

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18531.64. Treatment of Debts Outstanding After a City or County Election.

(a) Application. Under Section 85316(a) a candidate for an elective city or county office subject to Section 85301(d) may solicit and accept contributions after an election to pay net debts outstanding, subject to the applicable contribution limit for that election. This regulation applies to contributions accepted under Section 85316(a) on or after January 1, 2021. See Regulation 18531.63 for rules regarding the treatment of contributions received by a candidate for an elective city or county office subject to Section 85301(d) before January 1, 2021.

(b) Definitions. For purposes of Section 85316(a) and this regulation, the following definitions apply:

(1) “The applicable contribution limit for that election” means the contribution limit, if any, as provided in Section 85301 applicable on the date of the election.

(2) “That election” or “the election” means the election for which a candidate for elective city or county office subject to Section 85301(d) is raising contributions to pay net debts outstanding.

(3) “Net debts outstanding” means the total of a committee's outstanding debts minus its assets.

(A) For purposes of calculating net debts outstanding, “outstanding debts” include the following:

(i) An amount necessary to cover the cost of raising funds as permitted under Section 85316(a) and this regulation;

(ii) Costs related to complying with the post-election requirements of the Act and other necessary administrative costs related to winding down the campaign, including office space rental, staff salaries, and office supplies;

(iii) Legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election, or with a ballot recount conducted under Chapter 9 (commencing with Section 15600) of Division 15 of the Elections Code for the election; and

(iv) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to the election.

(B) For purposes of calculating net debts outstanding, “assets” include:

(i) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value;

(ii) The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectability of those credits, refunds, returns, or receivables.

(c) Raising Funds. A candidate for elective city or county office subject to Section 85301(d) may accept contributions after the date of the election only up to the amount of net debts outstanding from the election. The contributions accepted are subject to the applicable contribution limit for that election. The candidate shall reduce the total amount of net debts outstanding as additional funds are received. The candidate and his or her controlled committee(s) may not accept a contribution under Section 85316(a) that exceeds the total amount of net debts outstanding on the date the contribution is received. A contribution that exceeds the

amount of net debts outstanding shall be treated in the same manner as a contribution in excess of the contribution limits.

(d) Paying the Debt. A candidate for elective city or county office subject to Section 85301(d) may only use a contribution accepted after the election pursuant to Section 85316 (a) for payment of net debts outstanding from the election. The candidate may only use the funds on hand and owed to the committee, described in clauses (b)(3)(B)(i) and (ii), for payment of net debts outstanding from the election. The candidate shall use available funds to pay net debts outstanding as soon as practicable.

(e) Transfer. Pursuant to Section 85306, a candidate may transfer campaign funds from another of his or her controlled committees for the purpose of paying the net debts outstanding of his or her committee for elective city or county office subject to Section 85301(d) under Section 85316(a). A transfer of this type made to a committee for an election to a city or county elective office subject to Section 85301(d) held on or after January 1, 2021, is subject to the contribution limits of Sections 85301 and attribution requirements of Regulation 18536.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 85201, 85301, 85306, 85316, 85317, 85318 and 85702.5, Government Code.

HISTORY

1. New section filed 3-22-2021; operative 4-21-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or

substantive review by OAL) (Register 2021, No. 13). For prior history, see Register 2007, No. 26.