

San Diego sued over limits on political contributions

[5,6 Edition]

The San Diego Union - San Diego, Calif.

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Date: Apr 5, 1985

Start Page: B.3

Section: LOCAL

Text Word Count: 668

Document Text

The San Diego-Imperial Counties Labor Council has sued the city of San Diego to challenge the city's restrictions on contributions to political campaigns.

The lawsuit, which could be a major test of the city campaign laws, was filed in Superior Court on behalf of the Committee on Political Education, the political arm of the AFL-CIO.

"We feel the current language in the ordinance is ambiguous and unfairly restricts labor's participation in the election process," said Joseph Francis, executive secretary-treasurer of the labor council.

COPE is legally a political action committee and operates on national, state and local levels.

Under city law, a candidate cannot accept group contributions. But a group can spend money on behalf of a candidate if it does so independently of the candidate's campaign organization.

In making such an independent expenditure, the group cannot receive contributions from other groups, and must restrict its fund-raising to individual contributions of \$250 or less. The same limits apply to fund-raising by candidates.

However, an individual not acting as part of a candidate's campaign organization, nor as part of a group, can spend an unlimited amount of money in favor of a candidate and is not bound by the \$250 limit.

The attorney for COPE, Michael Crowley, said the law restricts COPE's right of free political speech. He feels the fund-raising restrictions should not apply to independent expenditures made by groups such as political action committees.

"All COPE is saying," said Crowley, "is we think there is no difference between a person going out and spending as much money as they want and COPE spending as much money as it wants."

But City Attorney John Witt said yesterday the COPE lawsuit could open a major loophole in the city's campaign restrictions.

"It would certainly present a major loophole that a lot of people would run through," Witt said. "It would really penalize those who intend to comply with the campaign donation limit."

The lawsuit could hinge on the legal definition of a campaign committee. Witt contends that when a political action committee spends money on behalf of a candidate it becomes a campaign committee and, therefore, subject to the city's \$250 donation limit and the prohibition on group donations.

The issue arose last fall when Witt ruled that COPE erred in accepting money from one of its member unions, Firefighters Local 145, and spending it for television and radio commercials promoting Mayor Hedgecock's re-election. Hedgecock said he was unaware that COPE was spending money on his behalf.

Witt declined on Nov. 29 to prosecute because he said the violation was unintentional.

Witt said that the firefighters union could have spent its money independently to promote a candidate -- if it did so within the campaign laws -- but could not transfer its money to another organization. The transfer, in effect, became a contribution by a group.

"This broad prohibition would be rendered meaningless if organizations could funnel contributions to other committees to be pooled and used to influence an election," Witt said in his November opinion.

Although COPE's lawsuit specifically challenges the legal interpretation that its member unions cannot transfer money into COPE for local elections, Crowley said the lawsuit also challenges the broader restrictions of \$250 maximum donations to political action committees participating in local elections.

"There's no question we are testing that too," said Crowley. "What it comes down to is that if COPE cannot accept contributions, it cannot make independent expenditures."

Crowley is an associate attorney in the law office of Michael Aguirre. Aguirre said that COPE has no intention of violating the campaign ordinance and is only seeking to have ambiguities and inconsistencies clarified.

"The only reason we are filing this lawsuit is to have judicial direction," Aguirre said.

However, Witt contends that if the lawsuit were successful, contributors would no longer need to bother with the \$250 maximum campaign donation to candidates. They could give an unlimited amount of money to a PAC which would spend it for a candidate.

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Abstract (Document Summary)

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