds is at least one more than the number of seats to be elected. If three seats are up for election, for example, at least four

candidates must qualify for matching funds or have raised a certain threshold amount before *any* of the candidates can receive matching funds. Problems with this formula can be anticipated. Thus, in an area-wide election where two secure incumbents are running for their seats and two newcomers are contesting a third seat, the incumbents might receive matching funds even though they have no real opposition.

Local jurisdictions could also provide that candidates do not qualify for matching funds if they give more than a specified amount to their own campaigns. Such a provision would help to keep wealthy candidates from dominating elections.

4. Candidate Requests for Payments and Timing of Payments (Model Ordinance Sections 503 and 505)

Once candidates qualify for matching funds, it is useful to require them to submit their requests for funds in discrete amounts—such as \$1,000 or \$5,000 depending on the size of the jurisdiction. This provision will diminish the clerk's paperwork in verifying matching fund submissions. A local accounting officer should be designated to dispense matching funds. Candidates need to count on funds being provided in as short a time as possible. A turnaround time of three business days between the candidate's request and the matching funds payment would be desirable.

If there is insufficient money in the fund, local officials can allocate the available funds to candidates on a *pro rata* basis. Some moneys should be reserved until late in the campaign to ensure that all candidates receive equal amounts no matter when they submit their requests. This will protect candidates raising money late in the campaign.

5. Surplus Funds (Model Ordinance Section 506)

If a candidate's campaign account contains surplus funds after the election, the Commission suggests that the campaign be required to return a portion of these funds to the city or county which has provided matching funds. The refund can be based on the amount of public funds received compared to private funds collected. If, for example, the campaign raised \$40,000 in private contributions, received \$10,000 in matching funds and had \$15,000 left over, the campaign would turn back one-fifth of the surplus received in matching grants ($\$10,000/\$50,000 \times \$15,000$, or \$3,000). Another alternative is to require campaigns to return all surplus funds up to the amount of public funds received. The Commission believes that this latter approach is less desirable, since it will encourage campaigns to spend—perhaps wastefully—all their funds on the election.

6. Campaign Reform Fund (Model Ordinance Section 900)

Each local jurisdiction must decide how to raise the money for the matching fund. Some cities and counties may wish to set up a utility tax checkoff, as in Seattle, Washington. Seattle residents indicate once a year whether they wish part of their utility payment (up to \$4) to go to a Campaign Reform Fund which provides matching funds for city council and mayoral candidates. This approach may be preferable for local governments owning municipal utilities.

Other jurisdictions may wish to appropriate money from the general fund. Sacramento County's ordinance, for example, does not establish a separate source for matching funds. Instead, supervisors draw directly on the county's general fund. This approach has the advantage of eliminating candidate concerns that taxpayers will not participate in the program to a sufficient degree.

F. Less Desirable Alternatives to Matching Funds Might Be Considered in Some Jurisdictions

Expenditure ceilings and limited matching funds embody the best approach to local campaign finance reform in the Commission's judgment. However, with the passage of Proposition 73, depending on the outcome of court cases presently pending (see Chapter 4, "City and County Government") non-charter cities and counties may not be able to use public funds to induce candidates to accept expenditure ceilings voluntarily (this could also apply to charter cities as well). Accordingly, these local jurisdictions may need to consider alternative incentives. Because of *Buckley v. Valeo*, these alternatives are limited.

1. Variable Contribution Limits

The Commission has developed a new incentive for candidates to accept expenditure ceilings. It has called this incentive "variable contribution limits." The Commission introduced this concept in *The New Gold Rush*, when it suggested that candidates accepting expenditure ceilings might be offered the opportunity to receive contributions in larger amounts than candidates rejecting expenditure ceilings.³³ Under this approach, a city or county might enact low contribution limits—for example, \$100 per person per election—but then allow those candidates who accept expenditure ceilings to receive contributions in amounts up to the maximums allowed under Proposition 73—\$1,000 per individual or corporation, \$2,500 per committee and \$5,000 per broad-based political committee. Such "variable contribution limits" would offer candidates a simple choice: to raise and spend as much money as possible under tight contribution limits, or to raise money more easily in larger sums up to fixed expenditure ceilings.

Variable contribution limits have several advantages. Local governments might be able to adopt expenditure ceilings without confronting the politically or financially difficult problems of appropriating public matching funds. Candidates accepting expenditure ceilings would be able to raise money in larger amounts and thus raise it more quickly—giving them extra time to meet with voters or discuss campaign issues. Variable limits would also be simpler to implement than limited public financing since they would not require funding and accounting mechanisms.

Variable contribution limits may, however, have certain disadvantages. They would allow candidates accepting expenditure ceilings to raise contributions in larger amounts than would otherwise be permitted under the local ordinance, possibly increasing the public perception that large contributors were influencing governmental decisionmaking. They would create two sets of contribution limits, possibly increasing contributor or voter confusion. And they have never been tested by the courts for constitutionality. (See discussion in Chapter 24, "Constitutionality.")

Nonetheless, for cities wishing to adopt expenditure ceilings but barred by Proposition 73 from enacting matching funds provisions, variable contribution limits may offer an innovative and powerful technique for restraining local campaign spending, even though the jurisdiction might well have to defend them in a test case. They thus warrant careful consideration.

2. Voluntary Expenditure Ceilings

A few California jurisdictions have designated expenditure ceilings for voluntary adoption by candidates. Santa Barbara County has implemented the most comprehensive voluntary expenditure caps plan. The ordinance sets the voluntary expenditure ceilings at \$50,000, well under what competitive candidates had spent in past elections. The results of this experiment are discussed in Chapter 3, "Local

Ordinances.” Voluntary expenditure ceilings have also been tried in Palo Alto in school board contests, and in Los Altos Hills, two communities in Northern California. But the amounts of the limits—\$7,500 and \$3,500—are too small to permit a judgment as to whether candidates would accept voluntary limits in other communities where more money is needed to run for office.

For voluntary expenditure ceilings to work, candidates must feel public pressure to accept them. In open seat races, where candidate war chests are nonexistent, candidates may be more likely to accept the concept. In small communities, where voters know the candidates and may resent huge sums of money being accepted, voluntary spending caps may also succeed in restraining costs. In most jurisdictions experiencing highly competitive races, the pressures on one or more candidates to exceed the expenditure ceilings may be irresistible. For this reason, the Commission has doubts whether voluntary expenditure ceilings would be a workable solution in most cases.

If jurisdictions do adopt voluntary expenditure ceilings, incumbents may be tempted to set them quite low, since incumbents have greater name recognition and thus an incentive to prevent their challengers from high spending to overcome this disadvantage. On the other hand, incumbents are usually able to raise far more money than challengers, even with contribution limits in effect, so reasonable expenditure ceilings—if accepted—would tend to make races more competitive.

G. A Strong, Independent Agency Is Necessary for Model Ordinance Enforcement (Model Ordinance Sections 1000-1003)

California’s Fair Political Practices Commission is charged with enforcing the Political Reform Act, which requires candidates to disclose their contributions and expenditures. In recent years, the legislature has expanded the FPPC’s authority to allow it to enforce the Political Reform Act’s campaign disclosure provisions as they apply to local candidates and conflict of interest contribution provisions as they apply to non-elected officials. The legislature has supplemented the FPPC’s budget by close to \$1 million per year to give it the resources for a vigorous local enforcement program. The FPPC has responded to this added grant of authority by shifting much of its enforcement attention to city council and supervisorial candidates, just as the legislature had hoped and intended.

The legislature has not, however, extended the FPPC’s jurisdiction to local campaign finance laws adopted by cities and counties. City or district attorneys thus retain the responsibility for enforcing local laws and prosecuting violations. Even though district attorneys have a better track record than city attorneys in prosecuting local violators, their enforcement actions have been few in number.

Many city attorneys and local elected officials reported to the Commission that city attorneys—particularly those city attorneys appointed by city councils—find themselves in difficult conflicts of interest when asked to enforce local campaign finance ordinances. They are reluctant to investigate their own bosses or file actions against elected officials who can fire them. Too often they respond to complaints by ignoring them. Such spotty or nonexistent enforcement leaves candidates with the unmistakable impression that no one will hold them accountable for ordinance violations.

Recently, the City of Poway contracted with a private attorney to act as its local enforcement authority. The attorney occupies a position similar to that of special prosecutor. In San Diego, the city attorney has transferred his enforcement authority over campaign laws to the district attorney, even though the city attorney is elected and not subject to the pressure of the city council appointment process.

The Commission recommends that cities adopting local campaign finance laws establish their own local Fair Political Practices Commission or contract with an independent prosecutor or with the Fair Political Practices Commission to enforce their local laws. All cities and counties enacting local campaign finance laws should also include provisions allowing private citizens to file civil actions if the local enforcement authority declines to act. Local jurisdictions can base such civil enforcement provisions on the Political Reform Act's enforcement sections which require private parties to notify the enforcement agency before filing citizen lawsuits. If the local enforcement body declines to file an action within 40 days, the private party may proceed. Local jurisdictions can also allow local authorities and any citizen to bring injunctive actions.

No citizen has yet been successful in a private action filed under the Political Reform Act. But the threat of citizen suits has caused state and local prosecutors to bring actions which otherwise might not have been undertaken. In 1986, for example, Common Cause notified the Los Angeles City Attorney that it intended to file a civil lawsuit against Councilmember Richard Alatorre, charging him with state campaign disclosure violations. The City Attorney responded by filing a civil suit against Alatorre which resulted in the largest fine ever paid in California history—nearly \$150,000.

Finally, the Commission recommends that local jurisdictions audit all campaigns receiving public matching funds. Local officials should examine campaign statements and supporting documents such as checks and receipts from vendors to determine the accuracy of the campaign contributions reported and to assess whether the candidates qualified for matching funds.

H. Additional Ordinance Provisions Are Desirable

The Commission recommends that cities and counties consider a number of additional reforms to ensure that local contribution limit, expenditure ceiling and limited matching fund provisions are fair and equitable. Some of these reforms may be more appropriate for larger jurisdictions which are experiencing more complicated or expensive campaigns. Others, such as lowering the disclosure thresholds, are more suited to smaller jurisdictions where contributions under \$100 should be disclosed.

1. Disclosure Thresholds (Model Ordinance Section 700)

Current state law requires all candidates and committees to disclose contributions and expenditures of \$100 or more.³⁴ Several cities (such as Davis, Palo Alto and Walnut Creek) and a few counties (such as Contra Costa and Fresno) have lowered these disclosure thresholds. The Commission believes that each city and county should make an independent decision whether to lower its disclosure threshold. Particularly if contributions of under \$100 total more than 40% of all contributions received, the local jurisdiction might well consider lowering its disclosure thresholds. In some smaller cities and counties, lowering disclosure requirements to \$25 may make sense. In the larger jurisdictions, disclosure at the \$100 threshold remains a practical solution.

2. Cost of Living Increases (Model Ordinance Section 800)

Most contribution limitation statutes adopted by cities and counties lack automatic cost of living clauses. Orange County's disqualification ordinance requires an automatic adjustment every two years, but it lacks a rounding off provision (for example, to the nearest \$10 or \$100). The amounts set for disqualification in Orange County are thus inconvenient—\$1,000 in 1978, but \$1,704 in 1987 and \$1,808 in 1989.

Local jurisdictions could include cost of living adjustment provisions in all ordinances containing expenditure ceilings. In jurisdictions with contribution limits only, cost of living increases might not be necessary. Any automatic cost of living provision, however, should include provisions for rounding amounts off to the nearest \$10 or \$100.

3. Return of Contributions (Model Ordinance Section 309)

If a contributor makes a contribution in excess of the limits and the candidate accepts it, both the donor and recipient violate the law. Yet few local jurisdictions require or allow the return of contributions which exceed local contribution limits. By contrast, state law, which prohibits *cash contributions of more than \$100*, allows recipients to return such contributions to the donor within a certain period of time.³⁵

The Commission recommends that local jurisdictions also permit candidates and committees to return any contribution within 10 days of receipt or prior to the time the next campaign statement is due, whichever is earlier. Thus, candidates who receive contributions in excess of the contribution limitations can avoid being cited under the law by returning the illegal funds in timely fashion.

4. Aggregation of Contributions (Model Ordinance Section 310)

Some contributors attempt to evade contribution limits by making additional donations through subsidiaries or political committees they own or control. If local laws fail specifically to address such possibilities, then contributors are encouraged to think they can multiply contributions and avoid the law through subterfuge.

The Commission recommends that each local ordinance contain a strict attribution section to enable local officials to aggregate contributions from the same source and then determine whether the total aggregated contributions exceed the applicable limits. This section would require the aggregation of contributions from corporate parents, subsidiaries and corporations which share the same officers, a majority of directors or are owned or controlled by the same majority shareholder. Proposition 73 does not have such a section and thus leaves itself open to the distinct possibility that groups will circumvent its provisions by contributing through subsidiaries.

5. Limitations on Local Officials Running for Other Offices (Model Ordinance Section 313)

Some elected city councilmembers and supervisors aspire to run for other offices, such as state legislator or member of Congress. The Commission recommends that limitations adopted by local jurisdictions *not* apply to those officials who announce their intention to run for an office in another jurisdiction. The limits in Proposition 73 apply to all candidates running for any office in California.³⁶

Local ordinances rarely address this question. The Commission is aware of only one court case which has ruled on a related issue. In Orange County, when Supervisor Bruce Nestande ran for statewide office in 1986, the Orange County's TinCup ordinance prohibited him from voting on any matter affecting a contributor who had given his *statewide* campaign more than \$1,592. Nestande challenged this interpretation in Superior Court, arguing that this interpretation put him at a disadvantage vis-à-vis his opponents who were not Orange County supervisors and not subject to the disqualification provision. The court rejected his claim, saying that the Orange County's ordinance did not prevent Nestande from receiving contributions in excess of \$1,592; it merely disqualified him from voting on matters affecting those contributors. Nestande did not appeal the ruling.³⁷

6. *Mandatory Disclosure of Occupation and Employer* ***(Model Ordinance Section 703)***

The Political Reform Act's campaign disclosure provisions require candidates to itemize contributions of \$100 or more by listing the name, address, occupation, employer, date and amount of the contribution. Without such occupation and employer information, it is extremely difficult for the public to identify someone simply designated as "John Smith, 22 Main Street, Los Angeles." Yet candidates commonly fail to list the occupation and the employer of contributors. Although the Fair Political Practices Commission requires candidates to write letters asking for all relevant information, under the Act the committee may still retain the contribution even if the contributor declines to furnish the missing data.

At one time, the City of San Diego also experienced this problem. Candidates failed to list occupations and employers for up to 40% of their itemized donations. San Diego therefore amended its ordinance to prevent candidates and committees from cashing contribution checks until they had on file all the necessary disclosure information. This amendment has been in effect for two elections, and a review of statements filed since the amendment's adoption indicates that all candidates now comply fully with the law.

The Commission recommends that cities and counties adopt San Diego's approach if they have experienced incomplete contributor disclosures. Prohibiting candidates from depositing contributions until they have the necessary contributor information will help to ensure such information is reported.

7. *Limiting Contributions to Independent Expenditure Committees* ***(Model Ordinance Sections 600 et seq.)***

Independent expenditures can have a major impact on elections. However, except for a few instances (which are discussed in Chapters 15 and 21, "San Diego" and "West Covina," respectively) independent expenditure committees have as yet played little or no role in city and county campaigns. According to Supreme Court rulings in *Buckley v. Valeo* and *Federal Election Commission v. NCPAC*,³⁸ governments cannot limit spending by independent committees. A federal court ruling, however, has permitted limits on contributions to independent expenditure committees.³⁹ The Commission suggests that local jurisdictions limit contributions to independent expenditure committees to the same amount as contributions to candidates and their controlled committees. If a city or county limits candidate contributions to \$250, for example, it should also place a \$250 limit on contributions to independent expenditure committees (Model Ordinance Section 600).

Local jurisdictions should require independent expenditure committees to file disclosure reports immediately upon spending over a certain amount, such as \$1,000. Currently, the Political Reform Act states that a committee spending more than \$10,000 in independent expenditures must immediately file disclosure reports.⁴⁰ The Political Reform Act also states that if committees make independent expenditures of more than \$1,000 in the last 17 days before the election, they must file a late independent expenditure report within 24 hours.⁴¹ Local jurisdictions should consider applying this provision to expenditures of \$1,000 or more made *at any time* before the election, ensuring that the public and all candidates immediately know of independent expenditure committee involvement in a campaign (Model Ordinance Section 602).

8. *Reproduction of Materials (Model Ordinance Section 601)*

In its Model Law drafted for state legislative races, the Commission suggested that any campaign materials reproduced by another committee should be

considered an in-kind contribution from the committee to the group which originally produced the materials. The Commission wrote this provision to prevent a so-called independent expenditure group from publishing written materials or campaign ads which, in truth, were produced by a candidate. Reproducing such materials should count as in-kind contributions subject to the contribution limitations set forth in the law. If this problem exists in local communities, they should consider such a restriction.

9. Additional Pre-Election Campaign Statements (Model Ordinance Section 701)

Current state law requires candidates and committees to file three campaign statements—two pre-election and one post election.⁴² However, 14 local jurisdictions—including Modesto, Contra Costa County and San Jose—call for an additional pre-election statement the week before the election. These cities and counties have required additional filings to ensure that voters are aware of last-minute contributions. Since most campaigns are not multimillion dollar efforts, the additional burden on candidates and committees is not significant. The Commission takes no position on whether additional statements should be required. If the city or county feels such statements are necessary, the Commission suggests that it set the deadline for filing on the Friday before the election, with a closing date for entries on Wednesday before the election. These dates will allow the press and other interested persons sufficient time to examine the statements.

L Two Provisions Currently Used by a Few California Cities and Counties Are Not Recommended by the Commission

Given the number and variety of local California ordinances, it is not surprising that a few have failed to achieve their intended goals. These include provisions which require candidates to file estimates of their expenditures before the election and prohibitions on campaigns receiving contributions in the last week before the election.

1. Statements of Estimated Expenditures

A few cities—such as Davis, Poway and Rancho Mirage—require candidates to file with their final pre-election campaign statements an estimate of their anticipated remaining expenditures before the election. The purpose of this requirement is to disclose last-minute expenditures by each candidate to save opponents from a surprise late spending blitz. The accuracy of this information, however, is subject to change, depending on last-minute strategies and spending by opponents. The Commission believes that this provision is unnecessarily burdensome on candidates and is unenforceable.

2. Prohibitions on Contributions After Specific Dates

Some local entities—such as Livermore, Modesto and San Luis Obispo—prohibit candidates from receiving contributions in the last week before the election. These provisions seek to eliminate the last-minute influx of contributions which can overwhelm unsuspecting opponents. Late contributions can often subsidize a flurry of last-minute hit pieces attacking an opponent who lacks the time or resources to respond.

This prohibition has not worked. In Modesto, for example, candidates solicit and receive *pledges*—presumably non-enforceable—from donors to make a contribution immediately following the election. Candidates are then able to make expenditures on credit and pay the vendors.

The Commission also believes this prohibition may be anti-challenger. Incumbents are frequently able to collect contributions early in the race, while challengers who do well in last-minute polls need to rely on funds received in the last days of the campaign. For these reasons, this approach is not recommended.

J. The Commission Offers a Short-Form Ordinance for Jurisdictions Needing a Simplified Approach

In addition to preparing a comprehensive Model Ordinance for cities and counties, the Commission has drafted a condensed version for local jurisdictions not needing a detailed ordinance. This shortened version contains basic sections needed to enact comprehensive reforms, including expenditure ceilings, contribution limits and partial matching funds. Jurisdictions which do not have complicated elections might consider this condensed law, but they should also examine the complete Model Ordinance to determine whether any of its sections should be included. Large cities and counties should note, however, that the shortened ordinance leaves out many important sections necessary for regulating high spending candidates. Some of these omitted sections include definitions of terms, distinctions between types of contributors, limits on gifts and honoraria, restrictions on loans, lifting of expenditure ceilings and limitations on surplus funds.

No single Model Ordinance can deal with all the campaign finance problems which occur in California's cities and counties. Local jurisdictions can look to the Commission's Model Ordinances for guidance but should be prepared to adapt their provisions to their own local needs.

NOTES

1. Patricia Daigle, *Contra Costa Supervisors Look at Campaign Finance Law*, Pleasanton Valley Times, June 18, 1988.
2. *Buckley v. Valeo*, 424 U.S. 1, 57 (1976).
3. See California Commission on Campaign Financing, *The New Gold Rush: Financing California's Legislative Campaigns* (1985).
4. As of the publication of this book, seven suits have been filed challenging Proposition 73. The first argues that the proposition violates the single subject rule of the California State Constitution. *Watson et al. v. Rules Committee of the Senate*, Case No. C691676, Los Angeles County Superior Court. The second argues that Proposition 73 does not actually ban public financing provided for in Proposition 68 because Proposition 68 should be interpreted as enacting a "tax credit." *Center for Public Interest Law v. FPPC*, dismissed by Fourth District Court of Appeal, returned to the Court of Appeal by the Supreme Court for further review. The third argues that Proposition 73 unconstitutionally limits the funding power of the state legislature. *California Common Cause v. FPPC*, Case No. C005458, filed in Third District Court of Appeal. The fourth challenges an FPPC ruling which allows candidates to carry over surplus funds to 1989. *California Common Cause v. California FPPC*, Los Angeles Superior Court. The fifth seeks to overturn an FPPC opinion which concluded that Proposition 73 bars several contribution limit sections of Proposition 68 from going into effect. *Taxpayers to Limit Campaign Spending v. FPPC*, Case No. B039177, Second District Court of Appeal. The sixth suit attempts to prevent Proposition 73 from affecting Sacramento County's public financing law. *County of Sacramento v. FPPC*, Case No. 0005848, Third District Court of Appeal. The seventh suit, filed in the California Supreme Court by Democratic legislators and labor unions, challenged the constitutionality of contribution limits in Proposition 73. The Supreme Court refused to hear the suit. *Service Employees International Union (SEIU) v. FPPC*, Case No. 5008966. This suit was refiled in U.S. District Court Eastern District of California, C1 U.S. 89-0433 LKK-JFM.

5. Proposition 68 received 2,748,305 yes votes (53%) and 2,458,250 no votes (47%). Proposition 73 received 3,081,798 yes votes (58%) and 2,235,996 no votes (42%). The California Constitution (Article II, Section 10 (b)) states, "If two or more measures approved at the election conflict, those of the measure receiving the highest affirmative vote shall prevail."
6. In the matter of Opinion Requested by Charles H. Bell, Jr., 11 FPPC Opinions 1, No. 88-002, Nov. 9, 1988.
7. *Taxpayers to Limit Campaign Spending v. FPPC*, Case No. B039177, California Court of Appeal, Second District Court of Appeal (1988).
8. Government Code Section 85300, added by Proposition 73, states: "No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office."
9. Cal. Const. Art. XI, §§4, 5 (West 1983).
10. *County of Sacramento v. FPPC*, Case No. 0005858, Third District Court of Appeal (1989).
11. *Center for Public Interest Law v. FPPC*, dismissed by Fourth District Court of Appeal, returned to Court of Appeal by the Supreme Court for further review. The appellate court subsequently rejected the petitioner's arguments and ruled that Proposition 73's prohibition on public financing of campaigns supersedes the provisions of Proposition 68.
12. *California Common Cause v. FPPC*, Case No. C005458, filed in Third District Court of Appeal.
13. New Government Code Section 85101 states: "(a) Nothing in this chapter shall affect the validity of a campaign contribution limitation in effect on the operative date of this chapter which was enacted by a local governmental agency and imposes lower contribution limits. (b) Nothing in this chapter shall prohibit a local governmental agency from imposing lower campaign contribution limitations for candidates for elective office in its jurisdiction."
14. Cal. Gov't Code §85200 (West Supp. 1989).
15. Cal. Gov't Code §85202(b) (West Supp. 1989).
16. Cal. Gov't Code §85400 (West Supp. 1989).
17. See Regulations 2 Admin. Code 18432, 18502-23, 18536 and 18536.1.
18. For further discussion of expenditure ceilings, see *The New Gold Rush*, p. 213.
19. See, e.g., Gary C. Jacobson, *Money in Congressional Elections*, p. 186 (1980).
20. Interview with Gary Jacobson, Professor, University of California at San Diego, May 23, 1985.
21. *The New Gold Rush*, p. 214.
22. *Buckley*, 424 U.S. 1, 45, 52 (1976).
23. E.g., Interview with David Townsend, Townsend and Company Campaign Consulting, June 15, 1988.
24. *The New Gold Rush*, p. 226.
25. Cal. Gov't Code §81013 (West 1987).
26. 2 U.S.C.A. §441a(a)(1) (West 1985).
27. If limits are set by election and there is a runoff in the same fiscal year, the local jurisdiction should ensure that its limits for both elections combined do not exceed the fiscal year limits set forth in Proposition 73.
28. Federal law prohibits contributions by corporations, labor unions and national banks. 2 U.S.C.A. §441(b)(a). The Commission does not recommend that cities and counties adopt such prohibitions. These bans encourage the affected organizations to establish political action committees (PACs).
29. The City of Los Angeles is the only local jurisdiction to impose a limit on how much money a particular contributor may give to *all* candidates combined. The Los Angeles Charter Amendment uses a complex formula to determine the maximum amount a contributor may give. The city law bases its total limit on the number of races in the election. If eight council seats are on the ballot, for example, then a contributor may give a total of eight times \$500 (the applicable contribution limit) or \$4,000. In years when citywide offices are on the ballot, the total limit increases correspondingly.

The purpose of this provision is to prohibit contributors from making a maximum contribution to all major candidates in an election, thereby gaining excessive influence in a jurisdiction. Some observers believe that a total limit favors incumbents, since it may "tap out" contributors who give early to every incumbent and leave challengers in a contribution drought. Many incumbents hold fundraisers in non-election years when challengers have not yet decided whether to run for office.

In its Model Law for legislative candidates, the Commission recommended a total limit of \$25,000 on contributions to all legislative candidates from individuals, unions, corporations and PACs. Small contributor PACs could give up to \$100,000. A city or county adopting a similar provision should have a much lower total—but no more than twice the maximum contribution limit (allowing contributions to both challengers and incumbents) times the number of seats on the governing body. Thus, for a city council with five seats and a contribution limit of \$250, a person could give no more than \$2,500 (5 x \$250 x 2) to all candidates over a four-year period. Broader-based organizations which support local candidates and are allowed to contribute higher amounts should be permitted to give twice as much.

30. On July 14, 1988, a federal district court ruled unconstitutional a Santa Barbara County ordinance which disqualified county supervisors from voting on matters directly affecting contributors who give \$250 or more. The court found the law violated First Amendment rights of free speech and the equal protection clause of the 14th Amendment. *Beaver v. Santa Barbara County*, unpublished U.S. District Court decision, Case No. CV88-0038-IH (1988). Orange County's disqualification ordinance, however, has been upheld by a Superior Court in *Nestande v. County of Orange*, Orange County Superior Court, Case No. 46-70-42 (1986).
31. See *The New Gold Rush*, p. 231.
32. 65 Op. Atty Gen. 493 (1982).
33. *The New Gold Rush*, pp. 272-83.
34. Cal. Gov't Code §84211 (West 1987).
35. Cal. Gov't Code §84300 (West 1987).
36. Cal. Gov't Code §85301. If a city's contribution limits are set lower than those of Proposition 73, as in all likelihood they will be, the city should not apply them to a local officeholder running for another office with higher applicable limits unless the local ordinance contains a disqualification provision.
37. *Nestande v. County of Orange*, Orange County Superior Court, Case No. 46-70-42 (1986).
38. *Buckley*, 424 U.S. 1, 45 (1976) and *Federal Election Comm'n v. National Conservative Political Action Comm.*, 470 U.S. 480 (1985).
39. *Mott v. Federal Election Comm'n*, 494 F. Supp. 1312 (D.D.C. 1980).
40. Cal. Gov't Code §85604 (West Supp. 1989).
41. Cal. Gov't Code §84204 (West 1987).
42. Cal. Gov't Code §§84200-84200.8 (West 1987).

CHAPTER 24

The Constitutionality of the Recommended Model Ordinance

“[C]ontribution and expenditure limitations operate in an area of the most fundamental First Amendment activities The First Amendment affords the broadest protection to such political expression in order ‘to assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.’”

— *Buckley v. Valeo*¹

Campaign finance regulations often trigger difficult First Amendment problems. The Supreme Court has held that restrictions on the flow of money into and out of political campaigns can affect the “[d]iscussion of public issues and debate on the qualifications of candidates. . . [which is] integral to the operation of the system of government established by the Constitution”² Campaign finance reforms must thus be designed to further important governmental concerns and at the same time be drafted as narrowly as possible to avoid infringing First Amendment freedoms of speech and association.

In *Buckley v. Valeo*, the landmark 1976 campaign financing decision, the United States Supreme Court ruled that money in certain political contexts was tantamount to “speech.”³ Candidates use money to buy radio and television ads, campaign literature, direct mail brochures and other expensive forms of communication. “[V]irtually every means of communicating ideas in today’s mass society requires the expenditure of money.”⁴ Restrictions on campaign expenditures, the Court reasoned, abridge the ability of candidates to communicate their views fully to the public. The Court thus invalidated expenditure ceilings on federal

campaigns, holding that the government lacked the “compelling” justification necessary to support them.

On the other hand, the Court acknowledged that candidates typically find it necessary to finance their campaigns with private contributions. When these contributions are large, the public often receives the impression that candidates have entered *quid pro quo* arrangements with wealthy contributors in which contributions are traded for influence. The Court therefore ruled that the government did have a “compelling” interest in preventing the “corruption” or “appearance of corruption” caused by a campaign finance system in which candidates were dependent on very large contributions. The Court thus drew an important distinction between contributions and expenditures. Contributions could be limited; expenditures could not.

The Court also held that the government could offer candidates public financing as a constitutionally legitimate effort to upgrade the quality of the electoral process. Most significantly, the Court ruled that candidates accepting public financing could be required to limit their expenditures. Although expenditure ceilings could not be imposed on candidates against their will, candidates could accept them voluntarily as a condition for the receipt of public financing.

The recommended Model Ordinance complies with the First Amendment parameters defined by the Supreme Court.⁵ The proposed contribution limits are constitutional because they are necessary to prevent the “appearance of corruption.” Expenditure ceilings are not forced upon candidates but are to be accepted voluntarily by candidates in exchange for limited public matching funds or other legitimate incentives.

A. The Proposed Contribution Limits Are Valid Attempts to Eliminate Actual or Apparent “Corruption” in the Political Process

Buckley v. Valeo and its progeny have held that contribution limits are valid if supported by a “compelling” governmental interest in eliminating “corruption” or its appearance from the political process.⁶ The contribution limits proposed in the proposed Model Ordinance are reasonably designed to reduce the influence of large contributors on candidates and elected officeholders. They are constitutional restrictions on the flow of money into political campaigns.

1. General Principles

A contribution of money to a candidate or political committee involves two First Amendment rights, freedom of speech and freedom of association. Freedom of speech is involved because a contributor’s donation of money embodies a symbolic expression of support for a particular candidate or organization. The speech interests embodied in a monetary contribution, however, are relatively weak. Contributions are an “attenuated form of speech” or “speech by proxy”⁷ because “the transformation of contributions into political debate involves speech by someone other than the contributor.”⁸

“A limitation on the size of a contribution . . . entails only a marginal restriction upon the contributor’s ability to engage in free communication. A contribution serves as a general expression of support for the candidate and his views, but does not communicate the underlying basis for the support. The quantity of communication by the contributor does not increase perceptibly with the size of his contribution, since the expression rests solely on the undifferentiated, symbolic act of contributing A limitation on the amount of money a person may give

*to a candidate or campaign organization thus involves little direct restraint on his political communication*⁹

Contribution limits therefore do not violate freedoms of speech.

Contributions also involve First Amendment freedoms of association. Contributions “affiliate a person with a candidate” and enable “like-minded persons to pool their resources in furtherance of common political goals.”¹⁰ Yet contribution limits do not improperly abridge associational freedoms because the limits still leave the contributor free to “become a member of any political association and to assist personally in the association’s efforts on behalf of candidates.” Political organizations also remain free to gather “large sums of money” from a broad range of contributors. “The overall effect of . . . contribution ceilings is merely to require candidates and political committees to raise funds from a greater number of persons”¹¹

The government, on the other hand, has a “compelling” interest in limiting contributions to prevent “corruption and the appearance of corruption spawned by the real or imagined coercive influence of large financial contributions on candidates’ positions and on their actions if elected to office.”¹² Candidates may be forced to sacrifice their independence of judgment for large private contributions:

*“To the extent that large contributions are given to secure a political quid pro quo from current and potential officeholders, the integrity of our system of representational democracy is undermined.”*¹³

Moreover, the mere “appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual contributors” is also a matter of serious and legitimate governmental concern.¹⁴

In short, *Buckley v. Valeo* allowed the government to place limits on the amount of campaign contributions, both because the burden on the contributor’s speech and associational rights is small, and because the governmental interest in preventing corruption or its appearance is great. Other asserted governmental interests, such as a desire to reduce overall campaign spending, to equalize the ability of candidates to appeal to voters or to decrease the advantages of incumbents or of wealthy candidates, are not constitutionally sufficient justifications for limiting contributions or expenditures—although they are sufficient justifications for limited public financing of campaigns.¹⁵

2. Limits on Contributions From Individuals and Groups

The recommended Model Ordinance would place limits on all individual, corporate, labor union and group contributions to candidates or political committees. Each local jurisdiction would select the contribution limits most appropriate to its size and the complexion of its campaigns. These limits might range from between \$100 in small jurisdictions to \$1,000 in the largest. The Supreme Court has upheld comparable limits on contributions to federal candidates.¹⁶ In the Court’s view, contribution limits still leave individuals free to express their views independently, to associate with specific campaigns by volunteering their services and to make contributions to other candidates and committees.

The Court has rejected arguments that contribution limits favor incumbents.¹⁷ The Court has also stated it will not second-guess the establishment of a particular dollar limit. “If it is satisfied that some limit on contributions is necessary, a court has no scalpel to prove, whether, say, a \$2,000 ceiling might not serve as well as \$1,000.’ [citation omitted] Such distinctions in degree become significant only when they can be said to amount to differences in kind.”¹⁸ The Commission’s proposed range of limits on corporate, labor and other organizational contributions is thus constitutional.

3. *The Total Contribution Limit*

Federal law allows contributions of \$1,000 from individuals and \$5,000 from PACs. Proposition 73 allows contributions of up to \$1,000 from individuals, \$2,500 from PACs, and \$5,000 from broad-based PACs. Proposition 73 also allows individual jurisdictions to establish lower contribution limits, and many have done so.

The Model Ordinance would place a *total* limit on all contributions from any person (including individuals, corporations, businesses and labor unions, but excluding small contributor PACs discussed below) to all candidates or organizations. The recommended total contribution limit is twice the basic contribution limit (which differs for individuals and PACs) times the number of seats up for election. If such a provision is desired, the total limit should be chosen by each jurisdiction. If a jurisdiction selected a \$250 individual contribution limit and there were five seats up for election, the total contribution limit for individuals would be \$2,500 ($\$250 \times 5 \times 2$). A contributor could make 10 contributions of \$250 to the various candidates for the five seats, or 20 contributions of \$125, so long as the total \$2,500 contribution limit was not exceeded.

A total limit for individual contributions is contained in federal law.¹⁹ In *Buckley v. Valeo*, the Court approved the federal total contribution limit, concluding that it was necessary to prevent individuals from evading the basic contribution limit. Without such a total limit, persons could make dozens of contributions to political committees which could then rechannel those contributions to one candidate.²⁰ The Model Ordinance is also designed to prevent such evasion and is thus constitutional.

4. *The \$500 to \$5,000 Small Contributor PAC Limits*

The proposed Model Ordinance would allow small contributor PACs to make larger contributions—ranging between \$500 and \$5,000, depending on the local jurisdiction. It would also place a total limit on contributions from these PACs over any two-year period. To qualify as a “small contributor PAC,” the PAC must receive all of its contributions in amounts of \$50 or less. This \$50-maximum criterion is designed to ensure that groups making larger contributions are truly broad-based and not alter egos for a few wealthy contributors.

The Supreme Court has upheld an analogous \$5,000 limit for PAC contributions at the federal level. The Court viewed the higher contribution limit as enhancing the opportunity of PAC members and “bona fide groups to participate in the election process.”²¹ The Model Ordinance differs from federal law by requiring all contributions to small contributor PACs to be \$50 or less and placing an overall total limit on small contributor PAC contributions. These additional factors are not of constitutional significance. The \$50 requirement enhances the political participation of broad-based organizations with many smaller supporters. The total limit is comparable to the \$25,000 total limit on individuals under federal law.

5. *Limits on Contributions to PACs, Slates and Independent Expenditure Committees*

The Model Ordinance would place a limit on the amount of all contributions to PACs (as distinguished from contributions to candidates). The limits would be comparable in amount to the limit on contributions by individuals adopted by each local jurisdiction. Limits on contributions to PACs are necessary to prevent evasion of the basic contribution limit. Without such a restriction, an individual, corporation, labor union or other organization could make a contribution to a candidate and then make many additional or very large contributions to a series of PACs or political committees which could then re-transfer that money to the same

candidate. The Supreme Court has upheld the validity of a \$5,000 limit on contributions to PACs and other organizations as necessary to preserve the integrity of the basic contribution limits scheme.²²

The Model Ordinance also limits contributions to independent expenditure committees. Although the Supreme Court has held that expenditures by independent committees cannot be limited, in part because of the apparent belief that they have no potential for corruption,²³ the Court has left untouched a federal law placing limits of \$5,000 on all contributions to political committees, including independent expenditure committees. A federal district court has specifically upheld this federal law against attack by an individual who wanted to contribute more than \$5,000 to an independent expenditure committee.²⁴

6. Aggregate Non-Individual Contribution Limits

The Model Ordinance would place an aggregate cap on the total contributions a candidate could receive from all non-individual contributors combined. Each jurisdiction would pick an appropriate aggregate limit, which might be four to eight times the “total” contribution limit or approximately one-third of the candidates’ expenditure ceilings in the primary election and one-fourth of those expenditure ceilings in the general election. Once a candidate has received this maximum from corporations, labor unions, PACs, small contributor PACs and other organizations, the candidate can receive no additional contributions from such non-individuals.

Aggregate limits for non-individual contributors are a relatively new idea. Legislation has been introduced in Congress to restrict aggregate PAC contributions to congressional candidates, but this legislation has not yet been adopted.²⁵ Only Montana, which places an aggregate limit on the total amount of money a candidate can receive from all PACs combined, has adopted such an approach.²⁶ No court has reviewed the constitutionality of aggregate contribution limits.

The aggregate non-individual contribution limit is one of the most important aspects of the Model Ordinance. The proposed aggregate limit is designed to reduce the appearance or actuality of corruption that can flow from a massing of organizational contributions behind a particular candidate. The aggregate limit would thus reduce the apparent influence of many contributions from the same industry or group of interests. It would also diminish the public perception that certain corporate and labor PACs and other non-individual contributors exert an unhealthy influence over state local government.²⁷

It is not difficult to conceive of arguments which might be advanced against the validity of the aggregate limit concept. It might be argued, for example, that an aggregate contribution limit is tantamount to a flat ban on contributions from certain organizations. Once a candidate has received the maximum in contributions from non-individuals, other organizations would be barred from contributing at all. This might arguably suppress the right of such organizations to make campaign contributions. Moreover, for example, if corruption is not deemed to result from 35 corporations each contributing \$500 to a candidate, then arguably a 36th corporate contribution of \$500 could not suddenly be corrupting.

Despite these arguments, the Commission believes its aggregate limit is constitutional for several reasons. First, the Supreme Court has clearly held that contributions can be limited to prevent actual or apparent corruption in the legislative and electoral processes.²⁸ Corruption or its appearance can flow just as easily from a massing of contributions by a collection of interest groups, if not more easily, than it can from a single large contributor. At the national level, for example, the growth of PACs has generated considerable apprehension that candidates are too reliant on PAC support—even though each PAC is limited in its individual

giving to \$5,000 per candidate per election. New problems, such as growing PAC influence, require new solutions. In *Federal Election Commission v. National Right to Work Committee*,²⁹ the Supreme Court upheld a prohibition on all contributions by corporations, labor unions and national banks to federal candidates,³⁰ commenting:

*"[I]t is the potential for such influence that demands regulation. Nor will we second guess a legislative determination as to the need for prophylactic measures where corruption is the evil feared."*³¹

Legislation curtailing the power of contributors to aggregate wealth also warrants Court approval.

Second, an aggregate limit does not necessarily prevent any campaign committee from making a contribution to a candidate. In some—perhaps many—instances the aggregate limit may never be reached. If not, then no committee's contribution is curtailed. If the limit is near and committees still wish to make additional contributions, then candidates can choose to accept such contributions—so long as the contributions are received *in smaller amounts*. As the Supreme Court has emphasized, a contribution is a token form of support; the actual amount of the contribution is not *per se* protected. An aggregate limit, therefore, does not necessarily prevent campaign committees from making contributions. In some instances the limit will not be reached. In other instances, the candidate can accept smaller contributions and allow all to give.

An analogous situation existed in *Republican National Comm. v. Federal Election Comm'n.*³² In that case, plaintiffs argued that a federal law barring *any* contributions to candidates accepting public financing abridged contributors' freedom of speech. The court rejected this argument, stating that the law allowed the candidate to "voluntarily limit the size of the contributions he chooses to accept . . ." ³³ By analogy, an aggregate limit simply allows a candidate to vary the size of the contributions he receives from campaign committees so all that wish may contribute. If the candidate chooses not to do so, that is a voluntary decision on the part of the candidate.

Third, an aggregate limit does not prevent a campaign committee from making independent expenditures for or against any candidate. Individual members of any campaign committee can also give directly to a candidate, or they may engage in unlimited independent expenditures. The aggregate limit therefore leaves alternative contribution routes open to potential contributors, preserving their speech rights.

Fourth, *Buckley v. Valeo* sustained the notion that one contribution limit can be upheld if it supports the integrity of another. The aggregate contribution limit supports and enhances the operation of the basic contribution limit. Each limit is designed to eliminate actual or apparent corruption. The individual limit places a cap on very large donations of money, and the aggregate limit prevents many non-individuals from massing their contributions behind a particular candidate or piece of legislation. The aggregate proposal does not limit the total amount of money candidates can potentially raise. It simply requires candidates to raise money from a larger number of individual contributors.

Finally, federal law contains an analogous provision which places an aggregate limit on contributions by senatorial campaign committees and national committees combined.³⁴ Thus, if a candidate accepts the maximum contribution from the Senatorial Campaign Committee, he or she may not be able to accept any contribution from the national committee. One court has held this does not abridge

the national committee's right to contribute, since the candidate could choose to accept smaller contributions from each.³⁵

7. Ban on Transfers

The Model Ordinance prohibits transfers of campaign contributions from one candidate to another or from one candidate to a political party or legislative caucus. Four other states prohibit or restrict transfers. Connecticut and Michigan ban them altogether.³⁶ Massachusetts imposes a \$100 limit on transfers.³⁷ Hawaii allows candidates to use campaign money to buy a maximum of two tickets to another candidate's fundraiser.³⁸

Proposition 73 also prohibits transfers. The inclusion of such a prohibition in a Model Ordinance in California may therefore be superfluous. Local jurisdictions in other states, however, may also wish to consider its inclusion.

No court has yet addressed the question whether a ban on transfers is constitutional. The Supreme Court has, however, upheld flat prohibitions on contributions by corporations and labor unions.³⁹ The Court has also observed:

*"The differing restrictions placed on individuals and unincorporated associations, on the one hand, and on unions and corporations, on the other, reflect a judgment by Congress that these entities have differing structures and purposes, that they therefore may require different forms of regulation in order to protect the integrity of the electoral process."*⁴⁰

The Commission believes the special nature of transfers also warrants different forms of regulation to protect the electoral process.

A transfer involves a contribution from contributor A to candidate B, followed by a reconveyance by B of A's money to candidate C. A prohibition on transfers therefore prevents the second step—the relay of A's money by B to C. A ban on transfers merely prevents brokering—but leaves intact any speech interests that initial contributors may have in giving directly to candidates. Thus, a ban on transfers only affects the route by which money is given to a candidate; it does not prevent any individual from giving to any candidate. For this reason, a ban on transfers is believed to be constitutional.

8. Ban on Off Year Contributions

The Model Ordinance prevents candidates or incumbents from receiving any contributions during a non-election year. This restriction is justified for two basic reasons. First, off year contributions tend to be significantly more "corrupting" of the governmental process than contributions made at any other time. Contributions made to candidates often 18 to 24 months before the next election (or, in the case of many local officials, up to four years before the next election) are typically made to influence legislation and not to assist an incumbent in an upcoming campaign.

Second, a prohibition on off year fundraising would not deprive contributors of the chance to make contributions, nor would it deprive candidates of the chance to receive them. An off year fundraising prohibition is thus similar to a "time, place and manner" restriction which channels speech into certain places or time periods yet imposes no substantive restrictions on speech content.⁴¹ Presidential candidates who accept public financing, for example, may receive no private contributions whatsoever during the general election. This federal restriction does not prohibit contributions to presidential candidates; it simply requires the contributor to make them during a different time period. A moratorium on off year fundraising would very substantially alleviate both the actuality and the appearance of corruption in the legislative process while simply deferring fundraising to a later time.

9. *The Seed Money Exemption*

The Commission proposes to allow candidates to raise larger sums of money at the start of their campaigns by waiving the contribution limits until this “seed money” maximum is reached. This provision would allow candidates to raise money from any source and in any amount until the seed money limit was reached. All contributions raised thereafter would have to be received in amounts complying with other contribution limitations. The seed money exemption would thus allow candidates to raise a few large contributions to start up their campaigns.

In non-California jurisdictions (where Proposition 73 does not apply), each jurisdiction can select its seed money exemption—although the Commission recommends approximately 10% of the applicable expenditure ceilings. In California jurisdictions, the seed money exemption should not exceed Proposition 73’s otherwise applicable limits. A city with a \$100 individual contribution limit, for example, could create a \$1,000 seed money exemption, allowing candidates to raise contributions in amounts up to \$1,000 until the seed money maximum is attained.

No state has adopted a seed money exemption to its basic contribution limits and no court has yet reviewed the concept. The Commission believes, however, that the seed money concept is desirable and well within constitutional limitations. The seed money concept is merely a limited exemption from other contribution limitations. Moreover, because the exemption would apply only at the beginning of the campaign and would cease as soon as the candidate raises the seed money, the potential for corruption is reduced. Finally, because local jurisdictions are not required to adopt contribution limits at all, they can presumably suspend them selectively to achieve important goals—such as enabling candidates to kick off their campaigns with larger seed money contributions.

10. *Ban on Contributions From City Contractors*

The Commission’s Model Ordinance prohibits all contributions above a specified amount to local candidates or incumbents from individuals or organizations under contract with, or negotiating to enter contracts with, the local jurisdiction in question. Although this provision enacts a total ban on contributions from individuals or organizations under certain circumstances, the Commission believes this provision is constitutional.

The Supreme Court has upheld a total ban on all contributions from corporations, labor unions and national banks, stating that such a restriction may be necessary to prevent the “potential” for under “influence” or “corruption.”⁴² The Court has also upheld a ban on any contributions to Presidential candidates who accept public financing, stating that those candidates have voluntarily chosen not to receive contributions in exchange for public matching funds.⁴³

By analogy, the Commission’s proposed ban on contributions from city contractors is also designed to prevent “corrupting” contributions from individuals or businesses wishing to obtain lucrative city contracts. And individuals wishing to give contributions to candidates can choose not to enter contracts with the city or can make independent expenditures. Because the Commission’s prohibition is essentially designed to eliminate dangerous potential conflicts of interest, it would seem to be constitutional.

B. *The Proposed Expenditure Ceilings Are Voluntary and Constitutionally Valid*

In *Buckley v. Valeo*, the Supreme Court drew an important distinction between contribution limits and expenditure ceilings. In the Court’s view, contributions

were an indirect form of “speech by proxy.” Contributions could thus be limited to prevent corruption or its appearance without actual damage to the First Amendment rights of contributors or candidates.

On the other hand, the Court concluded that expenditure ceilings “restrict the quantity of campaign speech by individuals, groups and candidates” and thus strike at “the core of our electoral process and of the First Amendment freedoms.”⁴⁴ Moreover, the legitimate governmental interest in reducing the actuality or appearance of corruption is not served by expenditure ceilings. A candidate might be corrupted by a contribution but that candidate could not be corrupted by an expenditure.

Although mandatory expenditure ceilings were ruled invalid, the Court concluded that expenditure ceilings could be voluntarily accepted by candidates in exchange for additional governmental benefits. The Court observed:

“Congress . . . may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public financing.”⁴⁵

The Model Ordinance’s proposed expenditure ceilings fit within these parameters. They are not mandatory but are to be voluntarily accepted by candidates as a condition for receiving limited public matching funds. As explained in Chapter 22, “Proposition 73,” voters in the June 1988 election prohibited California jurisdictions from offering public funds to candidates. Although charter cities and counties may not be subject to this prohibition, all other cities and counties must abide by Proposition 73’s restrictions.

The Supreme Court has also held that independent expenditures made for or against a candidate by individuals or committees not controlled by that candidate cannot be restricted. Such expenditures are viewed as direct expressions of speech and association and cannot be abridged without some “compelling” governmental interest.⁴⁶ The Model Ordinance does not limit independent expenditures and thus does not contravene the Court’s guidelines.

The Model Ordinance does provide, however, that the expenditure ceilings for candidates in specific races will be lifted whenever significant independent expenditures are made for or against any one of the candidates in that race. The purpose of this proposal is to eliminate the unfairness that might result if independent political groups spent large sums attacking candidates who, because they had voluntarily agreed to limit their expenditures, might be barred from presenting an adequate response. Lifting expenditure ceilings in such circumstances would not abridge the right of political groups to make independent expenditures yet would still allow candidates to defend themselves against attack. The Model Ordinance is thus consistent with the Court’s constitutional rulings.

Expenditure ceilings serve important public goals. As Justice White commented in *Buckley v. Valeo*:

“Without limits on total expenditures, campaign costs will inevitably and endlessly escalate. Pressure to raise funds will constantly build and with it the temptation to resort in “emergencies” to those sources of large sums, who, history shows, are sufficiently confident of not being caught to risk flouting contribution limits.”⁴⁷

C. Limited Public Matching Funds Where Feasible Are Constitutionally Valid Because They Further Important Governmental Interests

The Model Ordinance proposes that matching funds be made available to candidates on a limited basis. In *Buckley v. Valeo*, the Supreme Court upheld a comparable system for presidential elections. The Court viewed limited public financing as a “a means of eliminating the improper influence of large private contributions” which “furthers a significant governmental interest”:

*“In addition, the limits on contributions necessarily increase the burden of fundraising, and Congress properly regarded public financing as an appropriate means of relieving major-party Presidential candidates from the rigors of soliciting private contributions.”*⁴⁸

A federal court elaborated on the Supreme Court’s reasoning in *Republican National Committee v. Federal Election Commission*. The court explained that limited public financing furthered two important governmental concerns:

*“. . . to give candidates the opportunity to lessen the ‘great drain on [their] time and energies’ required by fundraising ‘at the expense of providing competitive debate on the issues for the electorate’ and to ‘eliminate reliance on large private contributions’ that may arise from such reliance without decreasing the ability of the candidates to get their message to the people If the candidate chooses to accept public financing he or she is beholden unto no person, and if elected, should feel no post-election obligation toward any contributor of the type that might have existed as a result of a privately financed campaign.”*⁴⁹

Offering a candidate matching funds does not require a candidate to “sacrifice” constitutional rights, even though expenditure ceilings must be accepted as a condition for receipt of public funds. Instead, matching funds offer the candidate a choice between “two methods of exercising the same constitutional right.” The candidate remains “free to choose” between them.⁵⁰ As the Supreme Court concluded in *Buckley v. Valeo*, public financing:

*“. . . is a congressional effort, not to abridge, restrict, or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process . . . [and it] furthers, not abridges, pertinent First Amendment values.”*⁵¹

The court in *Republican National Committee* also rejected the argument that limited public funding “compelled” the candidate to accept expenditure limitations as an unconstitutional “condition” on the candidate’s freedom of speech. Rather, the effect of public financing was to “facilitate and enlarge . . . [candidates’] exercise of free speech over what it would otherwise be rather than to inhibit or reduce their speaking power.”⁵² The court added:

*“If a candidate were permitted, in addition to receipt of public funds, to raise and expend unlimited private funds, the purpose of public financing would be defeated . . . [C]andidates would no longer be relieved of the burdens of soliciting private contributions and of avoiding unhealthy obligations to private contributors. Thus the conditions placed on the expenditure of public funds are necessary to the effectiveness of a program which furthers significant state interests.”*⁵³

The court also rejected the argument that a flat prohibition on private contributions in the general election to presidential candidates accepting public financing would abridge the rights of candidates or contributors. Contributors can still make independent expenditures and candidates are left with control over the

choice of their funding sources. Limited public financing thus provides “an alternative to private funding with its burdens and unhealthy influences.”⁵⁴ Moreover public financing

“ . . . offers the presidential candidate an alternative that may enhance his or her First Amendment powers of communication, ‘free[s] candidates from the rigors of fundraising,’ . . . and eliminates the ‘danger of corruption,’ . . . without barring a candidate from deciding to adhere to private rather than public financing.”⁵⁵

The Model Ordinance is thus based on the conclusion that limited matching funds are not only constitutionally supportable but affirmatively desirable. Only candidates limiting their expenditures will qualify. Limited matching funds will make candidates less dependent on private contributions, reduce improper contributor influence, lessen candidates’ fundraising burdens, increase their responsiveness to constituents and enlarge public discussion.

The Model Ordinance is also premised on the assumption that it is appropriate to limit the expenditures of candidates receiving matching funds. Otherwise candidates would still experience mounting pressures to raise additional private funding. Expenditure ceilings are necessary to achieve the goals of a matching funds system.⁵⁶

D. Variable Contribution Limits Are a Constitutionally Untested yet Promising Alternative Incentive for Candidates to Accept Expenditure Ceilings

The Commission believes that expenditure ceilings are an essential component of effective long-term campaign finance reforms. Primarily for this reason, the Commission has supported the enactment of limited public matching funds in jurisdictions wishing to limit candidate spending. The Supreme Court has repeatedly held that expenditure ceilings cannot be imposed on candidates against their will, but it has also held that candidates can legitimately be asked to limit their spending *voluntarily* in exchange for acceptance of public matching funds.⁵⁷ For this reason, various forms of limited public financing have become the mainstay of all valid attempts to limit campaign spending.

Unfortunately, Proposition 73, which was enacted during the June 1988 California election, explicitly prohibits the expenditure of “any public monies” on candidates seeking elective office in the state, including candidates for local office. In so doing, Proposition 73—misguidedly, in the Commission’s view—may prohibit many local governments from adopting the only technique constitutionally validated by the Supreme Court for encouraging candidates voluntarily to limit their spending. Charter cities and counties may be exempted from the sweep of the measure’s ban on public funding, but for the remaining local jurisdictions, Proposition 73 will ironically prohibit the only tested measure essential for broad reform. (See generally Chapter 22, “Proposition 73.”)

The Commission has therefore proposed an alternative incentive which local jurisdictions might consider adopting in order to encourage candidates to limit their expenditures. The Commission describes this approach as “variable contribution limits.” A local jurisdiction wishing to adopt expenditure ceilings but deprived by Proposition 73 of the power to do so would first adopt low contribution limits—for example, between \$100 and \$200. If candidates agreed voluntarily to limit their spending, however, the jurisdiction would allow those candidates to raise money in larger amounts under higher contribution limits—for example, up to the maximums imposed under Proposition 73.

Under this approach, for example, candidates rejecting expenditure ceilings might be required to raise all their money in sums of \$100; but candidates accepting expenditure ceilings would be allowed to raise individual contributions in amounts up to \$1,000, PAC contributions in amounts up to \$2,500 and special large PAC contributions in amounts up to \$5,000. In essence, jurisdictions adopting this approach would enact two sets of contribution limits: low limits for candidates rejecting expenditure ceilings, and higher limits for candidates accepting expenditure ceilings. Candidates would not be forced to accept expenditure ceilings; they could voluntarily choose them in exchange for higher contribution limits.

Variable contribution limits have several advantages. They embody a relatively simple technique for encouraging candidates to accept expenditure ceilings. They do not require jurisdictions to adopt public financing—often a politically difficult proposition. And they do not need relatively complicated payment and auditing mechanisms to ensure that candidates have properly qualified for public matching funds.

Variable contribution limits do, however, have several disadvantages. They may not offer candidates a sufficient incentive for agreeing to limit their expenditures. They do not infuse campaigns, particularly those of challengers, with additional funding. And, most significantly, they have never been tested for constitutional validity by the courts. Nonetheless, the Commission believes they are constitutional on a number of grounds.

In *Buckley v. Valeo*, the Supreme Court held that the government could offer candidates an incentive in exchange for their voluntary acceptance of expenditure ceilings.⁵⁸ Variable contribution limits do precisely that: they offer candidates an incentive to limit their spending voluntarily. Moreover, as with systems of public financing, they allow candidates accepting expenditure ceilings to raise money more quickly and with less expenditure of time, since they can raise contributions in larger amounts. Finally, variable contribution limits appear to be a relevant trade-off for expenditure ceilings: they either allow candidates to raise and spend as much money as they can, although under strict contribution limits; or they allow candidates to raise money more easily, but spend no more than the applicable expenditure ceiling. Local jurisdictions, in effect, can exchange a lower contribution limit for an expenditure ceiling.

One objection that might be raised against variable contribution limits is that a local jurisdiction cannot adopt a low contribution limit, claiming that it is necessary to prevent “corruption,” and then waive that limit, arguably permitting candidates to be “corrupted” by larger contribution amounts. How, this argument goes, can cities and counties define a contribution over a certain amount as “corruption,” yet then selectively allow some candidates to raise sums over that amount?

One answer is that cities are not required to adopt contribution limits—and thus define a limit beyond which contributions can create real or apparent “corruption.” In fact, many cities have adopted no contribution limits. Other cities have adopted a wide range of differing contribution limits. Still others have adopted different limits simultaneously—imposing, for example, different limits on individuals, corporations and labor unions. There is, in other words, no one accepted contribution limit (or definition of excessively “corrupting” contributions). If a city is not required to enact any contribution limit at all, then it would appear that a city could adopt a specific contribution limit and then selectively waive it. In each instance (no limit or variable limits), the city has decided to permit the potential effects of larger contributions for a variety of countervailing reasons. A city might legitimately conclude, for example, that a candidate should be allowed to raise larger contributions as “seed money” to kick off a campaign. (See discussion of

“seed money” exemptions to contribution limits, above.) A local jurisdiction might similarly conclude that a candidate raising a few, larger, more “corrupting” contributions is, in an overall sense, less “corrupting” than that candidate raising a larger number of smaller contributions.

An objection might also be made that allowing one candidate to raise contributions in larger amounts while prohibiting another candidate in the same race from doing so violates the equal protection of the laws under the 14th Amendment. Two replies seem appropriate. First, a local jurisdiction adopting variable contribution limits would not be treating similarly situated candidates differently. Rather, it would be treating differently situated candidates differently—since one would have agreed to accept expenditure ceilings and the other would not. Second, all candidates have an equal choice: whether to raise money under lower contributions limits but not have to limit their spending, or accept expenditure ceilings and benefit from higher contribution limits. In this critical regard, all candidates are treated equally; it is only their own voluntary choice which differentiates them.

Variable contribution limits are a new, judicially untested and less desirable incentive for candidate acceptance of expenditure ceilings than limited matching funds. Yet the Commission believes they may be effective as an incentive for jurisdictions to encourage candidates to accept expenditure ceilings, particularly where the restrictions of Proposition 73 apply. The Commission also believes that the variable contribution limit approach is well within the parameters of constitutional law defined by the Supreme Court in this area.

NOTES

1. *Buckley v. Valeo*, 424 U.S. 1, 14 (1976) (citing and quoting *Roth v. United States*, 354 U.S. 254, 270 (1957)). The following discussion of the constitutionality of the proposed Model Ordinance draws substantially on the Commission’s constitutional analysis initially published in *The New Gold Rush: Financing California’s Legislative Campaigns*, pp. 239-50 (1985).
2. *Buckley*, 424 U.S. at 14.
3. *Id.* at 1.
4. *Id.* at 19.
5. The genesis of modern constitutional law affecting political campaigns is found in *Buckley v. Valeo*, *supra*. For other leading court decisions in the area of campaign finance, see *Federal Election Comm’n v. Mass. Citizens for Life*, 107 S. Ct. 616 (1986) (campaign expenditures by non-profit corporations); *Federal Election Comm’n v. National Conservative Political Action Comm.*, 470 U.S. 480 (1985) (independent PAC expenditures); *Federal Election Comm’n v. National Right to Work Comm.*, 459 U.S. 197 (1982) (solicitation of money by corporate PACs); *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290 (1981) (contributions to ballot measure committees); *California Medical Ass’n v. Federal Election Comm’n*, 453 U.S. 182 (1981) (contributions to political committees); *Republican Nat’l Comm. v. Federal Election Comm’n*, 461 F. Supp. 570 (S.D.N.Y. 1978), 487 F. Supp. 280 (S.D.N.Y. 1980) (by a three-judge court), *aff’d*, 616 F.2d 1 (2d Cir. 1980) (en banc), *aff’d mem.*, 445 U.S. 955 (1980) (independent expenditures); *First Nat’l Bank v. Bellotti*, 435 U.S. 765 (1978) (corporate expenditures on ballot measures); *United States v. UAW*, 352 U.S. 567 (1957) (prohibition on corporate and labor union contributions); *Mott v. Federal Election Comm’n*, 494 F. Supp. 131 (D.D.C. 1980) (limits on contributions to PACs and overall limits on individual contributions).
6. *Buckley*, 424 U.S. at 20-29, and cases cited in note 5, *supra*.
7. *California Medical Ass’n v. Federal Election Comm’n*, 453 U.S. at 196 & n.16.

8. *Buckley*, 424 U.S. at 20.
9. *Id.* at 20-21.
10. *Id.* at 22.
11. *Id.* at 21-22. The Court has also upheld a flat prohibition on corporate and labor contributions. See *Federal Election Comm'n v. National Right to Work Comm.*, 459 U.S. 197 (1982). A *fortiori*, a \$1,000 limit on corporate and labor contributions is constitutional.
12. *Id.* at 25.
13. *Id.* at 26-27.
14. *Id.* at 27.
15. *Id.* at 38-49, 91-96.
16. *Id.* at 23-35.
17. *Id.* at 32.
18. *Id.* at 30.
19. 2 U.S.C.A. §441a(3) (West 1985).
20. *Buckley*, 424 U.S. at 38; see *Mott v. Federal Election Comm'n*, 494 F. Supp. 131 (D.D.C. 1980). Although federal law prohibits contributions by corporations and labor unions, the Commission's Model Ordinance allows such contributions. For this reason, the total contribution limit is also applied to corporate and labor donations in the Model Ordinance.
21. *Buckley*, 424 U.S. at 35.
22. *California Medical Ass'n v. Federal Election Comm'n*, 453 U.S. 182 (1981); see *Mott v. Federal Election Comm'n*, 494 F. Supp. 131 (D.D.C. 1980); *Florida Police Benev. Ass'n v. Florida Election Comm'n*, 430 So. 2d 483 (Fla. Dist. Ct. App. 1983).
23. *Federal Election Comm'n v. National Conservative Political Action Comm.*, 470 U.S. 480 (1985).
24. *Mott*, 494 F. Supp. 131.
25. Obey-Leach Bill, H.R. 4428, 98th Cong., 1st Sess. (1983).
26. Mont. Code Ann. §§13-37-101 to 13-37-308 (1983).
27. *C.f.* Harris Survey, May 31, 1984; Roper Report 82-8, Oct. 1982.
28. *Buckley*, 424 U.S. at 20-29.
29. *Nat'l Right to Work Comm.*, 459 U.S. 197.
30. 2 U.S.C.A. §441b (West 1985).
31. *Nat'l Right to Work Comm.*, 459 U.S. at 210.
32. *Republican Nat'l Comm. v. Federal Election Comm'n*, 461 F. Supp. 570 (S.D.N.Y. 1978), 487 F. Supp. 280 (S.D.N.Y. 1980) (by a three-judge court), *aff'd*, 616 F.2d 1 (2d Cir. 1980) (en banc), *aff'd mem.*, 445 U.S. 955 (1980).
33. 487 F. Supp. at 284 (quoting *Buckley v. Valeo*, 424 U.S. at 57 n.65).
34. 2 U.S.C.A. §441a(h) (1985).
35. See *Republican Nat'l Comm. v. Federal Election Comm'n*, 461 F. Supp. 570, *supra* note 5.
36. Conn. Gen. Stat. Ann. §§9-333 to 9-348 (West 1958 & Supp. 1985); Mich. Comp. Laws §§169.201-169.282 (West Supp. 1984-1985).
37. Mass. Ann. Laws ch. 55 §§1-42, ch. 55A §§1-12 (Michie/Law Co-op 1978 & Supp. 1985), ch. 10 §43 (Michie/Law Co-op 1980), ch. 62 §6C (Michie/Law Co-op Supp. 1985).
38. Hawaii Rev. Stat. §§11-191 to 11-229 (Supp. 1984), §§235-7(g), 235-102.5 (Supp. 1984).
39. See *Nat'l Right to Work Comm.*, 459 U.S. 197; *United States v. UAW*, 352 U.S. 567 (1957).
40. *California Medical Ass'n*, 453 U.S. at 201.
41. See, e.g., *Young v. American Mini Theatres*, 427 U.S. 50 (1976) (zoning of adult movie theaters is permissible); *FCC v. Pacifica Foundation*, 438 U.S. 726 (1978) (zoning of protected speech into late evening broadcast hours is permissible).

42. *Nat'l Right to Work Comm.*, 459 U.S. at 210.
43. *Republican Nat'l Comm.*, 487 F. Supp. at 284.
44. *Buckley*, 424 U.S. at 39.
45. *Id.* at 57 n.65.
46. *Federal Election Comm'n v. National Conservative Political Action Comm.*, 470 U.S. 480 (1985).
47. *Buckley*, 424 U.S. at 264, 265 (dissenting opinion).
48. *Buckley*, 424 U.S. at 96.
49. *Republican Nat'l Comm.*, 487 F. Supp. at 284.
50. *Id.* at 284-85.
51. *Buckley*, 424 U.S. at 92-93.
52. *Republican Nat'l Comm.*, 487 F. Supp. at 285.
53. *Id.* at 285-86.
54. *Id.* at 297.
55. *Id.* at 289, quoting *Buckley*, 424 U.S. at 91, 33.
56. *Id.*
57. *Id.*
58. *Buckley*, 424 U.S. at 57 n.65.

PART IV

Appendices

APPENDIX A**Text of Proposed Model Ordinance
for Cities and Counties**

(The provisions of this Model Ordinance are discussed in detail in Chapter 23, "The Commission's Model Ordinance.")

THE [Name of City/County] CAMPAIGN REFORM ACT**Article 1****FINDINGS AND PURPOSES****100. Title**

This ordinance shall be known as the [city or county] Campaign Reform Act.

101. Findings and Declarations

The people find and declare each of the following:

(a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(b) The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters before the [city council/board of supervisors]. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

(c) Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

(d) High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

(e) Officeholders are responding to high campaign costs by raising large amounts of money in off election years. This fundraising distracts them from important public matters, encourages contributions which may have a corrupting influence and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

(f) The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

102. Purpose of This Act

The people enact this Act to accomplish the following purposes:

(a) To ensure that individuals and interest groups in our society have a fair and equal opportunity to participate in the elective and governmental processes.

(b) To reduce the influence of large contributors with a specific financial stake in matters before the [city council/board of supervisors], thus countering the perception that decisions are influenced more by the size of contributions than the best interests of the people of [city/county].

(c) To assist serious candidates in raising enough money to communicate their views and positions adequately to the public without excessive expenditures or contributions, thereby promoting public discussion of the important issues involved in political campaigns.

(d) To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

(e) To provide a neutral source of campaign financing in the form of limited public matching funds.

(f) To increase the value to candidates of smaller contributions.

(g) To eliminate off year fundraising.

(h) To reduce the excessive fundraising advantage of incumbents and thus encourage competition for elective office.

(i) To allow candidates and officeholders to spend a lesser proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents.

(j) To improve the disclosure of contribution sources in reasonable and effective ways.

(k) To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.

(l) To help restore public trust in governmental and electoral institutions.

Article 2

DEFINITIONS

200. Interpretation of This Act

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 82000 *et seq.* shall govern the interpretation of this Act.

201. Small Contributor Political Action Committee

“Small contributor political action committee” means any committee which meets all of the following criteria:

(a) All the contributions it receives from any person in a twelve-month period total \$50 or less.

(b) It has been in existence at least six months.

(c) It contributes to at least five candidates.

(d) It is not a candidate-controlled committee.

(e) It receives contributions from more than 100 persons.

202. Qualified Campaign Expenditure

(a) "Qualified campaign expenditure" for candidates includes all of the following:

- (1) Any expenditure made by a candidate for [city/county] office, or by a committee controlled by such a candidate, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any [city/county] candidate.
- (2) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.
- (3) That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the greater of the cost actually paid or incurred by the committee or controlled committee of the candidate or the proportionate share of the total cost attributable to each such candidate. The number of candidates sharing costs and the emphasis on or space devoted to each such candidate shall be considered in determining the cost attributable to each such candidate.

(b) "Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

203. Two-Year Period

"Two-year period" means that period commencing with January 1 of an odd-numbered year and ending with December 31 of an even-numbered year.

204. Campaign Reform Fund

"Campaign Reform Fund" means the fund created by Section 900.

Article 3

CONTRIBUTION LIMITATIONS

300. Limitations on Contributions From Persons

(a) No person shall make to any candidate for office and the controlled committee of such a candidate and no such candidate and the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than \$[could range between \$100 and \$1,000] for each election in which the candidate is on the ballot or is a write-in candidate.

(b) No person shall make to any committee which supports or opposes any candidate and no such committee shall accept from each such person a contribution or contributions totaling more than \$[the same amount as (a)] per year.

301. Limitations on Contributions From Small Contributor Political Action Committees

(a) No small contributor political action committee shall make to any candidate for office and the controlled committee of such a candidate, and no such candidate and the candidate's controlled committee shall accept from a small contributor political action committee a contribution or contributions totaling more than \$[could range from \$500 to \$5,000] for each election in which the candidate is on the ballot or is a write-in candidate.

(b) No small contributor political action committee shall make to any committee supporting or opposing a candidate and no such committee shall accept from a small contributor political action committee a contribution or contributions totaling more than \$[the same amount as in Section 301(a)] in a two-year period.

302. Limitations on Contributions From Non-Individuals

No candidate and the controlled committee of such a candidate shall accept more than \$[could be approximately 33% of the expenditure ceilings in Section 400 or a comparable amount if the ordinance does not include expenditure ceilings] in contributions from non-individuals in any election.

303. Prohibition on Non-Election Year Contributions

No candidate or officeholder or the controlled committee of such a person shall accept any contribution in any year other than the year in which the candidate or officeholder is listed on the ballot or is a write-in candidate.

304. Transfers

No candidate and no committee controlled by a candidate or officeholder shall make any contribution to any other candidate running for office or to any committee supporting or opposing a candidate for office.

305. Limitations on Payments of Gifts and Honoraria

No officeholder or candidate and any fund controlled by such a person shall receive more than \$[could be the same as the contribution limitations in Section 300] in honoraria and gifts in a two-year period from any person other than a member of the candidate's family as specified in Government Code Section 82030(b)(9).

306. Return of Contributions

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within fourteen (14) days of receipt.

307. Aggregation of Payments

For purposes of the contribution limitations in Sections 300-302, and Section 305, the following shall apply:

(a) All payments made by a person, organization or small contributor political action committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or small contributor political action committee.

(b) Two or more entities shall be treated as one person when any of the following circumstances apply:

- (1) The entities share the majority of members of their boards of directors.
- (2) The entities share two or more officers.
- (3) The entities are owned or controlled by the same majority shareholder or shareholders.
- (4) The entities are in a parent-subsidary relationship.

(c) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(d) No committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on whether the candidate or candidates receive contributions.

308. Loans

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this chapter.

(b) Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this chapter.

(d) Extensions of credit [other than loans pursuant to subdivision (c)] for a period of more than thirty (30) days are subject to the contribution limitations of this chapter.

309. Family Contributions

(a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

(b) Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

310. Money Received by Officials Treated as Contributions, Income or Gifts

Any funds received by any elected official or candidate running in the jurisdiction or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code Sections 87100 *et seq.*

311. One Campaign Committee and One Checking Account Per Candidate

A candidate shall have no more than one campaign committee and one checking account out of which all expenditures shall be made. This Section shall not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

312. Prohibition on Contributions From Contractors Doing Business With the Jurisdiction

No person who contracts with the jurisdiction, for the rendition of personal services, for the furnishing of any material, supplies or equipment to the jurisdiction, or for selling any land or building to the jurisdiction, whenever the

value of such transaction exceeds \$[an amount which is subject to the approval of the city council/board of supervisors], shall make any contribution to an elected official, candidate, or committee controlled by such official or candidate at any time between the commencement of negotiations and either the completion of the performance under, or the termination of negotiations for, such contract, whichever occurs later.

Article 4

EXPENDITURE CEILINGS

400. Expenditure Ceilings

No candidate for office who files a statement of acceptance of matching funds and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amount: \$[could vary between \$10,000 and \$1 million] per election.

401. Expenditure Ceilings Lifted

If a candidate who declines to accept matching funds receives contributions or makes qualified campaign expenditures in excess of the expenditure ceilings, or if an independent expenditure committee or committees spend more than \$[approximately 25% of the amount in Section 400] in the aggregate in support of or in opposition to any candidate, the expenditure ceilings shall no longer be applicable to all candidates running for the same office.

402. Notification by Candidate Who Exceeds Expenditure Ceilings

A candidate who receives contributions which total an amount over the expenditure ceilings or spends an amount over the expenditure ceilings shall notify all opponents and the local filing offices by telephone and by confirming telegram the day the limitations are exceeded.

[The following Section 403 would apply to any California city or county which holds a primary election in the first week of June and a runoff election, if needed, in the first week of November.]

403. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be prorated.

[The following Section 403 would apply to any California city which holds a primary election at a time other than the first week in June and a subsequent runoff election, if needed, at some later date.]

403. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time up to the date of the first election shall be considered expenditures for that election, and qualified campaign expenditures made after the date of the first election shall be considered expenditures for the runoff election. However, in

the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods and services used in both periods shall be prorated.

[The following Article 5 would apply to cities and counties, such as charter cities and counties, which might have the power to spend public moneys on candidates for office, despite the restrictions of Proposition 73 adopted in the June 1988 California statewide election.]

Article 5

MATCHING FUNDS

500. Candidate Acceptance or Rejection of Matching Funds

(a) Each candidate for office, at the time of filing his or her nomination papers, shall file a statement of acceptance or rejection of matching funds. If a candidate agrees to accept matching funds, the candidate shall comply with the provisions of Article 4 of this Act. A candidate who agrees to accept matching funds may not change that decision, except that if an opposing candidate files a statement of rejection, then the candidate may rescind his or her acceptance within ten (10) calendar days of the last date for filing nomination papers.

(b) Each candidate shall notify all opponents and the local filing officer by telegram on the day such a candidate raises, spends or has cash on hand of more than \$[approximately 10% to 20% of the expenditure ceilings set forth in Section 400].

501. Qualification Requirements

In order to qualify to receive matching funds, a candidate shall meet all the following requirements:

(a) The candidate and the controlled committee has received contributions (other than contributions from the candidate or his or her immediate family) of at least \$[the same amount as in Section 500(b)] in contributions of \$[between \$25 and \$500] or less. Only contributions received on or after January 1 of the election year or, if a special election, after the nomination papers are filed, may be counted for the above threshold. For purposes of this subsection, a loan, a pledge or a non-monetary contribution shall not be considered a contribution.

[The following Section 501(b) would apply where elections are by district.]

(b) In the election, the candidate is opposed by a candidate running for the same seat who has qualified for matching funds or who has raised, spent or has cash on hand of at least \$[the amount in Section 500(b)].

[The following Section 501(b) would apply where elections are at-large.]

(b) In the election, the candidate is opposed by candidates who number one more than the number of seats up for election and who have qualified for matching funds or who have raised, spent or have cash on hand of at least \$[the amount in Section 500(b)].

(c) The candidate contributes no more than \$[between \$5,000 and \$50,000] per election from his or her personal funds to the campaign.

502. Matching Funds Formula

A candidate who is eligible to receive matching funds shall receive payments on the basis of the following formula:

(a) For a contribution or contributions (other than a contribution from the candidate or his or her immediate family) totaling \$[between \$25 and \$250] or under from a single source received on or after January 1 of the election year or, if a special election, after the nomination papers are filed, a matching ratio of \$[between \$1 and \$5] for each dollar received.

(b) For purposes of this section, a loan, pledge or non-monetary contribution shall not be considered a contribution.

503. Candidate Request for Payment

The local filing officer shall determine the information needed to be submitted to qualify for payment of matching funds. A candidate may not request less than one thousand dollars (\$1,000) in payments at any one time, provided, however, that in the fourteen (14) days preceding an election, a candidate may not request less than five hundred dollars (\$500) in such payments.

504. Maximum Funds Available to Candidate

No candidate shall receive matching funds in excess of the following amount: \$[no more than half the expenditure ceilings in Section 500].

505. Timing of Payments to Candidates

The [local accounting office] shall make matching funds payments in the amount certified by the filing officer. Payments shall be made no later than three (3) business days after receipt of the request by the candidate. If the filing officer determines the money available for matching fund purposes is not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates, the filing officer shall notify the accounting officer to withhold sufficient amounts as may be necessary to assure that the eligible candidates will receive a *pro rata* share of their entitlements. The amount withheld shall be paid when the filing officer determines that there is sufficient money to pay the amounts or portions of the amounts.

506. Surplus Funds

Surplus funds remaining after all obligations are met by the candidate shall be returned to the funding source.

[The following alternative Article 5 might be used by cities and counties which wish to offer candidates an incentive to accept expenditure ceilings, yet which are restricted by the provisions of Proposition 73 from offering such candidates limited public matching funds.]

Article 5

ALTERNATIVE TO MATCHING FUNDS

500. Candidate Acceptance or Rejection of Expenditure Ceilings

(a) Each candidate for office, at the time of filing his or her nomination papers, shall file a statement of acceptance or rejection of the expenditure ceilings in Article 4. If he or she agrees to accept the expenditure ceilings, the candidate shall not be subject to the contribution limitations in Sections 300-302, but shall be subject to the contribution limitations in Section 501.

(b) If a candidate declines to accept the expenditure ceilings in Section 400, the candidate shall be subject to the contribution limitations in Article 3.

(c) A candidate who agrees to accept the expenditure ceilings in Section 400 may not change that decision, except that if an opposing candidate files a statement of rejection, then the candidate may rescind his or her acceptance within ten (10) calendar days of the last date for filing nomination papers provided that the candidate has not accepted any contributions in amounts greater than the limitations set forth in Sections 300-302.

501. Contribution Limitations for Candidates Accepting Expenditure Ceilings

A candidate who accepts the expenditure ceilings in Section 400 shall only be subject to the limitations set forth in Government Code Sections 85301-85305 and Sections 303-312 of this Act.

Article 6

INDEPENDENT EXPENDITURES

600. Contribution Limitations

Any person who makes independent expenditures supporting or opposing a candidate shall not accept any contribution in excess of the amounts set forth in Section 300.

601. Reproduction of Materials

Any person who reproduces, broadcasts or distributes any material which is drafted, printed, prepared or previously broadcast by a candidate or a committee controlled by such a candidate shall report such an expenditure as a non-monetary contribution to such candidate or committee.

602. Notice of Independent Expenditures

Any person who makes independent expenditures of more than \$[between \$250 and \$1,000] in support of or in opposition to any candidate shall notify the local filing officer and all candidates running for the same seat by telegram each time this threshold is met.

Article 7

ADDITIONAL DISCLOSURE REQUIREMENTS

700. Disclosure Thresholds

In addition to the disclosure requirements of the Political Reform Act, commencing with Government Code Section 81000, candidates, their controlled committees and other committees primarily formed to support or oppose candidates in [name of jurisdiction], shall disclose all contributions cumulating \$[amounts can range from \$15 to \$75] or more, by providing the amount of the contribution as well as the name, address, occupation and employer of each such contributor; and shall disclose all expenditures of \$[the same amount as the contribution threshold] or more, by providing the amount of the expenditure as well as the name and address of the vendor and a description of the consideration for the payment.

701. Additional Pre-Election Campaign Statement

In addition to the campaign statements required to be filed pursuant to the Political Reform Act, commencing with Government Code Section 81000, candidates, their controlled committees and committees primarily formed to

support or oppose candidates in [name of jurisdiction] shall file a pre-election statement on the Friday before the election. This statement shall have a closing date of the Wednesday before the election.

702. Disclosure of Occupation and Employer

No contribution shall be deposited into a campaign checking account unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution.

Article 8

AGENCY RESPONSIBILITY

800. Duties of the Local Filing Officer

The local filing officer shall also:

(a) Adjust the expenditure ceilings, contribution limitations and public financing provisions in January of even-numbered years to reflect any increase or decrease in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred for the limitations on contributions and the nearest thousand for the limitations on expenditures and [if applicable] the public financing provisions.

(b) Prescribe the necessary forms for filing the appropriate statements.

(c) Prepare and release studies on the impact of this title. These studies shall include recommendations which further the purpose of this ordinance.

[If applicable]

(d) Verify the requests for payment of matching funds.

801. Auditing Duties (if applicable)

The [local fiscal officer] shall audit each candidate who has received public funds.

Article 9

CAMPAIGN REFORM FUND DESIGNATION

[If the local jurisdiction elects to appropriate funds out of the general fund]

900. Appropriation of Funds

During any fiscal year which contains an election, the [city council/board of supervisors] shall, in its final budget, appropriate from the general fund the sum of one dollar (\$1) for each one dollar (\$1) estimated by the filing officer to be paid to candidates and the sum estimated that is necessary to make all other payments authorized by the provisions of this Act. In the event that insufficient funds are appropriated in the final budget to pay such sums, the [city council/board of supervisors], upon the request of the filing officer, shall transfer sufficient money from the contingency fund to make all payments authorized by the provisions of this Act.

[If the local jurisdiction elects to use voluntary checkoff against municipal or county utilities or other municipal or county billing]

900. Tax Checkoff (may use property tax or local utility tax)

Every individual may designate \$[could be from \$1 to \$5] to be deposited into the Campaign Reform Fund. Designations of funds shall not increase such person's liability. Money in this Fund shall be available for distribution in accordance with the provisions of Section 500. The [local fiscal officer] shall place on the top third of the first page of all returns required to be filed the following language:

**CAMPAIGN
REFORM
FUND**

Do you want \$_____ of [this billing] which you are already paying to go to this Fund? Yes No

NOTE: Checking "Yes" will not increase or reduce the amount due from you.

Article 10**ENFORCEMENT****1000. Criminal Misdemeanor Actions**

Any person who violates any provision of this Act is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Section. Prosecution for violation of any provision of this Act shall be commenced within four (4) years after the date on which the violation occurred.

1001. Civil Actions

(a) Any person who intentionally or negligently violates any provision of this Act shall be liable in a civil action brought by the [city attorney/district attorney] or by a person residing within the jurisdiction for an amount not more than three times the amount of the unlawful contribution or expenditure.

(b) If two or more persons are responsible for any violation, they shall be jointly and severally liable.

(c) Any person, before filing a civil action pursuant to this subdivision, shall first file with the [city attorney/district attorney] a written request for the [city attorney/district attorney] to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The [city attorney/district attorney] shall respond within forty (40) days after receipt of the request indicating whether he or she intends to file a civil action. If the [city attorney/district attorney] indicates in the affirmative and files a suit within forty (40) days thereafter, no other action may be brought unless the action brought by the [city attorney/district attorney] is dismissed without prejudice.

(d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited into the general fund. In an action brought by the [city attorney/district attorney], the entire amount shall be paid to the general fund of the jurisdiction.

(e) No civil action alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

1002. Injunctive Relief

Any person residing in the jurisdiction, including the [city attorney/district attorney], may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

1003. Cost of Litigation

The court may award to a plaintiff or defendant, other than an agency, who prevails in any action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

1004. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of Sections 300-305, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 *et seq.* and the regulations of the Fair Political Practices Commission shall apply to interpretations of this Section.

Article 11

MISCELLANEOUS PROVISIONS

1100. Applicability of Other Laws

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this state or jurisdiction.

1101. Severability

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

APPENDIX B**Text of Proposed Model Ordinance
for Cities and Counties****Short Version**

(The provisions of this Model Ordinance are discussed in detail in Chapter 23, "The Commission's Model Ordinance.")

THE [Name of City/County] CAMPAIGN REFORM ACT**100. Title**

This chapter shall be known as the [city or county] Campaign Reform Act.

200. Interpretation of This Act

The definitions set forth in Government Code Sections 82000 *et seq.* shall govern the interpretation of this Act.

300. Limitations on Contributions From Persons

No person, as defined in Section 82030 of the Government Code, shall make to any candidate for office and the controlled committee of such a candidate and no such candidate and the candidate's controlled committee shall accept from each such person a contribution or contributions totaling more than \$[could range between \$100 and \$1,000] for each election in which the candidate is on the ballot or is a write-in candidate.

400. Expenditure Ceilings

No candidate for office who files a statement of acceptance of matching funds and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amount: \$[could vary between \$10,000 and \$1 million per election].

500. Candidate Acceptance or Rejection of Matching Funds

(a) Each candidate for office, at the time of filing his or her nomination papers, shall file a statement of acceptance or rejection of matching funds.

(b) Each candidate shall notify all opponents and the local filing officer by telegram on the day such a candidate raises, spends or has cash on hand of more than \$[between 10% and 20% of the amount in Section 400].

501. Qualification Requirements

In order to qualify to receive matching funds, a candidate shall meet all the following requirements:

(a) The candidate has received contributions (other than contributions from the candidate or his or her immediate family) of at least \$[the same amount as in Section 500(b)] in contributions of \$[between \$25 and \$500] or less. For purposes of this subsection, a loan, pledge or non-monetary contribution shall not be considered a contribution.

(b) In the election, the candidate is opposed by a candidate running for the same seat who has qualified for matching funds or has raised, spent or has cash on hand of at least \$[higher than the amount in Section 501].

(c) The candidate contributes no more than \$[between \$5,000 and \$50,000] per election from his or her personal funds to the campaign.

502. Matching Funds Formula

A candidate who is eligible to receive matching funds shall receive payments on the basis of the following formulas:

(a) For a contribution or contributions (other than a contribution from the candidate or his or her immediately family) totaling \$[between \$25 and \$250] or under from a single source received on or after January 1 of the election year a matching ratio of \$[between \$1 and \$5] for each dollar received.

(b) For purposes of this section, a loan, pledge or non-monetary contribution shall not be considered a contribution.

[Alternative to Sections 500-502]

500. Candidate Acceptance or Rejection of Expenditure Ceilings

(a) Each candidate for office at the time of filing his or her nomination papers shall file a statement of acceptance or rejection of the expenditure ceilings in Section 400.

(b) A candidate who accepts the expenditure ceilings set forth in Section 400 shall not be subject to the contribution limitations of Section 300 and shall only be subject to the contribution limitations of Government Code Sections 85301-85305.

(c) If a candidate declines to accept the expenditure ceilings in Section 400, the candidate shall be subject to the contribution limitations in Section 300.

600. Duties of the Local Filing Officer

The local filing officer shall:

(a) Adjust the expenditure ceilings, contribution limitations and public financing provisions in January of even-numbered years to reflect any increase or decrease in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred for the limitations on contributions and the nearest thousand for the limitations on expenditures and the public financing provisions.

(b) Prescribe the necessary forms for filing the appropriate statements.

[If applicable]

(c) Verify the requests for payment of matching funds.

601. Auditing Duties (if applicable)

The [local fiscal officer] shall audit each candidate who has received payments from the Campaign Reform Fund.

700. Appropriation of Funds

During any fiscal year which contains an election, the [city council/board of supervisors] shall, in its final budget, appropriate from the general fund the sum of one dollar (\$1) for each one dollar (\$1) estimated by the filing officer to be paid to candidates and the sum estimated that is necessary to make all other payments authorized by the provisions of this Act. In the event that insufficient funds are appropriated in the final budget to pay such sums, the [city council/board of supervisors], upon the request of the filing officer, shall transfer sufficient money from the contingency fund to make all payments authorized by the provisions of this Act.

800. Criminal Misdemeanor Actions

Any person who violates any provision of this Act is guilty of a misdemeanor. Any person who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Section. Prosecution for violation of any provision of this Act shall be commenced within four (4) years after the date on which the violation occurred.

801. Civil Actions

Any person who intentionally or negligently violates any provision of this Act shall be liable in a civil action brought by the [city attorney/district attorney] or by a person residing within the jurisdiction for an amount not more than three times the amount of the unlawful contribution or expenditure.

802. Injunctive Relief

Any person residing in the jurisdiction, including the [city attorney/district attorney], may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

900. Applicability of Other Laws

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this state or jurisdiction, except this Act shall supersede Government Code Section 85300.

901. Severability

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

APPENDIX C

Consultants

The Commission wishes to thank the many individuals who offered their valuable advice and comments to the Commission and its staff as this report was prepared. A list of those persons consulted appears below. The Commission also wishes to acknowledge the efforts of a number of persons who were particularly generous with their time and made special contributions to the Commission's work:

Tom Volgy, Mayor, Tuscon, Arizona; Anthony Alperin, Deputy City Attorney for the City of Los Angeles; Burt Pines, former City Attorney, City of Los Angeles; Alexander Pope, former Los Angeles County Assessor; Smith Pineo, former Editor of the *Modoc County Record*; Shirley Grindle, founder of TinCup in Orange County; Jerry Patterson, former U.S. Representative from Orange County; Ted Sheedy, former Sacramento County Supervisor; and Alan Miller, Administrator, Office of Elections Administration, City of Seattle.

Helpful as these individuals and the many others listed below have been, they bear no responsibility for the Commission's final conclusions and recommendations. In the case of any inadvertent omissions from the following list, the Commission offers its apologies.

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Joe Serna, Jr., Councilmember, City of Sacramento

Robert L. Shand, City Clerk/Treasurer, City of Downey

Ted Sheedy, President, Sheedy Consulting Services, and former Supervisor, Sacramento County

Bill Sheppard, Editor, *Gardena Valley News*

Ann Shore, former City Clerk, City of Santa Monica

David Shore, Councilmember, City of Sacramento

John Simon, Center for Innovative Diplomacy, Irvine

Suzanne Slupsky, Deputy Registrar of Voters, Orange County

Clarence Smith, Councilmember, City of Long Beach

Marcia Smolens, Political Consultant, San Francisco

Roger R. Stanton, Supervisor, Orange County

Frank Stipak, member, California Common Cause

Michael Stockstill, Government Affairs Manager, The Irvine Company
Beverly Stokes, Assistant to Tucson City Councilmember Roger Sedlmayr
Jim Streng, Supervisor, Sacramento County
Pam Swift, former City Clerk, City of Pasadena

Rick Taylor, Winner, Taylor & Associates, Inc.
Dr. Forest Tennant, former Councilmember, City of West Covina
Christopher Townsend, Stein-Brief Group
David Townsend, Political Consultant, Townsend & Company, Sacramento
Stan Townsend, Councilmember, City of Alturas
Jim Tranquada, Reporter, *Riverside Press-Enterprise*
Betty Trotter, League of Women Voters
Jeannette Turnvill, Fair Political Practices Commission
Edd Tuttle, Councilmember, City of Long Beach

Denise Utter, City Clerk, City of Alturas

Bill Vardoulis, Church Engineering, Irvine
Tom Volgy, Mayor, City of Tucson, Arizona

Thomas J. Walsh, former candidate for West Covina City Council
Nancy Walker, President, San Francisco Board of Supervisors
John Whisenhunt, Deputy County Counsel, Sacramento County
Carol Whiteside, Mayor, City of Modesto
Abbe Wolfsheimer, Councilmember, City of San Diego
Rosemary Woodlock, former candidate for Supervisor, Los Angeles County
William Woollett, City Manager, City of Irvine

Richard Yanes, former member, Sacramento County Public Finance Reform
Commission
Zev Yaroslavsky, Councilmember, City of Los Angeles
Mary Yunt, Secretary-Treasurer, Central Labor Council, AFL-CIO

Dennis Zane, Mayor, City of Santa Monica
Mark Zerbe, Center for Responsible Politics, San Diego

APPENDIX D

The Commission's Data Analysis Project

The Commission's Data Analysis Project—containing more than 1.3 million entries and 130,000 individual contribution and expenditure records from 17 local jurisdictions—is the largest city and county data analysis of its kind in the nation. The Project has provided the basis for the Commission's conclusions about campaign financing patterns in California cities and counties.

The Commission chose 17 representative California jurisdictions on the basis of their geographic location, campaign finance history and electoral structure. These jurisdictions include cities and counties both large and small, northern and southern, rural and urban, with and without campaign finance ordinances and with district-by-district or at-large elections. For convenient analysis, the Commission divided these jurisdictions into three categories—small, medium and large. "Small" jurisdictions contain populations of up to 150,000. "Medium" jurisdictions contain populations of less than one million. "Large" jurisdictions contain more than one million residents. The following jurisdictions were selected:

Small

Alturas, Agoura Hills, Gardena, Irvine, Modoc County, Pasadena, San Rafael, Santa Monica, Signal Hill and West Covina

Medium

Long Beach, Sacramento, Sacramento County and San Francisco City and County

Large

Los Angeles, Los Angeles County, Orange County and San Diego

The major components of the Commission's data include the following:

Summary

- Number of jurisdictions in the Project's data base: **17**
- Total combined contributions and expenditures: **\$83,936,384**
 Total contributions: **\$43,876,624**
 Total expenditures: **\$40,059,760**
- Total number of contributions and expenditures: **133,659**
 Total number of contributions: **100,075**
 Total number of expenditures: **33,584**
- Total number of candidates: **487**
 Total number of incumbents: **174**
 Total number of challengers: **217**
 Total number of open seat candidates: **96**

The Commission utilized sophisticated computer software programs—*DBase III Plus* for data base development and *SPSS/PC* for statistical analysis—to condense and transform raw data from individual campaign statements into concise tools of measurement. It divided the data into separate contribution and expenditure files. Contribution records were specified by contribution source, including name, employer and date, and by recipient, including incumbent, challenger and open seat candidate. Expenditures were classified into 11 specific categories which were then grouped into two larger categories: *voter contacts*—broadcast, literature, newspaper, outdoor advertising; and *overhead*—general expenses, personnel, fundraising, survey, consulting, travel and candidate transfers.

The Commission also divided both contribution and expenditure data into separate categories for election and non-election years. The non-election year spanned the period from the end of the previous election year to approximately six months prior to the next election. Election year contributions and expenditures were broken down into three individual reporting periods spanning six months before the election to the election year's end. Over 480 candidates plus slates and other campaign organizations raising \$43.8 million and spending \$40 million were analyzed.

In constructing the Data Analysis Project, the Commission obtained thousands of pages of campaign statements from each city or county clerk or registrar. In most cases, local officials promptly submitted the requested documents. In some cases, candidates had failed to include all the required data on the official state forms. (A number of candidates, for example, failed to include the contributors' occupations.) Whenever possible, the Commission attempted to rectify any errors of addition, subtraction or deletion.

Jurisdictions studied but not represented in the Commission's Data Analysis Project include Alturas, Modoc County and Signal Hill. In Alturas and Modoc County, candidates do not raise or spend enough money to trigger the state's reporting requirements and are thus not required to file detailed campaign statements. In Signal Hill, where candidates do file campaign statements, the city clerk was unable to locate those statements for recent elections—a violation of state campaign disclosure laws. To enhance the statistical accuracy of its small jurisdiction averages, however, the Commission included contribution and expenditure figures for the cities of Culver City and Cypress—though these cities were not subjects of the Commission's formal study.

Although the City of San Diego would normally be included with other "large" jurisdictions, its data is not represented in the Project's contribution source breakdown figures for "all" and "large" jurisdictions. San Diego's campaign finance ordinance prohibits all contributions from "non-individuals" (PACs, corporations, labor union and other organizations), and therefore its inclusion would skew the overall data.

In the following tables, all percentages and dollar figures are rounded to the nearest whole percent and dollar respectively. Under \$100 contributions are not included in tables showing contributions by source since state law requires candidates to furnish contribution source information only for contributors of \$100 or more. In addition, under \$100 expenditures are not included in tables showing spending by type since state law mandates that candidates provide detailed recipient information only for expenditures of \$100 or more.

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CONTRIBUTION TABLES

Table D.1

Total Contributions: Small, Medium and Large Jurisdictions

Campaign fundraising amounts in large jurisdictions dominated the Commission's figures.

	<u>Total Contributions</u>	<u>Percent of Total Amount</u>
Small	\$2,851,228	7%
Medium	\$11,084,721	25%
Large	\$29,940,675	68%
Total	\$43,876,624	100%

Table D.2

Sources of Contributions: Candidates in All Jurisdictions

Business contributors accounted for over half of all the contributions.

	<u>Total Amount*</u>	<u>Percent of Total Amount</u>
Business	\$18,327,489	52%
Individual	\$11,736,713	33%
Labor	\$1,250,650	4%
Political	\$2,022,997	6%
Candidate	\$1,798,047	5%
Total	\$35,135,896	100%

Table D.3

Sources of Contributions: Small, Medium and Large Jurisdictions

Individual contributors were the most important contributor source in small and medium-sized jurisdictions.

	<u>Small</u>	<u>Medium</u>	<u>Large*</u>
Business	\$795,291 40%	\$3,595,342 37%	\$13,936,856 60%
Individual	\$885,035 45%	\$4,444,295 46%	\$6,407,383 27%
Labor	\$45,045 2%	\$302,600 3%	\$903,005 4%
Political	\$108,501 5%	\$521,020 5%	\$1,393,476 6%
Candidate	\$151,308 8%	\$901,814 9%	\$744,925 3%
Total	\$1,985,180 100%	\$9,765,071 100%	\$23,385,645 100%

*San Diego's figures were not included in these amounts. (See discussion above.)

Table D.4

**Contribution Size:
Small, Medium, Large and All Jurisdictions**

This table illustrates the differences between the types of contributors in small and large jurisdictions. In small jurisdictions, candidates received 54% of their contributions in amounts of \$250 or under. In large jurisdictions, candidates received the largest portion of their contributions (55%) in \$1,000 or over amounts.

	<u><i>Small</i></u>	<u><i>Medium</i></u>	<u><i>Large</i></u>	<u><i>All</i></u>
Under \$100	\$866,048 30%	\$1,319,650 12%	\$1,197,835 4%	\$3,383,533 8%
\$100 to \$250	\$692,114 24%	\$3,550,888 32%	\$6,577,838 22%	\$10,820,840 25%
\$251 to \$500	\$420,639 15%	\$2,376,817 21%	\$4,266,111 14%	\$7,063,567 16%
\$501 to \$999	\$86,015 3%	\$519,563 5%	\$1,355,564 5%	\$1,961,142 4%
\$1,000 to \$4,999	\$479,727 17%	\$1,880,018 17%	\$10,847,627 36%	\$13,207,372 30%
\$5,000 and over	\$306,685 11%	\$1,437,785 13%	\$5,695,700 19%	\$7,440,170 17%
Total	\$2,851,228 100%	\$11,084,721 100%	\$29,940,675 100%	\$43,876,624 100%

Table D.5

**Non-Election Year Contributions:
Small, Medium and Large Jurisdictions**

Candidates in larger jurisdictions collected almost half of their contributions in non-election years. In small jurisdiction races, candidates raised all but a small amount of their funds in the election year.

	<u><i>Small</i></u>	<u><i>Medium</i></u>	<u><i>Large</i></u>	<u><i>All</i></u>
Non-Election Year	\$158,802 6%	\$3,296,374 30%	\$14,854,042 49%	\$18,309,218 42%
Election Year	\$2,692,426 94%	\$7,788,347 70%	\$15,086,633 51%	\$25,567,406 58%
Total	\$2,851,228 100%	\$11,084,721 100%	\$29,940,675 100%	\$43,876,624 100%

Table D.6

**Sources of Non-Election Year Contributions:
Small, Medium, Large and All Jurisdictions**

Business sources gave the highest percentage of contributions to candidates in non-election years.

	<u>Small</u>	<u>Medium</u>	<u>Large*</u>	<u>All</u>
Business	\$27,191 58%	\$1,254,585 41%	\$9,255,008 66%	\$10,536,784 61%
Individual	\$17,511 37%	\$1,480,203 48%	\$3,781,763 21%	\$5,279,477 31%
Labor	\$450 1%	\$85,993 3%	\$412,356 3%	\$498,799 3%
Political	\$1,263 3%	\$179,459 6%	\$501,782 4%	\$682,504 4%
Candidate	\$500 1%	\$64,117 2%	\$178,243 1%	\$242,860 1%
Total	\$46,915 100%	\$3,064,357 100%	\$14,129,152 100%	\$17,240,424 100%

*San Diego's figures were not included in these amounts. (See discussion above.)

Table D.7

**Winners and Losers:
Small, Medium, Large and All Jurisdictions**

Winners dominated fundraising efforts in large jurisdictions, while losers in small jurisdictions were nearly able to raise as much as winners.

	<u>Small</u>	<u>Medium</u>	<u>Large</u>	<u>All</u>
Winners	\$945,306 52%	\$7,962,593 73%	\$22,613,771 76%	\$31,521,670 74%
Losers	\$884,063 48%	\$3,122,128 27%	\$7,326,904 24%	\$11,333,095 26%
Total	\$1,829,369 100%	\$11,084,721 100%	\$29,940,675 100%	\$42,854,765 100%

EXPENDITURE TABLES

Table D.8

**Total Expenditures:
Small, Medium and Large Jurisdictions**

Candidates spent about 10% less than they collected, holding onto about \$4 million for future races or officeholder expenses.

	<i>Total Expenditures</i>	<i>Percent of Total Amount</i>	<i>Median Spending Per Vote</i>
Small	\$2,727,704	7%	\$5.62
Medium	\$10,259,549	26%	\$8.46
Large	\$27,072,507	67%	\$6.33
Total	\$40,059,760	100%	\$5.97

Table D.9

**Percentages of Voter Contacts Versus Overhead Expenditures:
Small, Medium, Large and All Jurisdictions**

In small to medium-sized jurisdictions, which had a higher degree of competition than did large jurisdictions, candidates devoted a much larger percentage to communicating directly with the voters. Larger jurisdictions—while more incumbent-dominated—witnessed more significant expenditures on campaign organization through general expenditures and fundraising.

	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>All</i>
Voter Contact	\$1,480,664 57%	\$4,777,709 49%	\$8,865,945 33%	\$15,124,318 38%
Overhead	\$1,125,240 43%	\$5,200,695 51%	\$17,723,566 67%	\$24,049,501 62%
Total	\$2,605,904 100%	\$9,978,404 100%	\$26,589,511 100%	\$39,173,819 100%

Table D.10

**Voter Contacts Expenditures Break-Out:
Small, Medium, Large and All Jurisdictions**

In California city and county elections overall, only 38¢ of each campaign dollar was spent on contacting the voters through campaign literature, broadcast, newspaper or outdoor advertising, but nearly two-thirds of voter contact expenditures were for campaign literature.

	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>All</i>
Broadcast	\$4,973 0%	\$782,757 8%	\$1,987,098 7%	\$2,774,828 7%
Literature	\$1,260,422 48%	\$2,964,909 30%	\$5,995,071 23%	\$10,220,402 26%
Newspaper	\$148,132 6%	\$254,188 3%	\$515,223 2%	\$917,543 2%
Outdoor	\$67,137 3%	\$755,855 8%	\$368,553 1%	\$1,211,545 3%
Total	\$1,480,664 57%	\$4,757,709 49%	\$8,865,945 33%	\$15,124,318 38%

Table D.11

**Total Overhead Expenditures Break-Out:
Small, Medium, Large and All Jurisdictions**

In an average large jurisdiction campaign, overhead expenditures such as fundraising, general expenses and campaign consultants are the highest spending priorities. In the Commission's sample of large jurisdictions, 67¢ out of every dollar was spent on overhead.

	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>All</i>
Fundraising	\$165,014 6%	\$1,119,738 11%	\$3,928,402 15%	\$5,213,154 13%
General	\$432,792 17%	\$1,546,078 16%	\$6,697,610 25%	\$8,676,480 22%
Personnel	\$135,753 5%	\$1,034,635 10%	\$999,268 4%	\$2,169,656 6%
Surveys	\$137,926 5%	\$328,547 3%	\$892,613 3%	\$1,359,086 4%
Travel	\$2,826 0%	\$143,157 1%	\$270,760 1%	\$416,743 1%
Cand. Transfer	\$39,312 2%	\$238,121 2%	\$2,131,611 8%	\$2,409,044 6%
Consultants	\$211,617 8%	\$790,419 8%	\$2,803,302 11%	\$3,805,338 10%
Total	\$1,125,240 43%	\$5,200,695 51%	\$17,235,566 67%	\$24,049,501 62%

Table D.12

**Non-Election Year Expenditures:
Small, Medium, Large and All Jurisdictions**

Incumbents use non-election year expenditures to reinforce—through mailings or contributions to charities—their electoral strength in the community. In the Commission's sample of California cities and counties, this most often occurred in larger jurisdictions. In smaller jurisdictions, these non-election year expenditures were insignificant.

	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>All</i>
Non-Election Year	\$133,468 5%	\$1,582,166 15%	\$9,135,947 34%	\$10,851,581 27%
Election Year	\$2,594,236 95%	\$8,677,373 85%	\$17,936,560 66%	\$29,208,179 73%
Total	\$2,727,704 100%	\$10,259,549 100%	\$27,072,507 100%	\$40,059,760 100%

Table D.13

**Expenditures of Winners and Losers:
Small, Medium, Large and All Jurisdictions**

Winners and losers in small jurisdictions spent about the same amount, but in medium and large jurisdictions winners outspent losers by wide margins.

	<i>Small</i>	<i>Medium</i>	<i>Large</i>	<i>All</i>
Winners	\$894,592 52%	\$7,447,574 73%	\$19,557,896 76%	\$27,900,062 71%
Losers	\$817,723 48%	\$2,811,975 27%	\$7,514,611 24%	\$11,144,309 29%
Total	\$1,712,315 100%	\$10,259,549 100%	\$27,072,507 100%	\$39,044,371 100%

INCUMBENTS, CHALLENGERS AND OPEN SEAT CANDIDATES

Table D.14

Total Contributions and Expenditures: Incumbents, Challengers and Open Seat Candidates

Incumbents held a significant fundraising and spending advantage. Incumbents outraised and outspent challengers by more than five times.

	<u>Numbers of Candidates</u>	<u>Contributions</u>	<u>Expenditures</u>
Incumbents	174	\$28,958,699 66%	\$25,237,186 64%
Challengers	217	\$5,740,477 13%	\$5,790,912 15%
Open Seats	96	\$8,943,586 21%	\$8,225,435 21%
Total	487	\$43,642,762 100%	\$39,253,533 100%

Table D.15

Incumbent, Challenger and Open Seat Candidate Fundraising: Small, Medium, Large and All Jurisdictions

In medium-sized and large jurisdictions, incumbents held an overwhelming fundraising advantage; but in more competitive small jurisdictions, challengers raised slightly more than incumbents. Competitive open seat races also accounted for a significant portion of the total contributions raised.

	<u>Small</u>	<u>Medium</u>	<u>Large</u>	<u>All</u>
Incumbents	\$859,571 47%	\$6,972,318 63%	\$21,126,810 71%	\$28,958,699 68%
Challengers	\$878,828 48%	\$1,532,954 14%	\$3,328,695 11%	\$5,740,477 13%
Open Seats	\$90,970 5%	\$2,579,449 23%	\$5,485,170 18%	\$8,155,589 19%
Total	\$1,829,369 100%	\$11,084,721 100%	\$29,940,675 100%	\$42,854,765 100%

Table D.16

**Sources of Contributions:
Incumbents and Challengers**

In the Commission's study, business contributors played the most important role in building incumbents' war chests.

	<u>Incumbents</u>	<u>Challengers</u>
Business	\$16,723,493 61%	\$1,175,608 23%
Individual	\$8,483,081 31%	\$2,165,304 42%
Labor	\$937,557 3%	\$233,776 5%
Political	\$1,121,185 4%	\$755,994 15%
Candidate	\$334,569 1%	\$788,793 15%
Total	\$27,599,885 100%	\$5,119,475 100%

Table D.17

**Total Amount Raised From Contribution Sources:
Incumbents Versus Challengers**

The incumbent fundraising advantage extended to all contribution sources. Incumbents in the Commission's studied jurisdictions raised significantly more from all contribution sources than did challengers.

	<u>Business</u>	<u>Individual</u>	<u>Labor</u>	<u>Political</u>	<u>Candidate</u>
Incumbents	\$16,723,493 93%	\$8,483,081 80%	\$937,557 80%	\$1,121,185 60%	\$334,569 30%
Challengers	\$1,175,608 7%	\$2,165,304 20%	\$233,776 20%	\$755,994 40%	\$788,793 70%
Total	\$17,899,101 100%	\$10,648,385 100%	\$1,171,333 100%	\$1,877,179 100%	\$1,123,362 100%

Table D.18

**Average Amounts Raised From Contribution Sources:
Incumbents Versus Challengers**

In an average race, incumbents received as much as twelve times as much in contributions as challengers. The only category in which an average challenger outraised the average incumbent was candidate money (money personally contributed by the candidate).

	<u><i>Business</i></u>	<u><i>Individual</i></u>	<u><i>Labor</i></u>	<u><i>Political</i></u>	<u><i>Candidate</i></u>
Incumbents	\$96,112 95%	\$48,753 83%	\$5,388 83%	\$6,444 65%	\$1,922 35%
Challengers	\$5,417 5%	\$9,978 17%	\$1,077 17%	\$3,483 35%	\$3,634 65%
Total Average Raised	\$101,529 100%	\$58,731 100%	\$6,465 100%	\$9,927 100%	\$5,556 100%

Table D.19

**Voter Contacts Versus Overhead Expenditures:
Incumbents and Challengers**

Challengers in their effort to get themselves known spent far higher percentages of their expenditures on voter contacts, but incumbents with greater fundraising ability spent twice as much in total dollars.

	<u><i>Incumbents</i></u>	<u><i>Challengers</i></u>
Voter Contacts	\$7,125,928 29%	\$2,815,445 53%
Overhead	\$17,233,468 71%	\$2,523,820 47%
Total	\$24,359,396 100%	\$5,339,265 100%

Table D.20

Voter Contacts Expenditures Break-Out: Incumbents and Challengers

Among incumbents and challengers from the Commission's sample jurisdictions, campaign literature was the dominant voter contact expenditure. Challengers allocated twice as much as incumbents for literature.

	<u><i>Incumbents</i></u>	<u><i>Challengers</i></u>
Broadcast	\$1,209,755 5%	\$333,920 6%
Literature	\$4,606,355 19%	\$2,145,222 40%
Newspaper	\$580,245 2%	\$145,272 3%
Outdoor	\$729,573 3%	\$191,031 4%
Total	\$7,125,928 29%	\$2,815,445 53%

Table D.21

Campaign Overhead Expenditures Break-Out: Incumbents and Challengers

Incumbents spent six times as much as challengers on overhead expenses, much of which was spent in non-election years. Incumbents spent a higher percentage of their funds on both fundraising and overhead expenses than they did on campaign literature.

	<u><i>Incumbents</i></u>	<u><i>Challengers</i></u>
Fundraising	\$4,307,675 17%	\$290,960 6%
General	\$6,312,335 26%	\$987,607 18%
Personnel	\$1,124,500 4%	\$207,527 4%
Surveys	\$619,067 3%	\$285,231 5%
Travel	\$420,643 2%	\$12,975 0%
Cand. Transfer	\$2,317,903 10%	\$49,486 1%
Consultants	\$2,131,345 9%	\$690,034 13%
Total	\$17,233,468 71%	\$2,523,820 48%

COMPREHENSIVE TABLES

The following tables represent a comprehensive contribution and expenditure pattern analysis of each individual jurisdiction studied by the Commission.

Data Summary

By Small, Medium, Large and All Jurisdictions

	<u>Contributions</u>	<u>Expenditures</u>	<u>Median Spending Per Vote</u>
All Jurisdictions	\$43,876,624	\$39,829,187	\$7.29
Small Jurisdictions	\$2,851,228	\$2,488,131	\$7.09
Medium Jurisdictions	\$11,084,721	\$10,259,549	\$8.46
Large Jurisdictions	\$29,940,675	\$27,072,507	\$6.33

By Jurisdiction

	<u>Period Studied</u>	<u>Contributions</u>	<u>Expenditures</u>	<u>Spending Per Vote</u>
Agoura Hills	1984-85	\$63,494	\$52,989	\$6.04
Gardena	1982-84	\$186,831	\$167,527	\$5.97
Irvine	1982-86	\$471,098	\$460,710	\$3.96
Long Beach	1980-86	\$1,272,705	\$1,177,260	\$10.93
Los Angeles	1979-85	\$11,731,545	\$10,405,109	\$15.09
Los Angeles County	1981-86	\$9,109,995	\$7,695,433	\$7.02
Orange County	1979-86	\$3,288,369	\$2,975,211	\$5.64
Pasadena	1982-85	\$278,556	\$282,688	\$21.55
Sacramento	1983-85	\$1,585,761	\$1,490,640	\$12.76
Sacramento County	1981-86	\$2,286,259	\$1,897,949	\$5.98
San Diego	1980-86	\$5,810,766	\$5,996,754	\$2.16
San Francisco	1981-86	\$5,939,996	\$5,693,700	\$2.28
San Rafael	1983-85	\$190,544	\$172,929	\$4.25
Santa Monica	1983-84	\$1,039,119	\$1,005,105	\$5.62
West Covina	1982-84	\$350,236	\$340,309	\$8.09

Figures for All Jurisdictions

Contributions

Total Contributions:	\$43,876,624	
By Schedule		
A: Cash	\$38,595,911	87%
B: Loans	4,334,332	10%
C: In Kind	946,381	2%
Total	\$43,876,624	
By Contribution Source		
Business	18,327,489	52%
Individual	11,736,713	33%
Labor	1,250,650	4%
Political	2,022,997	6%
Candidate	1,798,047	5%
Total	35,135,896	
By Period		
Non-Election Year	18,309,218	42%
Period One	9,195,605	21%
Period Two	8,798,768	20%
Period Three	7,573,027	17%
Total Election Year	25,567,406	58%
Total	43,876,624	
By Contribution Size		
Under \$100	3,383,533	8%
100	2,291,500	5%
101 - 249	3,314,840	8%
250	5,214,500	12%
251 - 499	2,348,567	5%
500	4,715,000	11%
501 - 999	1,961,142	4%
1,000	4,051,000	9%
1,001 - 4,999	9,156,372	21%
5,000	2,275,000	5%
Over 5,000	5,165,169	12%
Total	43,876,624	
By Status		
Incumbents	28,958,699	66%
Challengers	5,740,477	13%
Open Races	8,155,589	19%
Ind. Comm/Slates	1,021,859	2%
Total	43,876,624	
By Result (Candidates Only)		
Winners	31,521,670	74%
Losers	11,333,095	26%
Total	42,854,765	

Expenditures

Total Expenditures:	\$40,059,760
By Schedule	
E: Paid	\$38,192,163 95%
F: Accrued	1,867,597 5%
Total	\$40,059,760
By Expenditure Type	
Broadcast	2,774,828 7%
Fundraising	5,213,154 13%
General	8,676,480 22%
Literature	10,220,402 26%
Newspaper	917,543 2%
Outdoor	1,211,545 3%
Personnel	2,169,656 6%
Survey	1,359,086 4%
Travel	416,743 1%
Cand. Transfer	2,409,044 6%
Consulting	3,805,338 10%
Total	39,173,819
Voter Contacts	
Broadcast	2,774,828 18%
Literature	10,220,402 68%
Newspaper	917,543 6%
Outdoor	1,211,545 8%
Total	15,134,318
By Period	
Non-Election Year	10,851,581 27%
Period One	7,792,112 19%
Period Two	10,637,591 27%
Period Three	10,778,476 27%
Total Election Year	29,208,179 73%
Total	40,059,760
By Status	
Incumbents	25,237,186 63%
Challengers	5,790,912 15%
Open Races	8,016,273 20%
Ind. Comm/Slates	1,015,389 2%
Total	40,059,760
By Result (Candidates Only)	
Winners	27,880,062 71%
Losers	11,164,309 29%
Total	39,044,371
Spending Per Vote	
Total Expend.	40,059,760
Total Votes	10,262,955
Average	\$3.90

Figures for All Small Jurisdictions

Contributions	Expenditures
Total Contributions: \$2,851,228	Total Expenditures: \$2,727,704
By Schedule	By Schedule
A: Cash \$795,291 88%	E: Paid \$2,592,974 95%
B: Loans 188,631 7%	F: Accrued 134,730 5%
C: In Kind 153,798 5%	Total \$2,727,704
Total \$2,851,228	
By Contribution Source	By Expenditure Type
Business 795,291 40%	Broadcast 4,973 0%
Individual 885,035 45%	Fundraising 165,014 6%
Labor 45,045 2%	General 432,792 17%
Political 108,501 5%	Literature 1,260,422 48%
Candidate 151,308 8%	Newspaper 148,132 6%
Total 1,985,180	Outdoor 67,137 3%
	Personnel 135,753 5%
By Period	Survey 137,926 5%
Non-Election Year 158,802 6%	Travel 2,826 0%
Period One 711,738 25%	Cand. Transfer 39,312 2%
Period Two 988,876 35%	Consulting 211,617 8%
Period Three 991,812 35%	Total 2,605,904
Total Election Year 2,692,426 94%	
Total 2,851,228	Voter Contacts
	Broadcast 4,973 0%
By Contribution Size	Literature 1,260,422 85%
Under \$100 866,048 30%	Newspaper 148,132 10%
100 261,500 9%	Outdoor 67,137 5%
101 - 249 210,364 7%	Total 1,480,664
250 220,250 8%	
251 - 499 234,134 8%	By Period
500 186,500 7%	Non-Election Year 133,468 5%
501 - 999 86,015 3%	Period One 423,904 16%
1,000 125,000 4%	Period Two 858,682 31%
1,001 - 4,999 354,727 12%	Period Three 1,311,650 48%
5,000 30,000 1%	Total Election Year 2,594,236 95%
Over 5,000 276,684 10%	Total 2,727,704
Total 2,851,228	
By Status	By Status
Incumbents 859,571 30%	Incumbents 794,937 29%
Challengers 878,828 31%	Challengers 829,121 31%
Open Races 90,970 3%	Open Races 88,257 3%
Ind. Comm/Slates 1,021,859 36%	Ind. Comm/Slates 1,015,389 37%
Total 2,851,228	Total 2,727,704
By Result (Candidates Only)	By Result (Candidates Only)
Winners 945,306 52%	Winners 894,592 52%
Losers 884,063 48%	Losers 817,723 48%
Total 1,829,369	Total 1,712,315
	Spending Per Vote
	Total Expend. \$2,851,228
	Total Votes 548,415
	Average \$4.97

Figures for All Medium-Sized Jurisdictions

Contributions

Total Contributions:	\$11,084,721	
By Schedule		
A: Cash	9,631,573	87%
B: Loans	1,104,745	10%
C: In Kind	348,403	3%
Total	\$11,084,721	
By Contribution Source		
Business	3,595,342	37%
Individual	4,444,295	46%
Labor	302,600	3%
Political	521,020	5%
Candidate	901,814	9%
Total	9,765,071	
By Period		
Non-Election Year	3,296,374	30%
Period One	3,167,429	29%
Period Two	2,159,694	19%
Period Three	2,461,218	22%
Total Election Year	7,788,347	70%
Total	11,084,721	
By Contribution Size		
Under \$100	1,319,650	12%
100	945,100	9%
101 - 249	1,353,538	12%
250	1,252,250	11%
251 - 499	679,817	6%
500	1,697,000	15%
501 - 999	519,563	5%
1,000	985,000	9%
1,001 - 4,999	895,018	8%
5,000	150,000	1%
Over 5,000	1,287,785	12%
Total	11,084,721	
By Status (Candidates Only)		
Incumbents	6,972,318	62%
Challengers	1,532,954	14%
Open Races	2,579,449	
Total	11,084,721	
By Result		
Winners	7,962,593	73%
Losers	3,122,128	27%
Total	11,084,721	

Expenditures

Total Expenditures:	\$10,259,549	
By Schedule		
E: Paid	9,421,645	92%
F: Accrued	837,904	8%
Total	\$10,259,549	
By ExpenditureType		
Broadcast	782,757	8%
Fundraising	1,119,738	11%
General	1,546,078	16%
Literature	2,964,909	30%
Newspaper	254,188	3%
Outdoor	775,855	8%
Personnel	1,034,635	10%
Survey	328,547	3%
Travel	143,157	1%
Cand. Transfer	238,121	2%
Consulting	790,419	8%
Total	9,978,404	
Voter Contacts		
Broadcast	782,757	17%
Literature	2,964,909	62%
Newspaper	254,188	5%
Outdoor	775,855	16%
Total	4,757,709	
By Period		
Non-Election Year	1,582,166	15%
Period One	3,473,210	34%
Period Two	2,200,711	21%
Period Three	3,003,462	29%
Total Election Year	8,677,383	85%
Total	2,488,131	
By Status (Candidates Only)		
Incumbents	6,364,236	62%
Challengers	1,473,895	14%
Open Races	2,421,418	24%
Total	10,259,549	
By Result		
Winners	7,427,574	73%
Losers	2,811,975	27%
Total	10,259,549	
Spending Per Vote		
Total Expend.	\$10,259,549	
Total Votes	4,623,093	
Average	\$2.22	

Figures for All Large Jurisdictions

Contributions

Total Contributions:	\$29,940,675	
By Schedule		
A: Cash	\$26,455,539	88%
B: Loans	3,040,956	10%
C: In Kind	444,180	2%
Total	\$29,940,675	
By Contribution Source		
Business	13,936,856	60%
Individual	6,407,383	27%
Labor	903,005	4%
Political	1,393,476	6%
Candidate	744,925	3%
Total	23,385,645	
By Period		
Non-Election Year	14,854,042	49%
Period One	5,316,438	18%
Period Two	5,650,198	19%
Period Three	4,119,997	14%
Total Election Year	15,086,633	51%
Total	29,940,675	
By Contribution Size		
Under \$100	1,197,835	4%
100	1,084,900	4%
101 - 249	1,750,938	6%
250	3,742,000	12%
251 - 499	1,434,611	5%
500	2,831,500	9%
501 - 999	1,355,564	5%
1,000	2,941,000	10%
1,001 - 4,999	7,906,627	26%
5,000	2,095,000	7%
Over 5,000	3,600,700	12%
Total	29,940,675	
By Status (Candidates Only)		
Incumbents	21,126,810	71%
Challengers	3,328,695	11%
Open Races	5,485,170	18%
Total	29,940,675	
By Result		
Winners	22,613,771	76%
Losers	7,326,904	24%
Total	29,940,675	

Expenditures

Total Expenditures:	\$27,072,507	
By Schedule		
E: Paid	\$26,177,544	97%
F: Accrued	894,963	3%
Total	\$27,072,507	
By Expenditure Type		
Broadcast	1,987,098	7%
Fundraising	3,928,402	15%
General	6,697,610	25%
Literature	5,995,071	23%
Newspaper	515,223	2%
Outdoor	368,553	1%
Personnel	999,268	4%
Survey	892,613	3%
Travel	270,760	1%
Cand. Transfer	2,131,611	8%
Consulting	2,803,302	11%
Total	26,589,511	
Voter Contacts		
Broadcast	1,987,098	22%
Literature	5,995,071	68%
Newspaper	515,223	6%
Outdoor	368,553	4%
Total	8,865,945	100%
By Period		
Non-Election Year	9,135,947	34%
Period One	3,894,998	14%
Period Two	7,578,198	28%
Period Three	6,463,364	24%
Total Election Year	17,936,560	66%
Total	27,072,507	
By Status (Candidates Only)		
Incumbents	18,078,013	68%
Challengers	3,487,896	13%
Open Races	5,506,598	20%
Total	27,072,507	
By Result		
Winners	19,557,896	76%
Losers	7,514,611	24%
Total	27,072,507	
Spending Per Vote		
Total Expend.	27,072,507	
Total Votes	5,091,447	
Average	\$5.32	

Agoura Hills

Contributions

Total Contributions: \$63,494

By Schedule

A: Cash	\$49,964	79%
B: Loans	6,985	11%
C: In Kind	6,545	10%
Total	\$63,494	

By Contribution Source

Business	20,929	52%
Candidate	1,782	4%
Individual	17,540	43%
Labor	0	0%
Political	100	0%
Total	40,351	

By Period

Non-Election Year	5,046	8%
Period One	26,583	42%
Period Two	13,950	22%
Period Three	17,915	28%
Total Election Year	58,448	92%
Total	63,494	

By Contribution Size

Under \$100	22,143	36%
100	7,700	12%
101 - 249	5,601	9%
250	1,250	2%
251 - 499	6,290	10%
500	6,500	10%
501 - 999	4,310	7%
1,000	2,000	3%
1,001 - 4,999	1,700	3%
5,000	5,000	8%
Over 5,000	0	0%
Total	63,494	

By Status

Incumbents	29,005	46%
Challengers	34,489	54%
Open Races	0	0%
Total	63,494	

By Result (Candidates Only)

Winners	20,400	32%
Losers	43,094	68%
Total	63,494	

Expenditures

Total Expenditures: \$52,989

By Schedule

E: Paid	\$44,613	84%
F: Accrued	8,376	16%
Total	\$52,989	

By Expenditure Type

Broadcast	0	0%
Fundraising	5,246	11%
General	6,199	13%
Literature	22,591	47%
Newspaper	9,061	19%
Outdoor	3,815	8%
Personnel	0	0%
Survey	102	0%
Travel	470	1%
Cand. Transfer	206	1%
Consulting	0	0%
Total	47,690	

Voter Contacts

Broadcast	0	0%
Literature	25,591	67%
Newspaper	9,061	23%
Outdoor	3,815	10%
Total	38,467	

By Period

Non-Election Year	2,610	5%
Period One	14,627	28%
Period Two	12,733	24%
Period Three	23,019	43%
Total Election Year	50,379	95%
Total	52,989	

By Status

Incumbents	27,151	51%
Challengers	25,838	49%
Open Races	0	0%
Total	52,989	

By Result (Candidates Only)

Winners	17,913	34%
Losers	35,076	66%
Total	52,989	

Spending Per Vote

Total Expend.	52,989
Total Votes	8,776
Average	\$6.04

Gardena

Contributions

Total Contributions:	\$186,831	
By Schedule		
A: Cash	\$156,144	83%
B: Loans	28,757	16%
C: In Kind	1,930	1%
Total	\$186,831	

By Contribution Source

Business	29,927	23%
Candidate	17,794	14%
Individual	78,193	61%
Labor	0	0%
Political	1,935	2%
Total	127,849	

By Period

Non-Election Year	0	0%
Period One	68,821	37%
Period Two	70,809	38%
Period Three	47,201	25%
Total Election Year	186,831	100%
Total	186,831	

By Contribution Size

Under \$100	58,982	32%
100	17,200	9%
101 - 249	25,795	14%
250	3,750	2%
251 - 499	14,791	8%
500	32,000	17%
501 - 999	3,221	2%
1,000	3,000	2%
1,001 - 4,999	17,501	9%
5,000	0	0%
Over 5,000	10,591	5%
Total	186,831	

By Status

Incumbents	90,560	48%
Challengers	53,665	29%
Mayoral Races	42,606	23%
Total	186,831	

By Result (Candidates Only)

Winners	121,015	65%
Losers	65,816	35%
Total	186,831	

Expenditures

Total Expenditures: \$167,527

By Schedule

E: Paid	\$163,349	98%
F: Accrued	4,178	2%
Total	\$167,527	

By Expenditure Type

Broadcast	0	0%
Fundraising	31,522	20%
General	29,898	19%
Literature	59,924	37%
Newspaper	13,414	8%
Outdoor	13,427	8%
Personnel	3,844	2%
Survey	1,527	1%
Travel	0	0%
Cand. Transfer	1,618	1%
Consulting	6,024	4%
Total	161,198	

Voter Contacts

Broadcast	0	0%
Literature	59,924	69%
Newspaper	13,414	15%
Outdoor	13,427	16%
Total	86,765	

By Period

Non-Election Year	0	0%
Period One	34,182	20%
Period Two	54,722	33%
Period Three	78,623	47%
Total Election Year	167,527	100%
Total	167,527	

By Status

Incumbents	77,720	47%
Challengers	47,409	28%
Mayoral Races	42,398	25%
Total	167,527	

By Result (Candidates Only)

Winners	106,606	64%
Losers	60,921	36%
Total	167,527	

Spending Per Vote

Total Expend.	167,527
Total Votes	28,055
Average	\$5.97

Irvine

Contributions

Total Contributions:	\$471,098	
By Schedule		
A: Cash	\$432,278	92%
B: Loans	33,630	7%
C: In Kind	5,190	1%
Total	\$471,098	
By Contribution Source		
Business	120,987	32%
Candidate	28,984	8%
Individual	212,274	57%
Labor	5,975	1%
Political	6,450	2%
Total	374,670	
By Period		
Non-Election Year	13,544	3%
Period One	106,538	23%
Period Two	286,458	61%
Period Three	64,558	14%
Total Election Year	457,554	97%
Total	471,098	
By Contribution Size		
Under \$100	96,428	20%
100	46,300	10%
101 - 249	41,364	9%
250	135,250	29%
251 - 499	120,650	26%
500	500	0%
501 - 999	4,031	0%
1,000	3,000	1%
1,001 - 4,999	18,575	4%
5,000	5,000	1%
Over 5,000	0	0%
Total	471,098	
By Status		
Incumbents	170,464	36%
Challengers	300,634	64%
Open Races	0	0%
Total	471,098	
By Result (Candidates Only)		
Winners	251,995	53%
Losers	219,103	47%
Total	471,098	

Expenditures

Total Expenditures:	\$460,710	
By Schedule		
E: Paid	\$411,844	89%
F: Accrued	48,866	11%
Total	\$460,710	
By Expenditure Type		
Broadcast	4,973	1%
Fundraising	29,203	6%
General	50,624	11%
Literature	295,031	65%
Newspaper	19,209	4%
Outdoor	9,982	2%
Personnel	7,733	2%
Survey	1,770	0%
Travel	567	0%
Cand. Transfer	1,209	0%
Consulting	31,170	7%
Total	451,471	
Voter Contacts		
Broadcast	4,973	1%
Literature	295,031	90%
Newspaper	19,209	6%
Outdoor	9,982	3%
Total	329,195	
By Period		
Non-Election Year	3,857	1%
Period One	46,358	10%
Period Two	323,942	70%
Period Three	86,553	19%
Total Election Year	456,853	99%
Total	460,710	
By Status		
Incumbents	182,803	40%
Challengers	277,907	60%
Open Races	0	0%
Total	460,710	
By Result (Candidates Only)		
Winners	262,797	57%
Losers	197,913	43%
Total	460,710	
Spending Per Vote		
Total Expend.	460,710	
Total Votes	116,253	
Average	\$3.96	

Long Beach

Contributions

Total Contributions: \$1,272,705

By Schedule

A: Cash	\$1,036,706	81%
B: Loans	188,596	15%
C: In Kind	47,403	4%
Total	\$1,272,705	

By Contribution Source

Business	285,362	27%
Candidate	131,087	12%
Individual	523,403	50%
Labor	61,749	6%
Political	50,002	5%
Total	1,051,603	

By Period

Non-Election Year	484,235	38%
Period One	219,114	17%
Period Two	297,411	23%
Period Three	271,945	21%
Total Election Year	788,470	62%
Total	1,272,705	

By Contribution Size

Under \$100	221,102	17%
100	106,000	9%
101 - 249	146,580	11%
250	63,750	5%
251 - 499	115,594	9%
500	134,000	11%
501 - 999	65,923	5%
1,000	84,000	7%
1,001 - 4,999	217,919	17%
5,000	40,000	3%
Over 5,000	77,837	6%
Total	1,272,705	

By Status

Incumbents	710,362	56%
Challengers	398,594	31%
Open Races	163,749	13%
Total	1,272,705	

By Result (Candidates Only)

Winners	762,036	60%
Losers	510,669	40%
Total	1,272,705	

Expenditures

Total Expenditures: \$1,177,260

By Schedule

E: Paid	\$1,022,452	87%
F: Accrued	154,808	13%
Total	\$1,177,260	

By Expenditure Type

Broadcast	2,380	0%
Fundraising	113,771	10%
General	236,584	20%
Literature	511,140	46%
Newspaper	21,535	2%
Outdoor	81,768	7%
Personnel	20,615	2%
Survey	54,239	5%
Travel	2,128	1%
Cand. Transfer	9,966	1%
Consulting	70,902	6%
Total	1,125,028	

Voter Contacts

Broadcast	2,380	0%
Literature	511,140	83%
Newspaper	21,535	4%
Outdoor	81,768	13%
Total	616,823	

By Period

Non-Election Year	244,797	21%
Period One	174,552	15%
Period Two	352,546	30%
Period Three	405,365	35%
Total Election Year	932,463	79%
Total	1,177,260	

By Status

Incumbents	601,246	51%
Challengers	398,113	34%
Open Races	177,901	15%
Total	1,177,260	

By Result (Candidates Only)

Winners	664,631	56%
Losers	512,629	44%
Total	1,177,260	

Spending Per Vote

Total Expend.	1,177,260
Total Votes	107,703
Average	\$10.93

Los Angeles

Contributions

Total Contributions: \$11,731,545

By Schedule

A: Cash	\$10,588,602	90%
B: Loans	929,154	8%
C: In Kind	213,789	2%
Total	\$11,731,545	

By Contribution Source

Business	6,322,354	56%
Candidate	476,698	4%
Individual	3,177,152	28%
Labor	609,822	5%
Political	620,883	6%
Total	11,206,909	

By Period

Non-Election Year	5,995,715	51%
Period One	1,758,858	15%
Period Two	1,998,894	17%
Period Three	1,978,078	17%
Total Election Year	5,735,830	49%
Total	11,731,545	

By Contribution Size

Under \$100	524,636	4%
100	345,300	3%
101 - 249	571,988	5%
250	509,000	4%
251 - 499	784,694	7%
500	1,510,000	13%
501 - 999	727,921	6%
1,000	1,405,000	12%
1,001 - 4,999	4,039,626	34%
5,000	445,000	4%
Over 5,000	868,380	7%
Total	11,731,545	

By Status

Incumbents	9,570,162	82%
Challengers	1,639,058	14%
Open Races	522,325	4%
Total	11,731,545	

By Result (Candidates Only)

Winners	9,486,614	81%
Losers	2,244,931	19%
Total	11,731,545	

Expenditures

Total Expenditures: \$10,405,109

By Schedule

E: Paid	\$10,219,900	98%
F: Accrued	185,209	2%
Total	\$10,405,109	

By Expenditure Type

Broadcast	75,005	1%
Fundraising	1,452,872	14%
General	3,674,226	36%
Literature	2,160,880	21%
Newspaper	130,823	1%
Outdoor	119,083	1%
Personnel	170,103	2%
Survey	409,025	4%
Travel	77,031	1%
Cand. Transfer	785,557	8%
Consulting	1,137,727	11%
Total	10,192,332	

Voter Contacts

Broadcast	75,005	3%
Literature	2,160,880	87%
Newspaper	130,823	5%
Outdoor	119,083	5%
Total	2,485,791	

By Period

Non-Election Year	4,046,588	39%
Period One	1,318,241	13%
Period Two	2,456,754	24%
Period Three	2,583,526	25%
Total Election Year	6,358,521	61%
Total	10,405,109	

By Status

Incumbents	8,097,475	76%
Challengers	1,763,559	18%
Open Races	544,075	6%
Total	10,405,109	

By Result (Candidates Only)

Winners	7,714,671	74%
Losers	2,690,438	26%
Total	10,405,109	

Spending Per Vote

Total Expend.	10,405,109
Total Votes	689,648
Average	\$15.09

Los Angeles County

Contributions

Total Contributions: \$9,109,995

By Schedule

A: Cash	\$8,809,443	97%
B: Loans	198,640	2%
C: In Kind	101,912	1%
Total	\$9,109,995	

By Contribution Source

Business	5,878,538	66%
Candidate	131,139	1%
Individual	2,041,381	23%
Labor	231,826	3%
Political	665,942	7%
Total	8,948,826	

By Period

Non-Election Year	6,076,126	67%
Period One	1,767,805	19%
Period Two	854,627	9%
Period Three	411,437	5%
Total Election Year	3,033,869	33%
Total	9,109,995	

By Contribution Size

Under \$100	161,169	2%
100	134,300	1%
101 - 249	233,137	3%
250	247,750	3%
251 - 499	452,495	5%
500	815,500	9%
501 - 999	487,886	5%
1,000	1,191,000	13%
1,001 - 4,999	3,006,941	33%
5,000	1,355,000	14%
Over 5,000	1,024,817	11%
Total	9,109,995	

By Status

Incumbents	8,255,804	91%
Challengers	854,191	9%
Open Races	0	0%
Total	9,109,995	

By Result (Candidates Only)

Winners	8,255,804	91%
Losers	854,191	9%
Total	9,109,995	

Expenditures

Total Expenditures: \$7,695,433

By Schedule

E: Paid	\$7,637,916	99%
F: Accrued	57,517	1%
Total	\$7,695,433	

By Expenditure Type

Broadcast	713,102	9%
Fundraising	1,635,626	22%
General	1,619,479	21%
Literature	1,303,737	17%
Newspaper	127,510	2%
Outdoor	27,138	0%
Personnel	345,874	5%
Survey	120,783	2%
Travel	58,716	1%
Cand. Transfer	1,315,862	17%
Consulting	318,853	4%
Total	7,586,680	

Voter Contacts

Broadcast	713,102	33%
Literature	1,303,737	61%
Newspaper	127,510	6%
Outdoor	27,138	1%
Total	2,171,487	

By Period

Non-Election Year	3,769,589	49%
Period One	994,089	13%
Period Two	1,915,759	25%
Period Three	1,015,996	13%
Total Election Year	3,925,844	51%
Total	7,695,433	

By Status

Incumbents	6,945,521	90%
Challengers	749,912	10%
Open Races	0	0%
Total	7,695,433	

By Result (Candidates Only)

Winners	6,945,521	82%
Losers	749,912	18%
Total	7,695,433	

Spending Per Vote

Total Expend.	7,695,433
Total Votes	1,096,179
Average	\$7.02

Orange County

Contributions

Total Contributions:	\$3,288,369	
By Schedule		
A: Cash	\$2,638,282	80%
B: Loans	578,542	18%
C: In Kind	71,545	2%
Total	\$3,288,369	
By Contribution Source		
Business	1,735,964	54%
Candidate	137,088	6%
Individual	1,188,850	35%
Labor	61,357	2%
Political	106,651	3%
Total	3,229,910	
By Period		
Non-Election Year	2,300,083	70%
Period One	255,586	8%
Period Two	514,773	16%
Period Three	217,927	6%
Total Election Year	988,286	30%
Total	3,288,369	
By Contribution Size		
Under \$100	58,459	2%
100	77,100	2%
101 - 249	204,467	6%
250	342,250	10%
251 - 499	190,459	6%
500	497,000	15%
501 - 999	136,632	4%
1,000	341,000	10%
1,001 - 4,999	785,859	24%
5,000	250,000	8%
Over 5,000	405,143	12%
Total	3,288,369	
By Status		
Incumbents	1,929,454	59%
Challengers	68,750	2%
Open Races	1,290,165	39%
Total	3,288,369	
By Result (Candidates Only)		
Winners	2,456,089	75%
Losers	832,280	25%
Total	3,288,369	

Expenditures

Total Expenditures:	\$2,975,211	
By Schedule		
E: Paid	\$2,673,724	90%
F: Accrued	301,487	10%
Total	\$2,975,211	
By Expenditure Type		
Broadcast	8,131	0%
Fundraising	400,053	14%
General	640,459	22%
Literature	993,079	34%
Newspaper	63,286	2%
Outdoor	41,878	1%
Personnel	75,576	3%
Survey	124,088	4%
Travel	122,402	4%
Cand. Transfer	25,459	1%
Consulting	448,649	15%
Total	2,943,060	
Voter Contacts		
Broadcast	8,131	1%
Literature	993,079	90%
Newspaper	63,286	5%
Outdoor	41,878	4%
Total	1,106,374	
By Period		
Non-Election Year	1,223,755	41%
Period One	395,508	13%
Period Two	798,464	27%
Period Three	557,484	19%
Total Election Year	1,751,456	59%
Total	2,975,211	
By Status		
Incumbents	1,494,239	50%
Challengers	61,400	2%
Open Races	1,419,572	48%
Total	2,975,211	
By Result (Candidates Only)		
Winners	2,070,968	70%
Losers	904,243	30%
Total	2,975,211	
Spending Per Vote		
Total Expend.	2,975,211	
Total Votes	527,803	
Average	\$5.64	

Pasadena

Contributions

Total Contributions:	\$278,556	
By Schedule		
A: Cash	\$227,837	82%
B: Loans	45,683	16%
C: In Kind	5,036	2%
Total	\$278,556	

By Contribution Source

Business	74,675	37%
Candidate	38,537	19%
Individual	78,020	39%
Labor	3,517	2%
Political	4,392	2%
Total	199,141	

By Period

Non-Election Year	693	0%
Period One	46,144	17%
Period Two	88,909	32%
Period Three	142,810	51%
Total Election Year.	277,863	100%
Total	278,556	

By Contribution Size

Under \$100	79,415	29%
100	30,400	11%
101 - 249	18,273	6%
250	10,500	4%
251 - 499	14,621	5%
500	28,000	10%
501 - 999	8,565	3%
1,000	13,000	5%
1,001 - 4,999	33,815	12%
5,000	5,000	2%
Over 5,000	36,967	13%
Total	278,556	

By Status

Incumbents	150,723	54%
Challengers	127,833	46%
Open Races	0	0%
Total	278,556	

By Result (Candidates Only)

Winners	89,731	32%
Losers	88,825	68%
Total	278,556	

Expenditures

Total Expenditures: \$282,688

By Schedule

E: Paid	\$262,263	93%
F: Accrued	20,425	7%
Total	\$282,688	

By Expenditure Type

Broadcast	0	0%
Fundraising	11,245	4%
General	48,538	18%
Literature	133,431	50%
Newspaper	9,231	3%
Outdoor	7,588	3%
Personnel	21,005	8%
Survey	11,826	4%
Travel	0	0%
Cand. Transfer	603	0%
Consulting	25,278	9%
Total	268,745	

Voter Contacts

Broadcast	0	0%
Literature	133,431	89%
Newspaper	9,231	6%
Outdoor	7,588	5%
Total	158,250	

By Period

Non-election Year	2,773	1%
Period One	35,777	13%
Period Two	63,255	22%
Period Three	180,883	64%
Total Election Year	279,915	99%
Total	282,688	

By Status

Incumbents	123,481	44%
Challengers	159,207	56%
Open Races	0	0%
Total	282,688	

By Result (Candidates Only)

Winners	86,344	31%
Losers	196,344	69%
Total	282,688	

Spending Per Vote

Total Expend.	282,688
Total Votes	13,117
Average	\$21.55

City of Sacramento

Contributions

Total Contributions:	\$1,585,761	
By Schedule		
A: Cash	\$1,456,571	92%
B: Loans	61,060	4%
C: In Kind	68,130	4%
Total	\$1,585,761	
By Contribution Source		
Business	448,904	34%
Candidate	45,903	3%
Individual	681,781	51%
Labor	44,318	3%
Political	109,866	8%
Total	1,330,772	
By Period		
Non-Election Year	47,651	3%
Period One	579,863	37%
Period Two	509,820	32%
Period Three	448,427	28%
Total Election Year	1,538,110	97%
Total	1,585,761	
By Contribution Size		
Under \$100	254,989	16%
100	184,500	12%
101 - 249	224,342	14%
250	86,250	5%
251 - 499	83,338	5%
500	289,500	18%
501 - 999	79,688	5%
1,000	176,000	11%
1,001 - 4,999	157,187	10%
5,000	5,000	0%
Over 5,000	44,967	3%
Total	1,585,761	
By Status		
Incumbents	321,570	20%
Challengers	206,385	13%
Open Races	1,057,806	67%
Total	1,585,761	
By Result (Candidates Only)		
Winners	712,416	45%
Losers	873,345	55%
Total	1,585,761	

Expenditures

Total Expenditures:	\$1,490,640	
By Schedule		
E: Paid	\$1,351,384	90%
F: Accrued	139,256	10%
Total	\$1,490,640	
By Expenditure Type		
Broadcast	274,400	19%
Fundraising	136,964	10%
General	127,878	9%
Literature	479,756	33%
Newspaper	18,684	1%
Outdoor	74,309	5%
Personnel	149,055	10%
Survey	67,438	5%
Travel	787	0%
Cand. Transfer	19,751	1%
Consulting	95,562	7%
Total	1,444,584	
Voter Contacts		
Broadcast	274,400	32%
Literature	479,756	57%
Newspaper	18,684	2%
Outdoor	74,309	8%
Total	847,149	
By Period		
Non-Election Year	16,777	1%
Period One	503,559	34%
Period Two	491,126	33%
Period Three	479,181	32%
Total Election Year	1,473,863	99%
Total	1,490,640	
By Status		
Incumbents	300,209	20%
Challengers	172,473	12%
Open Races	1,017,958	68%
Total	1,490,640	
By Result (Candidates Only)		
Winners	666,929	45%
Losers	823,711	55%
Total	1,490,640	
Spending Per Vote		
Total Expend.	1,490,640	
Total Votes	116,857	
Average	\$12.76	

Sacramento County

Contributions

Total Contributions:	\$2,286,259	
By Schedule		
A: Cash	\$1,728,142	76%
B: Loans	419,888	18%
C: In Kind	138,229	6%
Total	\$2,286,259	
By Contribution Source		
Business	702,475	34%
Candidate	422,270	21%
Individual	828,122	40%
Labor	7,089	1%
Political	86,590	4%
Total	2,046,546	
By Period		
Non-Election Year	410,437	18%
Period One	482,981	21%
Period Two	498,097	22%
Period Three	894,744	39%
Total Election Year	1,875,822	82%
Total	2,286,259	
By Contribution Size		
Under \$100	239,713	10%
100	138,100	6%
101 - 249	149,211	7%
250	195,250	9%
251 - 499	47,159	2%
500	280,000	12%
501 - 999	56,552	2%
1,000	266,000	12%
1,001 - 4,999	380,338	17%
5,000	85,000	4%
Over 5,000	448,936	20%
Total	2,286,259	
By Status		
Incumbents	850,473	37%
Challengers	77,892	3%
Open Races	1,357,894	59%
Total	2,286,259	
By Result (Candidates Only)		
Winners	1,363,240	60%
Losers	923,019	40%
Total	2,286,259	

Expenditures

Total Expenditures:	\$1,897,949	
By Schedule		
E: Paid	\$1,648,461	87%
F: Accrued	249,488	13%
Total	\$1,897,949	
By Expenditure Type		
Broadcast	240,656	13%
Fundraising	142,177	8%
General	307,941	17%
Literature	435,530	24%
Newspaper	36,081	2%
Outdoor	57,900	3%
Personnel	369,188	20%
Survey	59,293	3%
Travel	36,493	2%
Cand. Transfer	70,703	3%
Consulting	92,989	5%
Total	1,848,951	
Voter Contacts		
Broadcast	240,656	31%
Literature	435,530	57%
Newspaper	36,081	5%
Outdoor	57,900	7%
Total	770,167	
By Period		
Non-Election Year	212,440	11%
Period One	264,368	14%
Period Two	557,925	29%
Period Three	863,216	45%
Total Election Year	1,685,509	88%
Total	1,897,949	
By Status		
Incumbents	612,013	33%
Challengers	60,377	2%
Open Races	1,225,559	65%
Total	1,897,949	
By Result (Candidates Only)		
Winners	1,200,485	75%
Losers	697,464	25%
Total	1,897,949	
Spending Per Vote		
Total Expend.	1,897,949	
Total Votes	317,543	
Average	\$5.98	

San Diego

Contributions

Total Contributions: \$5,810,766

By Schedule

A: Cash	\$4,419,212	76%
B: Loans	1,334,620	23%
C: In Kind	56,934	1%
Total	\$5,810,766	

By Contribution Source

Business	0	0%
Candidate	1,086,549	25%
Individual	4,270,646	75%
Labor	0	0%
Political	0	0%
Total	5,357,195	

By Period

Non-Election Year	482,118	8%
Period One	1,534,189	26%
Period Two	2,281,904	40%
Period Three	1,512,555	26%
Total Election Year	5,328,648	92%
Total	5,810,766	

By Contribution Size

Under \$100	453,571	8%
100	528,200	9%
101 - 249	741,346	13%
250	2,643,000	45%
251 - 499	6,963	0%
500	9,000	0%
501 - 999	3,125	0%
1,000	4,000	0%
1,001 - 4,999	74,201	1%
5,000	45,000	1%
Over 5,000	1,302,360	22%
Total	5,810,766	

By Status

Incumbents	1,371,390	12%
Challengers	766,696	14%
Open Races	3,672,680	64%
Total	5,810,766	

By Result (Candidates Only)

Winners	2,415,264	42%
Losers	3,395,502	58%
Total	5,810,766	

Expenditures

Total Expenditures: \$5,996,754

By Schedule

E: Paid	\$5,646,004	94%
F: Accrued	350,750	6%
Total	\$5,996,754	

By Expenditure Type

Broadcast	1,190,860	21%
Fundraising	439,851	8%
General	763,446	13%
Literature	1,537,375	26%
Newspaper	193,604	3%
Outdoor	180,454	3%
Personnel	407,715	7%
Survey	238,717	4%
Travel	12,611	0%
Cand. Transfer	4,733	0%
Consulting	898,073	15%
Total	5,867,439	

Voter Contacts

Broadcast	1,190,860	38%
Literature	1,537,375	50%
Newspaper	193,604	6%
Outdoor	180,454	6%
Total	3,102,293	

By Period

Non-Election Year	96,015	2%
Period One	1,187,160	18%
Period Two	2,407,221	41%
Period Three	2,306,358	39%
Total Election Year	5,900,739	98%
Total	5,996,754	

By Status

Incumbents	1,540,778	25%
Challengers	913,025	15%
Open Races	3,542,951	59%
Total	5,996,754	

By Result (Candidates Only)

Winners	2,826,736	47%
Losers	3,170,018	53%
Total	5,996,754	

Spending Per Vote

Total Expend.	5,996,254
Total Votes	2,777,817
Average	\$2.16

San Francisco

Contributions

Total Contributions:	\$5,939,996	
By Schedule		
A: Cash	\$5,410,154	91%
B: Loans	435,201	7%
C: In Kind	94,641	2%
Total	\$5,939,996	
By Contribution Source		
Business	2,158,601	40%
Candidate	302,554	6%
Individual	2,410,989	45%
Labor	189,444	4%
Political	274,562	5%
Total	5,336,150	
By Period		
Non-Election Year	2,354,051	40%
Period One	1,885,471	32%
Period Two	854,372	14%
Period Three	846,102	14%
Total Election Year	3,585,945	60%
Total	5,939,996	
By Contribution Size		
Under \$100	603,846	10%
100	516,500	9%
101 - 249	833,405	14%
250	907,000	15%
251 - 499	433,726	7%
500	993,500	17%
501 - 999	317,400	5%
1,000	459,000	8%
1,001 - 4,999	139,574	2%
5,000	20,000	0%
Over 5,000	716,045	12%
Total	5,939,996	
By Status		
Incumbents	5,089,913	86%
Challengers	850,083	14%
Open Races	0	0%
Total	5,939,996	
By Result (Candidates Only)		
Winners	5,124,901	86%
Losers	815,095	14%
Total	5,939,996	

Expenditures

Total Expenditures:	\$5,693,700	
By Schedule		
E: Paid	\$5,399,348	95%
F: Accrued	294,352	5%
Total	\$5,693,700	
By Expenditure Type		
Broadcast	265,321	5%
Fundraising	726,826	13%
General	873,675	16%
Literature	1,538,483	28%
Newspaper	177,888	3%
Outdoor	561,878	10%
Personnel	495,777	9%
Survey	147,577	3%
Travel	103,749	1%
Cand. Transfer	137,701	2%
Consulting	530,966	10%
Total	5,559,841	
Voter Contacts		
Broadcast	265,321	10%
Literature	1,538,483	61%
Newspaper	177,888	7%
Outdoor	561,878	22%
Total	2,543,570	
By Period		
Non-Election Year	1,108,152	20%
Period One	2,530,734	44%
Period Two	799,114	14%
Period Three	1,255,700	22%
Total Election Year	4,585,548	80%
Total	5,693,700	
By Status		
Incumbents	4,850,768	85%
Challengers	842,932	15%
Open Races	0	0%
Total	5,693,700	
By Result (Candidates Only)		
Winners	4,915,529	86%
Losers	778,171	14%
Total	5,693,700	
Spending Per Vote		
Total Expend.	5,693,700	
Total Votes	2,500,584	
Average	\$2.28	

San Rafael

Contributions

Total Contributions: \$190,544

By Schedule

A: Cash	\$152,637	80%
B: Loans	23,331	12%
C: In Kind	14,576	8%
Total	\$190,544	

By Contribution Source

Business	23,920	24%
Candidate	16,341	17%
Individual	50,867	52%
Labor	3,831	4%
Political	3,630	4%
Total	98,589	

By Period

Non-Election Year	6,231	3%
Period One	74,769	39%
Period Two	45,886	24%
Period Three	63,658	33%
Total Election Year	184,313	97%
Total	190,544	

By Contribution Size

Under \$100	91,955	48%
100	24,200	13%
101 - 249	16,819	9%
250	18,250	10%
251 - 499	2,415	1%
500	7,000	4%
501 - 999	6,124	3%
1,000	3,000	2%
1,001 - 4,999	7,263	4%
5,000	0	0%
Over 5,000	13,518	7%
Total	190,544	

By Status

Incumbents	67,980	36%
Challengers	74,200	39%
Open Race	48,364	25%
Total	190,544	

By Result (Candidates Only)

Winners	121,007	64%
Losers	69,537	36%
Total	190,544	

Expenditures

Total Expenditures: \$172,929

By Schedule

E: Paid	\$170,552	99%
F: Accrued	2,377	1%
Total	\$172,929	

By Expenditure Type

Broadcast	0	0%
Fundraising	19,370	13%
General	16,255	10%
Literature	49,240	32%
Newspaper	49,220	32%
Outdoor	10,919	7%
Personnel	8,906	6%
Survey	99	0%
Travel	0	0%
Cand. Transfer	89	0%
Consulting	0	0%
Total	154,098	

Voter Contacts

Broadcast	0	0%
Literature	49,240	45%
Newspaper	49,220	45%
Outdoor	10,919	10%
Total	109,379	

By Period

Non-Election Year	2,620	1%
Period One	34,495	20%
Period Two	37,558	22%
Period Three	98,256	57%
Total Election Year	170,309	98%
Total	172,929	

By Status

Incumbents	60,081	35%
Challengers	66,989	39%
Open Races	45,859	26%
Total	172,929	

By Result (Candidates Only)

Winners	112,382	65%
Losers	60,547	35%
Total	172,929	

Spending Per Vote

Total Expend.	172,929
Total Votes	40,703
Average	\$4.25

Santa Monica

Contributions

Total Contributions: \$1,039,119

By Schedule

A: Cash	\$971,535	93%
B: Loans	19,380	2%
C: In Kind	48,204	5%
Total	\$1,039,119	

By Contribution Source

Business	270,318	39%
Candidate	1,036	1%
Individual	330,425	47%
Labor	9,465	2%
Political	76,766	11%
Total	688,010	

By Period

Non-Election Year	112,557	11%
Period One	269,605	26%
Period Two	274,765	26%
Period Three	382,192	37%
Total Election Year	926,562	89%
Total	1,039,119	

By Contribution Size

Under \$100	351,109	34%
100	75,000	7%
101 - 249	59,614	6%
250	32,750	3%
251 - 499	47,197	5%
500	84,500	8%
501 - 999	37,729	4%
1,000	85,000	8%
1,001 - 4,999	221,470	21%
5,000	10,000	1%
Over 5,000	34,750	3%
Total	1,039,119	

By Status

Incumbents	124,891	12%
Challengers	126,231	12%
Slates	787,997	76%
Total	1,039,119	

By Result (Candidates Only)

Winners	113,695	44%
Losers	137,427	56%
Total	251,122	

Expenditures

Total Expenditures: \$1,005,105

By Schedule

E: Paid	970,595	96%
F: Accrued	34,510	4%
Total	\$1,005,105	

By Expenditure Type

Broadcast	0	0%
Fundraising	43,517	4%
General	186,915	19%
Literature	400,875	41%
Newspaper	4,868	0%
Outdoor	1,098	0%
Personnel	57,006	6%
Survey	105,461	11%
Travel	1,228	0%
Cand. Transfer	34,083	4%
Consulting	144,212	15%
Total	979,263	

Voter Contacts

Broadcast	0	0%
Literature	400,875	99%
Newspaper	4,868	1%
Outdoor	1,098	0%
Total	406,841	

By Period

Non-Election Year	104,339	10%
Period One	197,169	20%
Period Two	222,017	22%
Period Three	481,580	48%
Total Election Year	900,766	90%
Total	1,005,105	

By Status

Incumbents	120,709	12%
Challengers	108,580	11%
Slates	775,816	77%
Total	1,005,105	

By Result (Candidates Only)

Winners	104,446	46%
Losers	124,843	54%
Total	229,289	

Spending Per Vote

Total Expend.	1,005,105
Total Votes	178,836
Average	\$5.62

West Covina

Contributions

Total Contributions: \$350,236

By Schedule

A: Cash	\$306,553	88%
B: Loans	14,134	4%
C: In Kind	29,549	8%
Total	\$350,236	

By Contribution Source

Business	204,858	70%
Candidate	26,533	9%
Individual	32,033	11%
Labor	16,914	6%
Political	14,066	5%
Total	294,404	

By Period

Non-Election Year	19,033	5%
Period One	45,826	13%
Period Two	95,084	27%
Period Three	190,293	54%
Total Election Year	331,203	95%
Total	350,236	

By Contribution Size

Under \$100	55,832	17%
100	17,800	5%
101 - 249	14,615	4%
250	4,000	1%
251 - 499	10,620	3%
500	10,000	3%
501 - 999	12,099	4%
1,000	5,000	1%
1,001 - 4,999	34,411	10%
5,000	5,000	1%
Over 5,000	180,859	54%
Total	350,236	

By Status

Incumbents	51,847	15%
Challengers	64,527	18%
Ind. Committees	233,862	67%
Total	350,236	

By Result (Candidates Only)

Winners	62,234	53%
Losers	54,140	47%
Total	116,374	

Expenditures

Total Expenditures: \$340,309

By Schedule

E: Paid	\$336,905	99%
F: Accrued	3,403	1%
Total	\$340,309	

By Expenditure Type

Broadcast	0	0%
Fundraising	4,496	2%
General	43,091	13%
Literature	184,993	57%
Newspaper	20,670	6%
Outdoor	13,301	4%
Personnel	37,259	12%
Survey	16,575	5%
Travel	96	0%
Cand. Transfer	1,393	0%
Consulting	2,636	1%
Total	324,510	

Voter Contacts

Broadcast	0	0%
Literature	184,993	85%
Newspaper	20,670	9%
Outdoor	13,301	6%
Total	218,964	

By Period

Non-Election Year	15,966	5%
Period One	21,891	6%
Period Two	58,561	17%
Period Three	243,891	72%
Total Election Year	324,343	95%
Total	340,309	

By Status

Incumbents	46,538	14%
Challengers	54,198	16%
Open Races	239,573	70%
Total	340,309	

By Result (Candidates Only)

Winners	54,883	54%
Losers	45,853	46%
Total	100,736	

Spending Per Vote

Total Expend.	340,309
Total Votes	42,068
Average	\$8.09

APPENDIX E

Summary of Existing Local Ordinances in California

All jurisdictions in the State of California are required to conduct their elections in accordance with the provisions of the Political Reform Act. The Act's provisions set the basic boundaries for campaign finance reporting regulation. Local jurisdictions may enact additional campaign finance restrictions to address specific considerations in their elections. The following is a summary of the campaign financing laws that California's local jurisdictions have enacted. The discussion is divided into three parts: laws relating to contributions, laws relating to expenditures, and other miscellaneous provisions.

A. Additional Contribution Restrictions and Disclosure Requirements

The following jurisdictions have enacted additional contribution restrictions and disclosure requirements. The range of provisions restricting contributions is wide. In San Diego, for example, contributions from sources other than individuals and the candidates themselves are prohibited; in Gardena, contributions from city contractors are not allowed. Disclosure provisions also vary. Some jurisdictions, like Newport Beach, have enacted full disclosure ordinances; many have required candidates to disclose fully contributions of \$25 or more. The following lists reforms that have been enacted, and the cities and counties that have enacted them.

1. Contribution Limitations

The Political Reform Act, as amended by Proposition 73, limits contributions to all candidates. Individuals are limited to \$1,000, committees to \$2,500 and broad-based political committees to \$5,000 per candidate, per fiscal year.

Adelanto	Contributions cannot exceed 15¢ per registered voter by contributor, per election
Belmont	Per calendar year: \$100 per individual; \$200 per PACs and organizations; candidates may not accept more than \$600 in PAC contributions per year
Berkeley	\$250 per candidate, per election
Chico	\$1,000 cumulative amount figure covering the preceding 18 months
Chula Vista	\$250 per candidate, per election from individuals; all non-individual contributions banned
Commerce	\$500 per candidate, per election
Concord	\$500 limitation per individual and corporation; \$1,000 per PAC; \$1,500 limitation on in-kind contributions, per candidate, per election
Contra Costa County	\$500 per candidate, per election cycle for non-PACs; PACs limited to \$15,000 per candidate per election cycle; \$15,000 aggregate limit on the total amount candidates can accept from PACs per election cycle; \$10,000 aggregate limit per

	candidate, per election cycle for in-kind contributions of office space and equipment
Davis	\$50 per candidate, per election
Del Mar	\$50 per candidate, per election
Dublin	\$300 per candidate, per election
Encinitas	\$100 per candidate, per election
Escondido	\$250 per candidate, per election
Fountain Valley	\$500 per candidate, per election
Fremont	\$249 per candidate, per election
Fresno	\$375 per candidate, per election
Gardena	\$500 per candidate, per election
Gilroy	\$200 per candidate, per election
Goleta Valley	\$500 per candidate, per election
Grand Terrace	\$250 per candidate, per calendar year
Hermosa Beach	\$249 per candidate, per election
Huntington Beach	\$300 per candidate from non-PACs; \$1,500 per candidate from PACs
Irvine	\$160 per candidate, per election (adjusted annually by a cost of living factor)
Livermore	\$100 per candidate, per election
Los Angeles	<i>City council races:</i> \$500 per candidate, per election; contributions to independent expenditure committees limited to \$500 per election; aggregate limit on all contributors of \$500 multiplied by the number of council races appearing on the ballot <i>Mayoral, city attorney and controller races:</i> \$1,000 per candidate, per election; contributions to independent expenditure committees limited to \$500 per election; aggregate limit on all contributors of \$1,000 multiplied by the number of citywide offices appearing on the ballot
Moreno Valley	\$250 per candidate, per election
Newport Beach	\$200 per candidate, per election
Orange County	County Influence Brokers (as specifically defined in the ordinance) may not contribute more than \$766 per year to members of the board of supervisors; amount adjusted annually by the cost of living index
Poway	\$100 per candidate, per election
Sacramento	<i>City council races:</i> \$500 per candidate, per election from non-PACs; \$1,500 per candidate, per election from PACs; \$250 in additional contributions allowed per primary contributor for runoff races <i>Mayoral races:</i> \$1,000 per candidate, per election from non-PACs; \$3,000 per candidate from PACs; \$500 in additional contributions allowed per primary contributor for runoff races

Sacramento County	\$500 per candidate, per election from individuals; \$1,000 per candidate, per election from organizations
San Diego	\$250 per candidate, per election; no non-individual contributions
San Diego County	\$250 per candidate, per election
San Francisco	\$500 per candidate, per election; \$250 additional contributions per person for runoff elections
San Jose	\$250 per council candidate; \$250 per mayoral candidate; \$250 per independent committee
San Juan Capistrano	\$100 per candidate, per election; \$100 per ballot measure campaign
San Luis Obispo	\$100 per candidate, per election
San Marcos	\$150 per candidate, per election
Santa Cruz County	\$200 per candidate, per election from individuals or general committees; \$600 per candidate per election from business or labor union committees
Santa Monica	2¢ times the voting age population per candidate or measure (<i>\$1,491 per candidate, per election as of 1989</i>)
Santee	\$100 per candidate, per election
Signal Hill	\$250 per candidate, per election
Solana Beach	\$100 per candidate, per election
Sonoma County	\$1,000 per candidate, per election
Stockton	\$500 per candidate, per election; total contributions per person shall not exceed \$1,000 per any primary and general election period combined; organizations limited to \$1,000 per candidate, per election; all contributors limited to \$250 in any single non-election year, and candidates may not accept more than a total of \$10,000 in contributions in any single non-election year
Tracy	\$1,000 per candidate, per election
Walnut Creek	\$50 per candidate, per election
West Covina	\$500 per candidate, per election

2. Anonymous Contributions: Additional Restrictions

Adelanto	May not be received in an aggregate amount from all persons of more than 15¢ per registered voter
Berkeley	May not be made or received if \$50 or more
Carlsbad	May not exceed \$25
Commerce	May not exceed \$200
Davis	May not be made or received if over \$10
Escondido	May not be received in an aggregate amount of more than \$200 per election from all persons
Gardena	\$50 per person; \$5,000 in the aggregate for each campaign
Livermore	May be received up to an aggregate amount of \$50 per reporting period from all persons
Los Angeles	May not exceed \$200

Newport Beach	All anonymous contributions prohibited
Palo Alto	May not be received in an aggregate amount of more than \$75 per election from all persons
Rancho Mirage	May not exceed \$10
Roseville	May not exceed an aggregate amount of more than \$100 from all persons
San Diego	May not be received in an aggregate amount of more than \$200 per election from all persons
San Diego County	May not be received in an aggregate amount over \$200 per election
San Jose	All anonymous contributions prohibited
San Juan Capistrano	May not exceed an aggregate amount of \$200 per election from all persons
San Luis Obispo	May not exceed \$25
Santee	May not exceed \$100 in the aggregate from all persons
Santa Monica	Total received by candidate or committee may not exceed \$100 in the aggregate from all persons
Solana Beach	May not exceed \$20
Walnut Creek	May not receive contributions in amounts of \$25 or more, or an aggregate amount of over \$50 from all persons

3. Contribution Disclosure: Additional Requirements

The Political Reform Act requires candidates to disclose fully the names, addresses and employers of contributors giving \$100 or more. The following jurisdictions have enacted lower disclosure thresholds.

Belmont	\$50 or more
Adelanto	\$25 or more
Berkeley	\$50 or more for the first \$1,500; after raising \$1,500 all contributions must be listed
Carlsbad	\$25 or more
Concord	\$50 or more
Contra Costa County	\$25 or more
Coronado	\$5 or more
Culver City	\$51 or more
Davis	\$10 or more
Encinitas	\$50 or more
Fresno County	\$25 or more
Livermore	\$25 or more
Moreno Valley	\$25 or more
Newport Beach	Full disclosure of all contributions
Palo Alto	\$50 or more
Poway	\$25 or more; any contributor who is a non-individual shall disclose persons owning more than a 10% proprietary or voting interest in the contributing entity
Rancho Mirage	\$25 or more

San Luis Obispo	\$25 or more
Solana Beach	\$20 or more
Suisan City	Full disclosure of contributions
Walnut Creek	\$25 or more

4. Contributions Disclosure: Exemptions From Reportable Contribution Levels

The Political Reform Act exempts from reporting costs of fundraisers held in a home or office if the costs are \$500 or less.

Berkeley	Food and beverage of not more than \$50 and use of real or personal property of not more than \$50
Del Mar	The first \$15 spent for refreshments at a private home
Roseville	First \$200 spent on event for candidate or committee where no contributions are raised
San Diego	Event where the cost is \$200 or less and no contributions are raised
San Diego County	Event where the cost is \$200 or less and no contributions are raised
San Mateo	Use of real or personal property and the cost of invitation, food and beverage; sale of food or beverage by vendor if vendor charges at least cost
Santa Cruz County	Excludes cost of event where cost is no more than \$200; candidate's own money or property

5. Contribution Limitations: Cash Donations

Berkeley	Limited to less than \$50
Los Angeles	Limited to \$25
San Marcos	Limited to \$25
Walnut Creek	Limited to \$25

6. Contribution Limitations: Non-Election Years

Stockton	\$250 limit per person, per single non-election year; no candidate shall accept contributions totaling more than \$10,000 in any single non-election year.
Sacramento County	\$250 limit per person, per single non-election year; no candidate shall accept contributions totaling more than \$10,000 in any single non-election year

7. Contribution Prohibition: City Contractors

Belmont
Gardena
Poway
Rancho Mirage

8. Contribution Prohibition: City Licensees

South San Francisco

9. Contribution Prohibition: Non-Individuals

Berkeley	Prohibition limited to corporations, businesses and labor unions
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Chula Vista	
Encinitas	Prohibition limited to corporations
San Diego	
San Diego County	
Poway	
Santee	

10. Contribution Restriction on When Received

Livermore	May only be received between 58 days after the election and five days before the election
San Francisco	May not accept contributions until the declaration of intent to run is filed
Los Angeles	May only accept contributions after the declaration of intent to run is filed
Modesto	No contributions over \$99 within a week of the election
San Luis Obispo	No contributions over \$10 within a week of the election
Walnut Creek	May only be received between 58 days before the election and five days before the election

11. Disqualification From Voting on Matters Which Affect Campaign Contributors

Orange County	The "TinCup" law: disqualifies candidates, for a 48-month period preceding the next election, from participating in decisions that affect any contributor of \$1,808 or more.
Modesto	Disqualifies candidates, for a 48-month period preceding the next election, from participating in decisions that affect any contributor of \$1,000 or more.
Rancho Mirage	Disqualifies candidates for two years from voting on matters affecting members of any independent committee contributing more than \$100
Santa Barbara County	Disqualifies candidates, for one calendar year, from participating in supervisory decisions relating to a contributor of \$250 or more (A federal judge, however, has ruled the Santa Barbara County law unconstitutional.)

B. Laws Regulating Expenditures

The following cities and counties have enacted additional laws regulating candidate expenditures. Some have mandated stiffer reporting requirements, such as Solana Beach, which requires candidates to disclose fully expenditures of \$20 or more. Some jurisdictions have attempted to limit campaign spending. In 1986, Sacramento County passed one of the most sweeping campaign finance laws in the nation, enacting expenditure ceilings using limited public matching funds. Other jurisdictions try to limit expenditures on a voluntary basis.

1. Expenditure Ceilings: In Exchange for Matching Funds

Sacramento County	\$75,000 for primary and \$75,000 for general; in exchange for a candidate's acceptance of expenditure ceilings, his or her contributions are matched—by the Campaign Reform Fund—\$1 for each \$1 raised
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2. Expenditure Ceilings: Voluntary

Contra Costa County	\$150,000 per candidate per election
San Ramon	\$2,750 per election (calculated as 25¢ per registered voter)
Santa Barbara County	\$50,000 for primary, and \$100,000 for primary and general combined (with yearly cost of living adjustments). Candidates agreeing to the ceilings must notify all other candidates when exceeding the ceilings.

3. Expenditure Disclosure: Additional Requirements

The Political Reform Act requires full disclosure of entities or persons receiving payments from the candidate of \$100 or more. The following jurisdictions have enacted lower disclosure thresholds.

Berkeley	\$50 or more; the name, street address, amount of expenditure and reason for the expenditure must be fully disclosed
Concord	\$50 or more
Coronado	\$5 or more
Livermore	\$25 or more
Newport Beach	All vendors must be disclosed
Poway	Over \$25
Rancho Mirage	\$25 or more
Solana Beach	Over \$20
Walnut Creek	\$25 or more

4. Expenditure Estimated Prior to Election

The following jurisdictions require candidates to estimate—prior to the election—how much they will spend in their election.

Belmont
Davis
Rancho Mirage
Poway
Santa Cruz County
Solana Beach

C. Miscellaneous Provisions

The following provisions regulate a variety of campaign finance problems. Loans, mass mailing identification, surplus funds, advertising rates, audits of campaign statements and committee definition requirements are just some of the areas these remedies address.

1. Additional Pre-Election Campaign Statements Required

Carlsbad	Wednesday before election
Contra Costa County	Friday before election
Davis	Friday before election
Encinitas	Friday before election
Irvine	Friday before election
Livermore	Five days prior to election

7. Controlled Committee: One Per Candidate

San Jose

San Luis Obispo

8. Endorsement of Campaign Material Must Have Consent of Endorser

Orange County

9. Extensions of Credit

Del Mar	Extending credit for more than 30 days or \$25 is prohibited
Escondido	Extending credit for more than 60 days or \$250 is prohibited
San Diego	Extending credit for more than 30 days or \$250 is prohibited
San Diego County	Extending credit for more than 30 days or \$250 is prohibited
Santee	Extending credit for more than 30 days or \$250 is prohibited
San Marcos	Extending credit for more than \$150 is prohibited

10. Failure to File Campaign Statements: Candidates May Not Assume Office Until Filed

Coronado

Livermore

San Diego County

San Francisco

San Luis Obispo Official may not be paid for the period in which campaign statements are not filed

11. Fair Campaign Practices Commission

Berkeley

Orange County

12. Fair Campaign Practices Pledge (Voluntary)

Contra Costa County

Pasadena

Sacramento

San Ramon

13. Independent Expenditures Identified

Commerce

14. Independent Expenditures Not Controlled by Candidate

In the following jurisdictions, unless otherwise indicated, an independent expenditure committee must provide a statement on any material published on a candidate's behalf that the material was not authorized by the candidate.

Berkeley Prohibited

Commerce

Contra Costa County Independent expenditure committees located outside the county must file with the county clerk

Gardena

Livermore Prohibited

Los Angeles

Livermore	Must receive receive written approval from candidate's treasurer before expending any funds
Moreno Valley	
Poway	
Rancho Mirage	
San Diego	
San Diego County	
San Francisco	
Signal Hill	
Solana Beach	
West Covina	

15. Late Contributions

The following jurisdictions require candidates to disclose late contributions received between the last filing before the election and the election. The Political Reform Act requires such disclosure if contribution is \$1,000 or more.

Concord	\$500 or more
Berkeley	\$100 or more
Huntington Beach	\$200 or more
Newport Beach	\$50 or more
San Luis Obispo	Over \$10

16. Loans: Made for More Than 30 Days, Prohibited

Commerce
San Diego

17. Mass Mailing Identification

The following jurisdictions require that all campaign literature carry with it the identity of its source and on whose behalf it is sent.

El Cerrito
Santa Monica

18. Mass Mailings Sent to Local Agencies

The following jurisdictions require candidates and organizations to file copies of their campaign literature with a local agency. In Berkeley, this local agency is the city's Fair Campaign Practices Commission.

Berkeley
Orange County

19. Publication of Campaign Contributions

Berkeley	Seven days before election
Modesto	Four days prior to election, city clerk prepares and make available a list—by donor and recipient—of all campaign contributions exceeding \$99
Palo Alto	Friday before election
Roseville	Within seven days of receiving list of contributors; on the last statement received on the Wednesday before the

election, the city clerk must publish a list of contributors to all candidates on the Monday preceding the election.

San Jose Two days before election
San Luis Obispo Saturday before election

20. Statement of Organization Filed With Local Agency

Berkeley
Concord
Del Mar
Orange County
Pasadena
Santa Cruz County

21. Surplus Funds: Limitations on Use

Commerce Candidates may only retain \$5,000 of unexpended funds which may be used by the candidate or committee for other political purposes, donations to charitable organizations, or other lawful purposes. Funds exceeding \$5,000 must be returned to contributors on a *pro rata* basis.

Los Angeles Candidates may only retain \$5,000 of unexpended funds which may be used for any political purpose or lawful use, but may not be used for any future election for elective office. Funds in excess of this amount must be given back to contributors, surrendered to the city's general fund, or donated to charity

Poway All surplus funds must be given to the city or a non-profit organization

Sacramento County All surplus funds—comprising public matching funds as well as private contributions—must be returned to the Campaign Reform Fund, as defined by the ordinance, within 90 days after the election

San Francisco All surplus funds must be returned to the contributor, donated to a charitable organization or transferred to another committee or candidate

Rancho Mirage All surplus funds must be given to city or to a charity

22. Wealthy Candidate Provision

Los Angeles Removes the city's contribution limits for candidates whose opponents have contributed more than \$30,000 of their own funds

Sacramento Any candidate whose opponent has contributed an amount of his or her own money in excess of the city's contribution limitations can raise equal amounts without observing the city's contribution limitations

APPENDIX F

Selected Bibliography**Books and Pamphlets**

California Commission on Campaign Financing, The New Gold Rush: Financing California's Legislative Campaigns, 1985.

California Common Cause, Effects of Differential Contribution Limits on Supervisorial Candidates, March 1980.

Gardena Dateline, Historical Gems From Gardena's Past, Fall/Winter, 1986.

Issel, William and Cherny, Robert W., San Francisco 1865-1932: Politics, Power and Urban Development, 1986.

Jacobson, Gary C., Money in Congressional Elections, 1980.

Kann, Mark E., Middle Class Radicalism in Santa Monica, March 23, 1987.

McGowan, Joseph, and Willis, Terry, Heart of the Golden State, 1983.

Publications Network and Greater Sacramento Chamber of Commerce, The Business Handbook: Sacramento on the Go, 1986.

Schied, Ann, Pasadena: Crown of the Valley, 1986.

Severson, Thor, Sacramento: An Illustrated History 1839-1874, 1973.

Walters, Dan, The New California: Facing the 21st Century, 1986.

Articles

Adams, Gerald, and Jacobs, John, *S.F.'s Highrise Insiders: How They Work*, San Francisco Examiner, June 16, 1986.

Adams, Gerald, and Jacobs, John, *S.F. Poll: 2 of 3 Want Tough Limits on Highrises*, San Francisco Examiner, June 18, 1986.

Chagall, David, *Pasadena City Council: Most Dynamic*, Los Angeles Magazine, July, 1986.

Curran, Ron, and MacAdams, Lewis, *The Selling of LA County*, L.A. Weekly, November 22-28, 1985.

Davis, Mike, *Chinatown, Part Two? The Internationalization of Downtown Los Angeles*, *New Left Review*, July/August, 1987.

Feinbaum, Robert, *Climate Right for Creating New Cities*, *California Journal*, October, 1987.

Fetbrandt Steve, *Four West Covina Councilmen Face Recall Election Tuesday*, *San Gabriel Valley Tribune*, March 20, 1982.

Hinkle, Warren, *If My Dog Raised a Million, He Could Be Mayor*, *San Francisco Examiner*, *Image Magazine*, January 3, 1988.

Houser, Bob, *Chronology of the Wilson-Moriarty Connection*, *Long Beach Press-Telegram*, April 17, 1986.

Jacobs, John and Adams, Gerald, *Jumbo Prawns and Steak Tartare—and Access*, *San Francisco Chronicle*, June 16, 1986.

Lockwood, Charles, and Leinberger, Christopher B., *Los Angeles Comes of Age*, *The Atlantic Monthly*, January, 1988.

Magagnini, Stephen, *Is Sacramento Ready for the Big Time? Yup.*, *California Magazine*, July, 1987.

Peterson, Larry, *Reform Measures: Aim of Cleaner Politics Achieved*, *Orange County Register*, September 28, 1986.

Peterson, Larry, *Scandals: 10 Years Ago, OC Was State's Corruption Capital*, *Orange County Register*, September 28, 1986.

Pimentel, Ricardo and Lewis, Jim, *Money, Growth and Politics: Developer Contributions Create the Climate for Zoning Changes*, *Sacramento Bee*, October 14, 1985.

Pimentel, Ricardo and Lewis, Jim, *Money, Growth and Politics: The Ties That Bind Builders, Politicians*, *Sacramento Bee*, October 13, 1985.

Pimentel, Ricardo and Lewis, Jim, *Money Growth and Politics: Planners, Residents Said No, But Developer Won—Twice*, *Sacramento Bee*, October 14, 1985.

Redmond, Tim, *New Study Confirms the Power of Incumbency, Newspaper Endorsements—and Money—In S.F. Elections*, *San Francisco Bay Guardian*, May 1, 1985.

Richardson, J., *The Rise and Fall of Roger Hedgecock*, *California Journal*, February, 1986.

Roberts, Jerry, *Surprise: There's a Political Donnybrook in San Francisco Again*, *California Journal*, November, 1987.

Walters, Dan, *Disneyland North: The Selling of S.F.*, *Sacramento Bee*, March 23, 1986.

Walters, Dan, *Does Citrus Heights Have the Makings of a City?*, Sacramento Bee, April 5, 1987.

Walters, Dan, *Giant Lurking in Shadow of LA*, Sacramento Bee, March 18, 1986.

Walters, Dan, *Growth Pinches San Diego's Relaxed Life*, Sacramento Bee, March 20, 1986.

Studies, Polls, Papers and Speeches

Bernardi, Ernani, Remarks during a speech before the Beverly-Wilshire Homeowners Association, December 5, 1983.

California Common Cause, "A Study of Sacramento County Supervisors' Campaign Contributions: A Developing Problem," October 29, 1986.

Cisneros, Henry, Remarks during 1985 Annual Conference of the League of California Cities, "Political Courage in Local Leaders," May 14, 1986.

Fair Political Practices Commission, 1 No. 88-002, November 9, 1988.

Field Institute, California Poll, February, 1985.

Gladfelder, Jane, *California's Emergent Counties*, County Supervisors Association of California, 1968.

Koehler, Cortus, *Managing California Counties, Serving People, Solving Problems*, County Supervisors Association of California, 1983.

Orange County Registrar of Voters, "Major Campaign Contributors Listed by the Registrar of Voters pursuant to Section 1-6-6 of the Orange County," Campaign Reform Ordinance, March 2, 1989.

Public Interest Poll, Los Angeles Times, March, 1985.

Strauss, Betsy, Napa City Attorney, "New Councils and the Law of Municipal Corporations in California," League of California Cities, New Mayors and Council Members Conference Briefing Book, May 14-16, 1986.

University of Southern California, Common Cause, California Public Interest Poll, June 20, 1984.

Court Cases

Buckley v. Valeo, 424 U.S. 1 (1976).

California Common Cause v. FPPC, Case No. C005458, Third District Court of Appeal (1989).

California Common Cause v. FPPC, Case No. C709383, Los Angeles County Superior Court (1989).

Center for Public Interest Law v. FPPC, Case No. D008786, dismissed by Fourth District Court of Appeal, returned to the Court of Appeal by the Supreme Court for further review.

County of Sacramento v. FPPC, Case No. 0005858, Third District Court of Appeal (1989).

Federal Election Commission v. National Conservative Political Action Committee, 470 U.S. 480 (1985).

Federal Election Commission v. National Right to Work Committee, 459 U.S. 197 (1982).

First National Bank v. Bellotti, 435 U.S. 765 (1978).

McAvoy v. City of Gardena, No. C325219, Los Angeles County Superior Court (1981).

Mott v. Federal Election Commission, 494 F. Supp. 131 (D.D.C. 1980).

Nestande v. County of Orange, Orange County Superior Court, Case No. 46-70-42 (1986).

Republican National Committee v. Federal Election Commission, 461 F. Supp. 570 (S.D.N.Y. 1978).

Rivera v. City of Fresno, 6 Cal. 3d 132 (1971).

Service Employees International Union (SEIU) v. FPPC, Case No. CIVS 89-0433, United States District Court, Eastern District of California (1989).

Taxpayers to Limit Campaign Spending v. FPPC, Case No. B039177, California Court of Appeal, Second Appellate District (1988).

Watson et al. v. Rules Committee of the Senate, Case No. C691676, Los Angeles County Superior Court; *Watson v. FPPC*, Case No. C722189, Los Angeles County Superior Court (1989).

Government Documents

65 Cal. Op. Att'y Gen. 1982.

City of Gardena Community Development Department Planning Division, Demographic Economic Social Profile and Development Activity Report, 1986.

City of Los Angeles, Office of the City Attorney, Limitations on Campaign Contributions in Los Angeles March Elections, March, 1986.

City of San Diego, Final Report, Campaign Review Task Force, 1986.

City of Seattle, Office of Election Administration, An Analysis of Campaign Contributions in Closely Contested Seattle City Campaigns, 1975-83.

County of Los Angeles, The Public Commission on Los Angeles County Government, To Serve Seven Million, 1976.

Modoc County, General Plan: General Report, October 25, 1985.

Sacramento County Public Finance Reform Commission, Recommendations, June 7, 1985.

The California Commission on Campaign Financing was formed in 1984 as a private, non-profit organization. The bipartisan Commission is composed of 25 Californians from the state's business, labor, agricultural, legal, political and academic communities.

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This is the final report of the Commission's three year study of campaign financing of 17 cities and counties in California. It is the first comprehensive examination of local campaign financing ever undertaken.

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