

Commissioner of Political Practices
Policies and Procedures

Amended Office Management Policy 2.4
Reinstating Pre-Lair 2016 Campaign Contribution limits

Adopted: May 17, 2016; Amended May 18, 2016

Introduction

The Federal District Court, in the Matter of *Lair v. COPP* No. 6:12-cv-00012-CCL, issued its Order on May 17, 2016 declaring that the limits imposed by Montana law on contributions to candidates for Montana public office are unconstitutional. The Federal Court's Order has voided the limits on contributions.

The contribution limits voided by the Federal Court were set by a November 1994 vote of Montana voters approving Initiative 118. The new limits set by I-118 amended limits then set out at §13-37-216 MCA.

In response to the Federal Court's Order the Commissioner adopts the following amended policy.

Policy

The Commissioner hereby recognizes that Montana law reinstates the larger contribution limits in place under §13-37-216 MCA before those limits were amended by the now voided portion of I-118. The Commissioner notes that the Policy is adopted under the reasoning, authority and direction set by the Montana Supreme Court in *State ex. rel. Woodahl v. District Court*, 162 Mont. 283, 290, 511 P.2d 318, 322 (1972): "[a]n unconstitutional amendment to a law leaves the section intact as it had been before the attempted amendment." This issue is further address by AG Opinion Vol. 51, No. 2.

I. Individual Contribution Limits

The Court's Order struck 13-37-216(1) MCA (2011) applying limits to individuals. The amounts for individual contributions set by §13-37-216 MCA before the now voided amendment by I-118 are as follows:

\$1,500 limit for Gubernatorial candidates
\$750 limit for Other Statewide Office candidates
\$400 limit for candidates for PSC, District Court
Judge, and State Senator
\$250 limit for any candidates for any other Montana
public office (including State Representative)

Subsection (4) of §13-37-216 MCA (2011) sets an inflation factor based on the consumer price index in place in the year of 2002. The inflation factor was set by the Montana legislature independent of changes made by I-118. The Commissioner applies the inflation factor for the reason that it was not challenged by the *Lair* litigation and appears to be unaffected by the Court's Order. Applying a 1.326 Inflation Factor to the reinstated pre-I-118 limits sets the following limits on individual contributions to a candidate for election in 2016:

\$1,990 limit for Gubernatorial candidates
\$990 limit for Other Statewide Office candidates
\$530 limit for candidates for PSC, District Court Judge, and State Senator
\$330 limit for any candidates for any other Montana public office (including State Representative)

It is noted that the limits set by §13-37-216 MCA prior to amendment by I-118 were single limits covering both the primary and general election. Accordingly, the Commissioner adopts the above as a single limit for contributions to a 2016 Montana candidate for public office.

II. Political Committee Contribution Limits, Other than Political Parties.

The Court's Order struck 13-37-216(1) MCA (2011), the subsection of law applying limits to political committees other than political party committees. The amounts for political committee contributions set by §13-37-216 MCA before the now voided amendment by I-118 are as follows:

\$8,000 limit for Gubernatorial candidates
\$2,000 limit for Other Statewide Office candidates
\$1,000 limit for candidates for PSC
\$600 limit for a candidate for the state senate
\$300 limit for any candidates for any other Montana public office (including State Representative and District Court Judge)

Applying the inflation factor discussed above, the reinstated limits for political committees other than political party committees are:

\$10,610 limit for Gubernatorial candidates
\$2,650 limit for Other Statewide Office candidates
\$1,330 limit for candidates for PSC
\$800 limit for a candidate for the state senate
\$400 limit for any candidates for any other Montana public office (including State Representative and District Court Judge)

It is noted that the limits set by §13-37-216 MCA prior to amendment by I-118 were single limits covering both the primary and general election. Accordingly, the Commissioner adopts the above as a single limit for contributions to a 2016 Montana candidate for public office.

III. Political Party Contribution Limits

The Court's Order struck 13-37-216(3) MCA (2011), the subsection of law applying limits to political party committees. The amounts for political committee contributions set by §13-37-216 MCA before the now voided amendment by I-118 were of a lesser amount than the amounts stricken by the Court's Order. Those 1994, pre-I-118, amounts are therefore implicitly stricken by the Court's Order. Until there is a further judicial action, such as a stay of the political party portion of the Order, there are no limits on political party contributions to candidates in Montana's 2016 elections. Accordingly, the State of Montana, at the earliest opportunity, will ask the Federal Courts to stay the Order as to political parties contributions for the 2016 election cycle and thereby restore the current contribution limits for political parties as applied to the 2016 election cycle.