

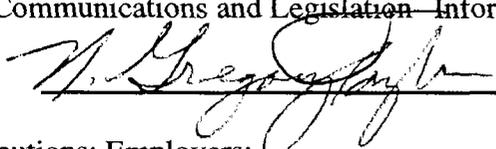


**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

9-13

April 27, 1998

**To:** Board of Directors (Comm. on Communications and Legislation—Information)  
**From:** General Counsel   
**Subject:** Proposition 226--Political Contributions; Employers;  
Labor Unions; Foreign Entities

**RECOMMENDATION(S)**

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For information only.

**EXECUTIVE SUMMARY**

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Proposition 226 is a measure being considered by California voters in the June primary. If approved by the voters, effective July 1, 1998, it will amend the Political Reform Act to require employers and labor organizations to obtain individual employee written consent on an annual basis before any of the employee's payroll deductions could be used for political purposes. Additionally, employers and labor unions would have to maintain financial records relating to the usage for political purposes. Employers are specifically prohibited from making deductions if they know or have reason to know that the funds will be used for such purposes.

Metropolitan does not, of course, make any payroll deductions for political purposes, however, the various employee organizations can and do have payroll deductions made from their memberships. It is unclear as to how the proposition is intended to apply in situations where an employer makes employee organization payroll deductions which are used by the organization for political purposes. In that regard, if the proposition becomes law, it may be desirable to obtain an interpretation by the Fair Political Practices Commission. To our knowledge, the only Metropolitan related labor organization that may make political contributions is AFSCME. The Employees Association is a local of AFSCME. Such organizations would be prohibited from using for political purposes any portion of membership dues or fees without the employee's written authorization received in the previous 12 months. Employees refusing to provide written authorization cannot be discriminated against and their dues are to be reduced by an appropriate amount reflecting their share of the political contribution. The current memorandum of understanding between Metropolitan and the Employees Association provides that Metropolitan is to make payroll deduction for Union dues until June 30, 2000. The Employees Association is required to indemnify and hold harmless Metropolitan from all claims, demands, damages, costs, expenses, or liability arising out of this payroll deduction requirement.

Metropolitan also allows payroll deductions to be made for various other organizations. If the Proposition is approved, it would be necessary to review such payroll deductions to determine if modifications are needed.

Proposition 226 also adds a prohibition against soliciting or accepting foreign national contributions to committees organized and operating exclusively for the purposes of supporting or opposing the qualification or passage of a measure.

The Proposition 226 provisions are added to a title of the Political Reform Act that provides for civil penalties as well as misdemeanor sanctions for knowing or willful violation.

JO:gm  
#10128

Attachment

**| Proposition 226 | Analysis |**

**Political Contributions by Employees, Union Members,  
Foreign Entities. Initiative Statute.**

**Proposition 226 - Full Text of the Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in italicic type to indicate that they are new.

**PROPOSED LAW**

SECTION 1. The people of the State of California find and declare as follows:

- (a) Contributions to political campaigns from foreign interests that have a specific financial stake in legislation and policy can have a corrupting or potentially corrupting effect on, or give the perception of corruption of, the electoral and governmental process.
- (b) Contributions that are taken from individuals without their knowledge and complete consent create the public perception that individuals play an insignificant role in the political process.
- (c) The financial strength of special interest groups or the methods used to collect funds by certain organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates to state and local office.
- (d) Candidates are raising a larger percentage of their funds from special interests with a specific financial stake in matters before state and local government and a smaller percentage of their funds directly from individuals. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions and that individuals play an insignificant role in the process.

SEC. 2. In enacting this measure, it is the intent of the people of the State of California to accomplish the following purposes:

- (a) To eliminate corruption, or the perception of corruption, of the electoral and governmental process by contributions from foreign interests.

- (b) To ensure that contributions and expenditures in political campaigns are made with the knowledge and complete consent of the individuals who are making them.
- (c) To ensure that individuals and interest groups have fair and equal opportunity to influence the electoral and governmental process.
- (d) To restore public trust in governmental institutions and the electoral process.

SEC. 3. Section 85320 is added to the Government Code, to read:

*85320. (a) No person may make or arrange, and no candidate or committee may solicit or accept, any contribution from a foreign national. This section does not apply to contributions to or accepted by a committee organized and operated exclusively for the purpose of supporting or opposing the qualification or passage of a measure.*

*(b) For the purposes of this section, "foreign national" has the same meaning as defined in Section 441e of Title 2 of the United States Code on April 1, 1997.*

SEC. 4. Chapter 5.9 (commencing with Section 85990) is added to Title 9 of the Government Code, to read:

*Chapter 5.9. Limitations on Employers and Labor Organizations*

*85990. (a) No employer or other person responsible for the disbursement of funds in payment of wages may deduct any funds from an employee's wages that the employer knows or has reason to know will be used in whole or in part as a contribution or expenditure except upon the written request of the employee received within the previous 12 months on a form as described by subdivision (b).*

*(b) The request referred to in subdivision (a) shall be made on a form, the sole purpose of which is the documentation of such a request. The form shall be prescribed by the commission and at a minimum shall contain the name of the employee, the name of the employer, the total annual amount that is being withheld for a contribution or expenditure, and the employee's signature. The form's title shall read, in at least 24-point bold type, "Request for Political Payroll Deductions" and shall also state, in at least 14-point bold type, the following words immediately above the signature line:*

*"Signing this form authorizes your employer to make a deduction from your paycheck that is intended to be used as a political contribution or expenditure. You are not obligated to authorize this deduction. Your signature below is completely voluntary and cannot in any way affect your employment."*

*(c) Each employer or other person who makes deductions under subdivision (a) shall maintain records that include a copy of each employee's request, the amounts and dates funds were actually withheld, the amounts and dates funds were transferred to a committee, and the committee to which the funds were transferred.*

*(d) Copies of all records maintained under subdivision (c) shall be sent to the commission upon request.*

*(e) The requirements of this section may not be waived by an employee and waiver of these requirements may not be made a condition of employment or continued employment.*

*(f) For the purposes of this section, "employer" has the same meaning as defined in Section 3300 of the Labor Code on April 1, 1997.*

*(g) For the purposes of this section, "employee" has the same meaning as defined in Section 3351 of the Labor Code on April 1, 1997.*

*(h) For the purposes of this section, "wages" has the same meaning as that term had under Section 200 of the Labor Code on April 1, 1997.*

*85991. (a) No labor organization may use any portion of dues, agency shop fees, or any other fees paid by members of the labor organization, or individuals who are not members, to make contributions or expenditures except upon the written authorization of the member, or individual who is not a member, received within the previous 12 months on a form described by subdivision (b).*

*(b) The authorization referred to in subdivision (a) shall be provided on a form, the sole purpose of which is the documentation of such an authorization. The form shall be prescribed by the commission and at a minimum shall contain the name of the individual granting the authorization, the labor organization to which the authorization is granted, the total annual amount of the dues, agency shop fees, or any other fees that will be used to make contributions or expenditures, and the signature of the individual granting the authorization. The form's title shall read, in at least 24-point bold type, "Authorization for Political Use of Fees" and shall also state, in at least 14-point bold type, the following words immediately above the signature line:*

*"Signing this form authorizes a portion of your dues, agency shop fees, or other fees to be used for making political contributions or expenditures. You are not obligated to sign this authorization. Your signature below is completely voluntary and cannot in any way affect your employment."*

*(c) Any labor organization that uses any portion of dues, agency shop fees, or other fees to make contributions or expenditures under subdivision (a) shall maintain records that include a copy of each authorization obtained under subdivision (b), the amounts and dates funds were actually withheld, the amounts and dates funds were transferred to a committee, and the committee to which the funds were transferred.*

*(d) Copies of all records maintained under subdivision (c) shall be sent to the commission upon request.*

*(e) Individuals who do not authorize contributions or expenditures under subdivision (a) may not have their dues, agency shop fees, or other fees raised in lieu of the contribution or expenditure.*

*(f) If the dues, agency shop fees, or other fees referred to in subdivisions (a) and (c) included an amount for a contribution or expenditure, the dues, agency shop fees, or other fees shall be reduced by that amount for any individual who does not sign an authorization as described under subdivision (a).*

*(g) The requirements of this section may not be waived by the member or individual and waiver of the requirements may not be made a condition of employment or continued employment.*

*(h) For the purposes of this section, "agency shop" has the same meaning as defined in subdivision (a) of Section 3502.5 of the Government Code on April 1, 1997.*

*(i) For the purposes of this section, "labor organization" has the same meaning as defined in subdivision (g) of Section 12926 of the Government Code on April 1, 1997.*

SEC. 5. Unless otherwise specifically defined herein, the definitions and provisions of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000), Government Code), as amended, shall govern the interpretation of this initiative.

SEC. 6. The effective date of this measure shall be the first day of the month following the date that this initiative is approved by the voters.

SEC. 7. This measure shall be self-executing.

SEC. 8. The provisions of this measure are severable. If any provision of this measure or its application to any person or circumstance is held invalid, that invalidity may not affect any other provision or application of this measure that can be given effect without the invalid provision or application. If any provision of this measure is held to be in conflict with federal law, that provision shall remain in full force and effect to the maximum extent permitted by federal law. For the purposes of this section, "provision" means any section, subdivision, sentence, phrase, or word.

SEC. 9. This measure shall be liberally construed to accomplish its purposes.

SEC. 10. If this measure is approved by the voters but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this measure shall be self-executing and given full force of the law.

SEC. 11. The provisions of this measure may not be altered or amended except by a vote of the people.