

August 28, 2005

## The Soft-Money Ban

To the Editor:

The Aug. 24 editorial criticizing the Federal Election Commission's ruling that the McCain-Feingold law does not apply to this fall's ballot initiatives in California did not mention the most important part of this and every other administrative agency action: what Congress provided by statute on the matter.

With McCain-Feingold, Congress prohibited members of Congress from raising and spending soft money, but only in connection with federal and nonfederal elections for "office." The plain meaning of the statute is that the soft-money ban applies to elections for public office, but does not apply to noncandidate political activity, like ballot initiatives and referendums.

Any other interpretation would render the statutory reference to "office" a nullity.

The legislative history is consistent with this interpretation. In debating the McCain-Feingold law, no member of Congress, including the legislation's sponsors, indicated that the soft-money ban would apply to initiatives and referendums.

The F.E.C.'s ruling places members of Congress on the same fund-raising footing as Gov. Arnold Schwarzenegger and other proponents of the initiatives, who are permitted to raise unlimited contributions. It will also help ensure that Californians hear all points of view on the initiative questions.

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Washington, Aug. 25, 2005