

File No. 150294

Committee Item No. 2

Board Item No. 40

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date May 28, 2015

Board of Supervisors Meeting

Date June 9, 2015

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vacancy Notice |
| <input type="checkbox"/> | <input type="checkbox"/> | Information Sheet |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Janvans 26, 2015 Ethics Commission Minutes</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Febvans 23, 2015 Ethics Commission Minutes</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Alisa Somera Date May 22, 2015

Completed by: Alisa Somera Date June 4, 2015

1 [Campaign and Governmental Conduct Code - Amending Campaign Disclaimer and
2 Disclosure Requirements]

3 **Ordinance amending the Campaign and Governmental Conduct Code to simplify and**
4 **consolidate campaign finance disclaimer and disclosure requirements.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
14 finds and determines that:

15 (a) The San Francisco Campaign Finance Reform Ordinance ("CFRO") was enacted
16 in order to enhance the integrity of the election process and the competitiveness of campaigns
17 in the City and County of San Francisco (the "City"). CFRO's specific purposes include
18 ensuring that all individuals and interest groups in the City have a fair opportunity to
19 participate in elective and governmental processes and assisting voters in making informed
20 electoral decisions.

21 (b) Given recent case law, certain of CFRO's contribution limits have been struck
22 down, or are likely to be struck down, by the courts. Removing the CFRO provisions
23 containing those limits will help to ensure that CFRO is consistent with existing law.

24 (c) Over the years, CFRO's reporting and disclaimer requirements for persons sending
25 election-related communications in City elections require consolidation and simplification,
particularly given overlapping state law requirements covering the same activity. These

1 improvements will provide voters with relevant information about local candidates and ballot
2 measures, and help candidates and committees comply with these local requirements.

3
4 Section 2. The Campaign and Governmental Conduct Code is hereby amended by
5 revising Sections 1.104, 1.114, 1.134, 1.135, 1.143, 1.152, 1.160.5, 1.161, 1.161.5, 1.162,
6 and 1.163, to read as follows:

7 SEC. 1.104. DEFINITIONS.

8 Whenever in this Chapter the following words or phrases are used, they shall mean:

9 "Advertisement" shall be defined as set forth in the California Political Reform Act, California
10 Government Code section 81000 et seq. and its enabling regulations, provided that the advertisement
11 supports or opposes one or more City measures or candidates for City elective office.

12 ~~(a)~~ "Candidate" shall be defined as set forth in the California Political Reform Act,
13 California Government Code section 81000, et seq., but shall include only candidates for City
14 elective office.

15 ~~(b)~~ "Candidate committee" shall mean a committee controlled by a candidate, and
16 primarily formed to support that candidate's election for City elective office.

17 ~~(c)~~ "Charitable organization" shall mean an entity exempt from taxation pursuant to
18 Title 26, Section 501 of the United States Code.

19 ~~(d)~~ "City elective office" shall mean the offices of Mayor, Member of the Board of
20 Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender,
21 Member of the Board of Education of the San Francisco Unified School District and Member
22 of the Governing Board of the San Francisco Community College District. The Board of
23 Supervisors consists of eleven separate City elective offices, the San Francisco Community
24 College District consists of seven separate City elective offices, and the Board of Education of
25 the San Francisco Unified School District consists of seven separate City elective offices.

1 ~~(e)~~ "Code" shall mean the San Francisco Campaign and Governmental Conduct Code.

2 ~~(f)~~ "Committee" shall be defined as set forth in the California Political Reform Act,
3 California Government Code section 81000, et seq.

4 ~~(g)~~ "Contribution" shall be defined as set forth in the California Political Reform Act,
5 California Government Code section 81000, et seq.; provided, however, that "contribution"
6 shall include loans of any kind or nature.

7 ~~(h)~~ "Controlled committee" shall be defined as set forth in the California Political
8 Reform Act, California Government Code section 81000, et seq.

9 "Distributed" and "distribution" shall mean any act that permits a communication to be
10 viewed, read or heard.

11 ~~(i)~~ "Election" shall mean any general, or special municipal election held in the City and
12 County of San Francisco for City elective office or for a local measure, regardless of whether
13 the election is conducted by district or Citywide.

14 "Electioneering communication" shall mean any communication, including but not limited to
15 any broadcast, cable, satellite, radio, electronic, or telephone communication, and any mailing, flyer,
16 doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:

17 (a) refers to a clearly identified candidate for City elective office or a City elective
18 officer who is the subject of a recall election; and

19 (b) is distributed within 90 days prior to an election for the City elective office sought
20 by the candidate or a recall election regarding the City elective officer to 500 or more individuals who
21 are registered to vote or eligible to register to vote in the election or recall election. There shall be a
22 rebuttable presumption that any broadcast, cable, satellite, or radio communication and any sign,
23 billboard or printed advertisement is distributed to 500 or more individuals who are eligible to vote for
24 or against the candidate clearly identified in the communication.

25 (c) The term "electioneering communication" shall not include:

1 (1) communications that constitute independent expenditures under this Chapter
2 or expenditures by a candidate committee for the candidate's election;

3 (2) communications made by a slate mailer organization if such communications
4 are required to be disclosed under the California Political Reform Act, California Government Code
5 Section 81000, et seq.;

6 (3) communications paid for by the City or any other local, State or Federal
7 government agency;

8 (4) non-recorded communications between two or more individuals in direct
9 conversation unless such communications are made by telephone and at least one of the individuals is
10 compensated for the purposes of making the telephone communication;

11 (5) communications that appear on bumper stickers, pins, stickers, hat bands,
12 badges, ribbons and other similar memorabilia;

13 (6) news stories, commentaries or editorials distributed through any newspaper,
14 radio station, television station, or other recognized news medium unless such news medium is owned
15 or controlled by any political party, political committee or candidate;

16 (7) member communications;

17 (8) communications that occur during a candidate debate or forum;

18 (9) communications made solely to promote a candidate debate or forum made
19 by or on behalf of the person sponsoring the debate or forum, provided that such communications do
20 not otherwise discuss the positions or experience of a candidate for City elective office or a City
21 elective officer who is the subject of a recall election; and

22 (10) invitations sent by an entity exempt from taxation pursuant to Title 26,
23 Section 501(c)(3) of the United States Code for its own fundraising event.

24 ~~(f)~~-"Enforcement authority" shall mean the District Attorney for criminal enforcement,
25 the City Attorney for civil enforcement, and the Ethics Commission for administrative

1 enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law
2 enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under
3 any circumstances where such law enforcement agency or prosecuting attorney otherwise
4 has lawful authority to do so.

5 ~~(k)~~ "Ethics Commission" shall mean the San Francisco Ethics Commission.

6 ~~(l)~~ "Executive Director" shall mean the Executive Director of the Ethics Commission, or
7 the Executive Director's designee.

8 ~~(m)~~ "General purpose committee" shall be defined as set forth in the California Political
9 Reform Act, California Government Code section 81000 et seq.

10 ~~(n)~~ "Independent expenditure" shall be defined as set forth in the California Political
11 Reform Act, California Government Code section 81000 et seq. An expenditure is not
12 considered independent and shall be treated as a contribution from the person making the
13 expenditure to the candidate on whose behalf or for whose benefit the expenditure is made, if
14 the expenditure is made at the request, suggestion, or direction of, or in cooperation,
15 consultation, concert or coordination with, the candidate on whose behalf, or for whose
16 benefit, the expenditure is made.

17 ~~(o)~~ "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for
18 each individual candidate for Mayor or the Board of Supervisors whom the Ethics Commission
19 has certified as eligible to receive public funds under this Chapter.

20 ~~(p)~~ "Itemized disclosure statement" shall mean a form promulgated by the Ethics
21 Commission that provides a detailed description of the separate costs associated with a
22 communication, including but not limited to photography, design, production, printing,
23 distribution, and postage.

1 ~~(g)~~ "Mass mailing" shall be defined as set forth in the California Political Reform Act,
2 California Government Code section 81000 et seq., provided that the mass mailing advocates
3 for or against one or more candidates for City elective office.

4 ~~(#)~~ "Matching contribution" shall mean a contribution up to \$500, made by an
5 individual, other than the candidate, who is a resident of San Francisco. Matching
6 contributions shall not include loans, contributions received more than 18 months before the
7 date of the election, qualifying contributions or contributions made by the candidate's spouse,
8 registered domestic partner or dependent child. Matching contributions must also comply with
9 all requirements of this Chapter. Matching contributions under \$100 that are not made by
10 written instrument must be accompanied by written documentation sufficient to establish the
11 contributor's name and address. The Ethics Commission shall set forth, by regulation, the
12 types of documents sufficient to establish a contributor's name and address for the purpose of
13 this subsection.

14 ~~(s)~~ "Measure" shall mean any City, San Francisco Unified School District or San
15 Francisco Community College District referendum, recall or ballot proposition, whether or not
16 it qualifies for the ballot.

17 ~~(t)~~ "Member communication" shall ~~mean a communication made by an organization or its~~
18 ~~committee for the publication, dissemination or communication to the organization's members,~~
19 ~~employees or shareholders, or to the families of the organization's members, employees or~~
20 ~~shareholders by newsletter, letter, flyer, e-mail or similar written or spoken material, that supports or~~
21 ~~opposes a candidate or measure~~ be defined as set forth in the California Political Reform Act,
22 California Government Code section 81000 et seq. and its enabling regulations, provided that the
23 communication advocates for or against one or more City measures or candidates for City elective
24 office.
25

1 ~~(u)~~ "Person" shall mean any individual, partnership, corporation, association, firm,
2 committee, club or other organization or group of persons, however organized.

3 ~~(v)~~ "Qualified campaign expenditure" for candidates shall mean all of the following:

4 ~~(1a)~~ Any expenditure made by a candidate, or by a committee controlled by the
5 candidate, for the purpose of influencing or attempting to influence the actions of the voters for
6 the election of the candidate to City elective office.

7 ~~(2b)~~ A nonmonetary contribution provided to the candidate, officeholder or
8 committee controlled by the candidate.

9 ~~(3c)~~ The total cost actually paid or incurred by the candidate or controlled
10 committee of the candidate for a slate mailing or other campaign literature produced or
11 authorized by more than one candidate.

12 ~~(4d)~~ Expenses incurred, but for which payment has not yet been made.

13 ~~(5e)~~ Expenses associated with complying with applicable laws, including but not
14 limited to the California Political Reform Act, California Government Code Section 81000, et
15 seq., and the provisions of this Chapter.

16 ~~(6f)~~ "Qualified campaign expenditure" shall not include filing fees, expenses
17 incurred in connection with an administrative or judicial proceeding, payments for
18 administrative, civil or criminal fines, including late filing fees, costs incurred after the election
19 that do not directly affect the outcome of the election, including but not limited to utility bills,
20 expenses associated with an audit, and expenses related to preparing post-election campaign
21 finance disclosure reports as required by the California Political Reform Act, California
22 Government Code Section 81000, et seq., and the provisions of this Chapter, or for inaugural
23 activities or officeholder expenses.

24 ~~(w)~~ "Qualifying contribution" shall mean a contribution of not less than \$10 and not
25 more than \$100 that is made by an individual who is a resident of San Francisco and that

1 complies with all requirements of this Chapter. Qualifying contributions shall not include
2 loans, contributions received more than 18 months before the date of the election or
3 contributions made by the candidate or the candidate's spouse, registered domestic partner or
4 dependent child. Qualifying contributions under \$100 that are not made by written instrument
5 must be accompanied by written documentation sufficient to establish the contributor's name
6 and address. The Ethics Commission shall set forth, by regulation, the types of documents
7 sufficient to establish a contributor's name and address for the purpose of this subsection.

8 ~~(x)~~ "Recorded telephone message" shall mean a recorded audio message that
9 expressly supports or opposes a candidate for City elective office that is distributed by
10 telephone.

11 "Refers to a clearly identified candidate for City elective office or a City elective officer who is
12 the subject of a recall election" shall mean any communication that contains the candidate's or officer's
13 name, nickname or image or makes any other unambiguous reference to the candidate or officer such
14 as "your Supervisor" or "the incumbent."

15 ~~(y)~~ "Surplus funds" shall mean funds remaining in a candidate's campaign account at
16 the time the candidate leaves City elective office, or at the end of the post-election reporting
17 period following the defeat of the candidate for City elective office, whichever occurs last, and
18 funds remaining in the campaign account of a committee primarily formed to support or
19 oppose a measure at the end of the post-election reporting period following the election at
20 which the measure appeared on the ballot.

21 ~~(z)~~ "Total Opposition Spending" shall mean the sum of any expenditures made or
22 expenses incurred by any person or persons for the purpose of making independent
23 expenditures, electioneering communications or member communications in opposition to a
24 specific candidate for Mayor or the Board of Supervisors.

1 ~~(aa)~~ "Total Supportive Funds" shall mean the sum of all contributions received by a
2 candidate committee supporting a candidate for Mayor or the Board of Supervisors, other than
3 any funds in the candidate's Campaign Contingency Account exceeding the candidate
4 committee's Trust Account Limit, plus the expenditures made or expenses incurred by any
5 person or persons for the purpose of making independent expenditures, electioneering
6 communications or member communications in support of that same candidate.

7 ~~(bb)~~ "Trust Account Limit" shall mean the amount of funds in the Campaign
8 Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the
9 Board of Supervisors whom the Ethics Commission has certified as eligible to receive public
10 funds under this Chapter such that the expenditure of this amount would cause the candidate
11 to reach, but not exceed, the candidate's Individual Expenditure Ceiling. The Trust Account
12 Limit shall be reduced as the candidate spends money and shall be increased when his or her
13 Individual Expenditure Ceiling increases.

14 ~~(cc)~~ "Unexpended public funds" shall mean all funds remaining in the candidate
15 committee's account on the 30th day after the candidate controlling the committee is either
16 elected or not elected to office, regardless of the source of the funds, but shall not exceed the
17 amount of public funds provided to the candidate. Funds raised after this date are not
18 unexpended funds.

19 ~~(dd)~~ "Voter" shall mean an individual registered to vote in San Francisco.

20 ~~(ee)~~ "Withdrawal" or "withdraw" shall mean, prior to an election, ending one's
21 candidacy or failing to qualify for an office for which a candidate has solicited or accepted
22 contributions.

23 ~~(ff)~~ "Written instrument" shall mean a check, credit card receipt, or record of electronic
24 transfer of funds.

25 SEC. 1.114. CONTRIBUTION LIMITS.

1 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a candidate
2 shall make, and no campaign treasurer for a candidate committee shall solicit or accept, any
3 contribution which will cause the total amount contributed by such person to such candidate committee
4 in an election to exceed \$500.

5 ~~(1) Per Candidate Limit. No person other than a candidate shall make, and no~~
6 ~~campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause~~
7 ~~the total amount contributed by such person to such candidate committee in an election to exceed \$500.~~

8 ~~(2) Overall Limit. No person shall make any contribution which will cause the total~~
9 ~~amount contributed by such person to all candidate committees in an election to exceed \$500 multiplied~~
10 ~~by the number of City elective offices to be voted on at that election.~~

11 (b) LIMITS ON CONTRIBUTIONS FROM CORPORATIONS. No corporation
12 organized pursuant to the laws of the State of California, the United States, or any other state,
13 territory, or foreign country, whether for profit or not, shall make a contribution to a candidate
14 committee, provided that nothing in this subsection shall prohibit such a corporation from
15 establishing, administering, and soliciting contributions to a separate segregated fund to be
16 utilized for political purposes by the corporation, provided that the separate segregated fund
17 complies with the requirements of Federal law including Sections 432(e) and 441b of Title 2 of
18 the United States Code and any subsequent amendments to those Sections.

19 ~~(c) LIMITS ON CONTRIBUTIONS TO COMMITTEES.~~

20 ~~(1) Per Committee Limit. No person shall make, and no committee treasurer shall~~
21 ~~solicit or accept, any contribution which will cause the total amount contributed by such person to the~~
22 ~~committee to exceed \$500 per calendar year.~~

23 ~~(2) Overall Limit. No person shall make, and no committee treasurer shall solicit or~~
24 ~~accept, any contribution which will cause the total amount contributed by such person to all~~
25 ~~committees to exceed \$3,000 per calendar year.~~

1 (3) ~~Definitions. For purposes of this Subsection, "committee" shall mean any committee~~
2 ~~making expenditures to support or oppose a candidate, but shall not include candidate committees.~~

3 (d~~c~~) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.

4 (1) General Rule. For purposes of the contribution limits imposed by this
5 Section and Section 1.120 the contributions of an entity whose contributions are directed and
6 controlled by any individual shall be aggregated with contributions made by that individual and
7 any other entity whose contributions are directed and controlled by the same individual.

8 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or
9 more entities make contributions that are directed and controlled by a majority of the same
10 persons, the contributions of those entities shall be aggregated.

11 (3) Majority-Owned Entities. Contributions made by entities that are majority-
12 owned by any person shall be aggregated with the contributions of the majority owner and all
13 other entities majority-owned by that person, unless those entities act independently in their
14 decisions to make contributions.

15 (4) Definition. For purposes of this Section, the term "entity" means any person
16 other than an individual and "majority-owned" means a direct or indirect ownership of more
17 than 50 percent.

18 (e~~d~~) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of
19 contributions received from a contributor is \$100 or more, the committee shall not deposit any
20 contribution that causes the total amount contributed by a person to equal or exceed \$100
21 unless the committee has the following information: the contributor's full name; the
22 contributor's street address; the contributor's occupation; and the name of the contributor's
23 employer or, if the contributor is self-employed, the name of the contributor's business. A
24 committee will be deemed not to have had the required contributor information at the time the
25

1 contribution was deposited if the required contributor information is not reported on the first
2 campaign statement on which the contribution is required to be reported.

3 (fe) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other
4 penalty, each committee that receives a contribution which exceeds the limits imposed by this
5 Section or which does not comply with the requirements of this Section shall pay promptly the
6 amount received or deposited in excess of the amount permitted by this Section to the City
7 and County of San Francisco and deliver the payment to the Ethics Commission for deposit in
8 the General Fund of the City and County; provided that the Ethics Commission may provide
9 for the waiver or reduction of the forfeiture.

10 (gf) RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or
11 committee making expenditures to support or oppose a candidate shall not be considered
12 received if it is not cashed, negotiated, or deposited and in addition it is returned to the donor
13 before the closing date of the campaign statement on which the contribution would otherwise
14 be reported, except that a contribution to a candidate committee or committee making
15 expenditures to support or oppose a candidate made before an election at which the
16 candidate is to be voted on but after the closing date of the last campaign statement required
17 to be filed before the election shall not be considered to be deemed received if it is not
18 cashed, negotiated or deposited and is returned to the contributor within 48 hours of receipt.
19 For all committees not addressed by this Section, the determination of when contributions are
20 considered to be received shall be made in accordance with the California Political Reform
21 Act, California Government Code Section 81000, et seq.

22 SEC. 1.134. LIFTING OF VOLUNTARY EXPENDITURE CEILINGS;
23 SUPPLEMENTAL REPORTING IN ELECTIONS FOR ASSESSOR, PUBLIC DEFENDER,
24 CITY ATTORNEY, DISTRICT ATTORNEY, TREASURER, SHERIFF, THE BOARD OF
25

1 EDUCATION OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, OR THE
2 GOVERNING BOARD OF THE SAN FRANCISCO COMMUNITY COLLEGE DISTRICT.

3 This Section shall apply only if at least one candidate for the City elective office has
4 accepted the applicable voluntary expenditure ceiling, and the Ethics Commission has not
5 lifted that voluntary expenditure ceiling. This Section applies only to candidates for Assessor,
6 Public Defender, City Attorney, District Attorney, Treasurer, Sheriff, the Board of Education of
7 the San Francisco Unified School District, or the Governing Board of the San Francisco
8 Community College District.

9 (a) The voluntary expenditure ceiling shall no longer be binding on a candidate:

10 (1) If a candidate seeking election to the same City elective office, who has
11 declined to accept the voluntary expenditure ceiling, receives contributions or makes qualified
12 campaign expenditures in excess of 100 percent of the applicable voluntary expenditure
13 ceiling,

14 (2) If a person or persons make expenditures or payments, or incur expenses
15 for the purpose of making independent expenditures, electioneering communications or
16 member communications that total more than 100 percent of the applicable voluntary
17 expenditure ceiling, and those expenditures or communications clearly identify a candidate
18 seeking election to the same City elective office, or

19 (3) If a candidate seeking election to the same City elective office, who has
20 accepted the voluntary expenditure ceiling, makes qualified campaign expenditures in excess
21 of 100 percent of the voluntary expenditure ceiling.

22 (b) Any candidate committee that receives contributions, makes qualified campaign
23 expenditures, incurs expenses or has funds in its Campaign Contribution Trust Account that
24 total more than 100 percent of the applicable voluntary expenditure ceiling shall, within 24
25 hours of exceeding 100 percent of the applicable voluntary expenditure ceiling, file a

1 statement with the Ethics Commission, on forms to be provided by the Ethics Commission,
2 stating that fact and any additional information required by the Ethics Commission.

3 ~~(e) Any person other than a candidate committee who makes expenditures or payments, or~~
4 ~~incurs expenses for the purpose of distributing independent expenditures, electioneering~~
5 ~~communications or member communications that clearly identify any candidate in an amount that in~~
6 ~~the aggregate equals or exceeds \$5,000 per candidate shall, within 24 hours of reaching or exceeding~~
7 ~~this threshold, file a statement with the Ethics Commission. The statement shall include a legible copy~~
8 ~~of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio~~
9 ~~or video, disclose the cost of each communication, and provide any additional information required by~~
10 ~~the Ethics Commission.~~

11 ~~Thereafter, until the Ethics Commission lifts the applicable voluntary expenditure ceiling, any~~
12 ~~such person shall file a supplemental statement with the Ethics Commission each time the person makes~~
13 ~~expenditures for the purpose of distributing independent expenditures, electioneering communications~~
14 ~~or member communications that clearly identify any candidate in an amount that in the aggregate~~
15 ~~equals or exceeds an additional \$5,000 per candidate. The supplemental statements shall be filed~~
16 ~~within 24 hours of reaching or exceeding this threshold, and shall include a legible copy of the~~
17 ~~communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or~~
18 ~~video, disclose the cost of each communication, and provide any additional information required by the~~
19 ~~Ethics Commission.~~

20 ~~(dc) Within one business day after receiving a notice indicating that the thresholds in~~
21 ~~subsection (a) have been met, the Ethics Commission shall inform every candidate in the same race that~~
22 ~~the expenditure ceiling has been lifted. The Executive Director shall promptly review statements filed~~
23 ~~pursuant to state and local law, including California Government Code section 84204 and Sections~~
24 ~~1.161, 1.162, and 1.163 of this Chapter, to determine whether a communication supports or opposes~~
25 ~~one or more candidates.~~

1 (d) Within one business day after determining that the threshold listed in subsection (a) has
2 been met with respect to an office appearing on the ballot, the Executive Director shall inform every
3 candidate for that office that the Ethics Commission has lifted the applicable voluntary expenditure
4 ceiling. The Executive Director shall also post a notice on the Ethics Commission's website and send
5 written notice by email to any other person who has requested such notice.

6 SEC. 1.135. SUPPLEMENTAL PRE-ELECTION STATEMENTS.

7 (a) Supplemental Preelection Statements. In addition to the campaign disclosure
8 requirements imposed by the California Political Reform Act and other provisions of this
9 Chapter, ~~all a~~ San Francisco general purpose committees that makes contributions or
10 expenditures totaling \$500 or more during the period covered by the preelection statement, other than
11 expenditures for the establishment and administration of that committee, shall file a preelection
12 statements before any election held in the City and County of San Francisco at which a
13 candidate for City elective office or City measure is on the ballot, ~~if the committee makes~~
14 ~~contributions or expenditures totaling \$500 or more during the period covered by the preelection~~
15 ~~statement.~~

16 (b) Time for Filing Supplemental Preelection Statements. In even-numbered years,
17 preelection statements required by this Section shall be filed pursuant to the preelection
18 statement filing schedule established by the Fair Political Practices Commission for county
19 general purpose recipient committees. In odd-numbered years, the filing schedule is as
20 follows:

21 (1) For the period ending 45 days before the election, the statement shall be
22 filed no later than 40 days before the election;

23 (2) For the period ending 17 days before the election, the statement shall be
24 filed no later than 12 days before the election.

25 (c) The Ethics Commission may require that these statements be filed electronically.

1 SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

2 This Section shall apply only if the Ethics Commission has certified that at least one
3 candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this
4 Chapter.

5 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a
6 candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against
7 that candidate and the highest level of the Total Supportive Funds of any other candidate for
8 Mayor if such amount is greater than \$1,475,000, provided that the Executive Director may
9 adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

10 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a
11 candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition
12 Spending against that candidate and the highest level of the Total Supportive Funds of any
13 other candidate for the same office on the Board of Supervisors if such amount is greater than
14 \$250,000, provided the Executive Director may adjust a candidate's Individual Expenditure
15 Ceiling only in increments of \$10,000.

16 (c) ~~No later than the second business day after a statement is filed pursuant to Section~~
17 ~~1.152(a)(3) or (b)(3) of this Chapter, the Executive Director shall determine whether the~~
18 ~~communication supports or opposes one or more candidates. The Executive Director shall promptly~~
19 ~~review statements filed pursuant to state and local law, including Government Code section 84204 and~~
20 ~~Sections 1.161, 1.162, and 1.163 of this Chapter, to determine whether a communication supports or~~
21 ~~opposes one or more candidates.~~

22 Factors the Executive Director shall use to determine whether the communication
23 supports or opposes one or more candidates include the following:

- 24 (1) whether the communication clearly identifies one or more candidates;
25 (2) the timing of the communication;

1 (3) the voters targeted by the communication;

2 (4) whether the communication identifies any candidate's position on a public
3 policy issue and urges the reader or viewer to take action, including calling the candidate to
4 support or oppose the candidate's position;

5 (5) whether the position of one or more candidates on a public policy issue has
6 been raised as distinguishing these candidates from others in the campaign, either in the
7 communication itself or in other public communications;

8 (6) whether the communication is part of an ongoing series of substantially
9 similar advocacy communications by the organization on the same issue; and

10 (7) any other factors the Executive Director deems relevant.

11 (d) Within one business day of the date that the Executive Director makes a
12 determination under Subsection (c), either the candidate(s) identified in the communication or
13 any candidate seeking the same City elective office as the candidate identified in the
14 communication may object to the Executive Director's determination. The Executive Director
15 shall respond to any objection within one business day of receiving the objection.

16 (e) Within one business day of the Executive Director's response, either the
17 candidate(s) identified in the communication or any candidate seeking the same City elective
18 office as the candidate identified in the communication may submit to the Executive Director a
19 request that the Ethics Commission review the Executive Director's determination. Within one
20 business day of receiving the request, the Executive Director shall notify each Commissioner
21 of the candidate's request.

22 If within one business day of the Executive Director's notice, two or more members of
23 the Commission inform the Executive Director that they would like to review the determination,
24 the Executive Director shall schedule a meeting of the Commission on a date that occurs
25 within one week of the Commissioners' requests. If three members of the Commission vote to

1 overrule the Executive Director's determination, the Commission shall make a final
2 determination based on the factors set forth above.

3 (f) If no candidate objects to the Executive Director's determination, if no candidate
4 requests review by the Commission of the Executive Director's determination, if a request is
5 made and two or more members of the Commission do not request to review the
6 determination, or within one week of two members of the Commission requesting to review
7 the Executive Director's determination, at least three members of the Commission do not vote
8 to overrule the Executive Director's determination, the Executive Director's determination shall
9 become final.

10 The Executive Director shall determine whether to adjust the Individual Expenditure
11 Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to either
12 Subsection (a) or (b) of this Section within one business day of a final determination.

13 SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF
14 SUPERVISORS AND MAYOR.

15 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

16 (1) In addition to the campaign disclosure requirements imposed by the
17 California Political Reform Act and other provisions of this Chapter, each candidate committee
18 supporting a candidate for the Board of Supervisors shall file a statement with the Ethics
19 Commission indicating when the committee has received contributions to be deposited into its
20 Campaign Contribution Trust Account or made expenditures that equal or exceed \$5,000
21 within 24 hours of reaching or exceeding that amount.

22 (2) In addition to the supplemental report in Subsection (a)(1) of this Section,
23 each candidate committee supporting a candidate for the Board of Supervisors shall file a
24 statement with the Ethics Commission disclosing when the committee has received
25 contributions to be deposited into its Campaign Contribution Trust Account or made

1 expenditures that in the aggregate equal or exceed \$100,000. The candidate committee shall
2 file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the
3 candidate committee shall file an additional supplemental report within 24 hours of every time
4 the candidate committee receives additional contributions to be deposited into its Campaign
5 Contribution Trust Account or makes additional expenditures that in the aggregate equal or
6 exceed \$10,000.

7 ~~(3) Any person other than a candidate committee who makes expenditures for the~~
8 ~~purpose of distributing independent expenditures, electioneering communications, or member~~
9 ~~communications that clearly identify any candidate for the Board of Supervisors, and the amount of~~
10 ~~those expenditures in the aggregate equals or exceeds \$5,000 per candidate, shall, within 24 hours of~~
11 ~~reaching or exceeding this threshold, file a statement with the Ethics Commission. Such statement shall~~
12 ~~include a legible copy of the communication if it is conveyed in writing or an electronic recording if it~~
13 ~~is conveyed via audio or video, disclose the cost of each communication, and provide any additional~~
14 ~~information required by the Ethics Commission. Every person who is required to file a statement with~~
15 ~~the Ethics Commission pursuant to this Subsection shall indicate on the statement which candidate or~~
16 ~~candidates for the Board of Supervisors the independent expenditures, electioneering communications,~~
17 ~~or member communications disclosed on the statement support or oppose, or whether they are neutral.~~
18 ~~For the purposes of this Subsection, the costs of a communication that supports or opposes more than~~
19 ~~one candidate or ballot measure shall be apportioned among each candidate and measure in the~~
20 ~~communication.~~

21 ~~Thereafter, any such person shall file a supplemental statement with the Ethics~~
22 ~~Commission each time the person makes expenditures for the purpose of distributing independent~~
23 ~~expenditures, electioneering communications or member communications that clearly identify any~~
24 ~~candidate for the Board of Supervisors in an amount that in the aggregate equals or exceeds an~~
25 ~~additional \$5,000 per candidate. The supplemental statements shall be filed within 24 hours of~~

1 ~~reaching or exceeding this threshold, and shall include a legible copy of the communication if it is~~
2 ~~conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of~~
3 ~~each communication, and provide any additional information required by the Ethics Commission.~~

4 (3) The Executive Director shall post the information disclosed on statements
5 required by this subsection on the website of the Ethics Commission within two business days
6 of the statement's filing.

7 (b) ELECTIONS FOR MAYOR.

8 (1) In addition to the campaign disclosure requirements imposed by the
9 California Political Reform Act and other provisions of this Chapter, each candidate committee
10 supporting a candidate for Mayor shall file a statement with the Ethics Commission indicating
11 when the candidate committee has received contributions to be deposited into its Campaign
12 Contribution Trust Account or made expenditures that equal or exceed \$50,000 within 24
13 hours of reaching or exceeding that amount.

14 (2) In addition to the supplemental report in Subsection (b)(1) of this Section,
15 each candidate committee supporting a candidate for Mayor shall file a statement with the
16 Ethics Commission disclosing when the candidate committee has received contributions to be
17 deposited into its Campaign Contribution Trust Account or made expenditures that in the
18 aggregate equal or exceed \$1,000,000. The candidate committee shall file this report within
19 24 hours of reaching or exceeding the threshold. Thereafter, the candidate committee shall
20 file an additional supplemental report within 24 hours of every time the candidate committee
21 receives additional contributions or makes additional expenditures that in the aggregate equal
22 or exceed \$50,000.

23 ~~(3) Any person other than a candidate committee who makes expenditures for the~~
24 ~~purpose of distributing independent expenditures, electioneering communications, or member~~
25 ~~communications that clearly identify any candidate for Mayor, and the amount of those expenditures in~~

1 ~~the aggregate equals or exceeds \$5,000 per candidate, shall, within 24 hours of reaching or exceeding~~
2 ~~this threshold, file a statement with the Ethics Commission. Such statement shall include a legible copy~~
3 ~~of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio~~
4 ~~or video, disclose the cost of each communication, and provide any additional information required by~~
5 ~~the Ethics Commission. Every person who is required to file a statement with the Ethics Commission~~
6 ~~pursuant to this Subsection shall indicate on the statement which candidate or candidates for Mayor~~
7 ~~the independent expenditures, electioneering communications, or member communications disclosed on~~
8 ~~the statement support or oppose, or whether they are neutral. For the purposes of this Subsection, the~~
9 ~~costs of a communication that supports or opposes more than one candidate or ballot measure shall be~~
10 ~~apportioned among each candidate and measure in the communication.~~

11 ~~Thereafter, any such person shall file a supplemental statement with the Ethics~~
12 ~~Commission each time the person makes expenditures for the purpose of distributing independent~~
13 ~~expenditures, electioneering communications or member communications that clearly identify any~~
14 ~~candidate for Mayor in an amount that in the aggregate equals or exceeds an additional \$5,000 per~~
15 ~~candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding this~~
16 ~~threshold, and shall include a legible copy of the communication if it is conveyed in writing or an~~
17 ~~electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and~~
18 ~~provide any additional information required by the Ethics Commission.~~

19 (3) The Executive Director shall post the information disclosed on statements
20 required by this subsection on the website of the Ethics Commission within two business days
21 of the statement's filing.

22 (c) The supplemental statements required by Subsections (a)(2) and (b)(2), (a)(3), (b)(2)
23 and (b)(3) are not required until the Ethics Commission has certified that at least one
24 candidate is eligible to receive public funds under this Chapter, provided that within two
25 business days of the date that the Ethics Commission provides notice under this subsection

1 that it has certified that a candidate is eligible to receive public funds under this Chapter, any
2 report that previously would have been required under (a)(2) and (b)(2), ~~(a)(3), (b)(2) or (b)(3)~~
3 must be filed. Within two business days of certifying that at least one candidate is eligible to
4 receive public financing under this Chapter, the Ethics Commission shall post a notice on its
5 website, send out a press release and send written notice by regular or electronic mail to all
6 other candidates running for the same City elective office and to any other person who has
7 requested such notice.

8 ~~SEC. 1.160.5. DISCLOSURE AND FILING FOR PERSUASION POLLS.~~

9 ~~(a) Definitions. Whenever in this Section the following words or phrases are used, they shall~~
10 ~~mean:~~

11 ~~(1) "Persuasion poll" shall mean any telephone survey, or series of telephone surveys~~
12 ~~that are substantially similar or identical, that~~

13 ~~(A) refers to a clearly identified candidate for City elective office or a City~~
14 ~~elective officer, other than in a basic preference question;~~

15 ~~(B) includes at least one call made within 60 days prior to an election for the~~
16 ~~City elective office sought by the candidate named in the survey or a recall election regarding the City~~
17 ~~elective officer named in the survey;~~

18 ~~(C) includes at least 1,000 completed calls, such as person-to-person~~
19 ~~discussions following the survey script; and~~

20 ~~(D) for which at least two of the following are true:~~

21 ~~(i) Each phone conversation in the survey takes less than four minutes on~~
22 ~~average to complete, excluding any sponsorship identification;~~

23 ~~(ii) The survey includes fewer than three demographic inquiries~~
24 ~~regarding factors such as age, educational level, or marital status, sufficient to allow for the tabulation~~
25

1 of results based on relevant subset(s) of the population consistent with standard polling industry
2 practices;

3 ~~(iii) The persons conducting the survey do not collect or tabulate survey~~
4 ~~results for all the phone conversations;~~

5 ~~(iv) The survey includes an untrue statement about the candidate or~~
6 ~~officer described in section (a)(1)(A); or~~

7 ~~(v) The survey is designed or intentionally conducted in a manner~~
8 ~~calculated to influence the vote of the respondent in the election described in Subsection (a)(1)(B).~~

9 (2) ~~"Basic preference question" shall mean:~~

10 ~~(A) a question which provides a respondent with a list of names of candidates~~
11 ~~for City elective office without providing or implying any information regarding any candidate and~~
12 ~~asks which candidate the respondent supports in a particular race, or~~

13 ~~(B) a question which names a City elective officer without providing or implying~~
14 ~~any information regarding the officer and asks whether the respondent supports or opposes the recall~~
15 ~~of that officer.~~

16 (3) ~~"Payment" shall be defined as set forth in Government Code of the State of~~
17 ~~California (commencing at Section 81000); provided, however, that "payment" shall also include any~~
18 ~~enforceable promise to make a payment.~~

19 (4) ~~"Refers to a clearly identified candidate for City elective office or a City elective~~
20 ~~officer" shall mean any communication that contains the candidate's or officer's name or nickname or~~
21 ~~makes any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the~~
22 ~~incumbent."~~

23 (5) ~~"Disclosure date" shall mean:~~

24 ~~(A) The date that a written formal agreement regarding the persuasion poll is~~
25 ~~made between the person making the calls and the poll sponsor(s) or the sponsor(s) agent;~~

1 ~~(B) The date of the 1,000th call in the poll; and~~

2 ~~(C) After a person has met the threshold under Subsection (B), the date of each~~
3 ~~1,000th additional call in the poll.~~

4 ~~(b) Telephonic disclosure. No person shall authorize, administer or make payment for a~~
5 ~~persuasion poll unless, at the beginning of each call, the person making the call identifies the person(s)~~
6 ~~making payments for or authorizing the call by stating "This is a paid political advertisement by [Name~~
7 ~~of person(s)]," and, identifies the person making the call, if different from the sponsor, by stating "This~~
8 ~~call is conducted by [Name of person]." These disclosures shall be spoken at the same volume and~~
9 ~~speed as the rest of the communication so as to be clearly audible by the call recipient and otherwise~~
10 ~~appropriately conveyed for the hearing impaired. These disclosures shall be repeated upon request of~~
11 ~~the call recipient.~~

12 ~~(c) Filing.~~

13 ~~(1) Any person who authorizes, administers or makes payment for a persuasion poll~~
14 ~~shall, within 48 hours of each disclosure date, file an itemized statement with the San Francisco Ethics~~
15 ~~Commission. A person authorizing, administering or making payment for a persuasion poll is not~~
16 ~~required to file an itemized statement under this Section if the person is aware that another person~~
17 ~~authorizing, administering or making payment for the same persuasion poll has filed an authorized~~
18 ~~statement for the persuasion poll as required by this Section.~~

19 ~~(2) Each itemized statement required to be filed under this Section shall be filed on a~~
20 ~~form promulgated by the San Francisco Ethics Commission and shall contain the following~~
21 ~~information:~~

22 ~~(A) the full name, street address, city, state and zip code of each person who~~
23 ~~authorizes, administers or makes payment for the persuasion poll;~~

1 ~~(B) the full name, street address, city, state and zip code of each person sharing~~
2 ~~or exercising direction and control over the person authorizing, administering or making payments for~~
3 ~~the survey;~~

4 ~~(C) the dates during which the persuasion poll was conducted;~~

5 ~~(D) for each day, the number of calls attempted to households in the City and~~
6 ~~County of San Francisco if the election described in Subsection (a)(1)(B) is a City-wide election, or the~~
7 ~~number of calls to households in the district if the election described in Subsection (a)(1)(B) is a district~~
8 ~~election;~~

9 ~~(E) for each day, the number of individuals contacted and the number of~~
10 ~~messages left in households in the City and County of San Francisco if the election described in~~
11 ~~Subsection (a)(1)(B) is a City-wide election, or the number of individuals contacted and the number of~~
12 ~~messages left in households in the district if the election described in Subsection (a)(1)(B) is a district~~
13 ~~election;~~

14 ~~(F) a detailed accounting of any payments of \$100.00 or more that the person~~
15 ~~has received from another person, which were used for conducting or administering the persuasion~~
16 ~~poll; such detailed accounting shall include the dollar amount or value of each payment; the date of the~~
17 ~~payment's receipt; the name, street address, city, state, and zip code of the person who made such~~
18 ~~payment; the occupation and employer of the person who made such payment, if any, or, if the person~~
19 ~~is self-employed, the name of the person's business; and the cumulative amount of payments received~~
20 ~~for the purpose of conducting or administering persuasion polls from that person during the calendar~~
21 ~~year;~~

22 ~~(G) a copy of the script used in conducting the persuasion poll, if any, and a~~
23 ~~copy of every question asked in the survey and every statement made to respondents in the survey; and~~

24 ~~(H) any other information required by the Ethics Commission consistent with~~
25 ~~the purposes of this Section.~~

1 ~~(3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the~~
2 ~~information provided in the itemized statement, and shall retain for a period of five years all books,~~
3 ~~papers and documents necessary to substantiate the itemized statements required by this Section.~~

4 ~~(4) The Ethics Commission may require any itemized statement to be filed electronically~~
5 ~~and may permit any required statement to be filed by facsimile. The Ethics Commission shall~~
6 ~~promulgate regulations to implement this subsection before any person shall be required to file an~~
7 ~~itemized statement electronically or permitted to file a statement by facsimile.~~

8 ~~(5) If any person files an itemized statement after any deadline imposed by this Section,~~
9 ~~the Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter,~~
10 ~~fine the person \$10 per day after the deadline until the statement is received by the Ethics Commission.~~
11 ~~The Ethics Commission may reduce or waive a fine if the Commission determines that the late filing~~
12 ~~was not willful and that enforcement will not further the purposes of this Chapter. The Ethics~~
13 ~~Commission shall deposit funds collected under this Section in the General Fund of the City and~~
14 ~~County of San Francisco.~~

15 ~~(d) The Ethics Commission may adopt regulations exempting additional types of polls from the~~
16 ~~provisions of this Section to effectuate the purpose of this Section.~~

17 ~~SEC. 1.161. DISCLOSURE AND FILING REQUIREMENTS FOR MASS MAILINGS.~~

18 ~~(a) MASS MAILINGS BY CANDIDATES.~~

19 ~~(1) Disclosure. In addition to the requirements set forth in California Government~~
20 ~~Code Section 84305, each mass mailing paid for by a candidate committee shall include on the outside~~
21 ~~of each piece of mail in the mass mailing the following statement in not less than 14 point type and in a~~
22 ~~color or print which contrasts with the background so as to be easily legible: "paid for by~~
23 ~~_____ (insert candidate committee's name and street address)." A post office box may be~~
24 ~~stated in lieu of a street address if the candidate committee's address is a matter of public record with~~
25 ~~the Ethics Commission.~~

1 ~~(2) Filing.~~

2 ~~(i) Each candidate committee that pays for a mass mailing shall, within five~~
3 ~~working days after the date of the mailing, file two pieces of the mailing with the Ethics Commission.~~

4 ~~(ii) Each candidate committee that pays for a mass mailing shall, within five~~
5 ~~business days after the date of the mailing, file an itemized disclosure statement with the Ethics~~
6 ~~Commission for that mailing.~~

7 ~~(iii) Each candidate committee that pays for a mass mailing shall file two pieces~~
8 ~~of mail and the itemized disclosure statement required by Subsections (a)(2)(i) and (a)(2)(ii) within 48~~
9 ~~hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the~~
10 ~~election.~~

11 ~~(iv) Every mass mailing filed pursuant to this subsection shall be clearly legible.~~

12 ~~(b) MASS MAILINGS BY PERSONS OTHER THAN CANDIDATES.~~

13 ~~(1) Disclosure. Any person who makes independent expenditures for a mass mailing~~
14 ~~which supports or opposes any candidate for City elective office shall place the following statement on~~
15 ~~the mailing in typeface no smaller than 14 points:~~

16 ~~Notice to Voters (Required by City and County of San Francisco) This mailing is not~~
17 ~~authorized or approved by any candidate for City and County office or by any election official. It is~~
18 ~~paid for by [name and committee identification number]. [address, city, state]. Total Cost of this~~
19 ~~mailing is [amount].~~

20 ~~(2) Filing.~~

21 ~~(i) Each person who makes independent expenditures of \$1,000 or more for a~~
22 ~~mass mailing which supports or opposes any candidate for City elective office shall file two pieces of~~
23 ~~the mailing and an itemized disclosure statement for the mailing with the Ethics Commission, unless~~
24 ~~that person is otherwise required to file disclosures regarding the communication under Section 1.134,~~
25 ~~1.152, or 1.161.5 of this Code.~~

1 (ii) ~~Any filing required by this Section shall be submitted within five business~~
2 ~~days after the date of the mailing if the date of the mailing is more than 16 days before the election, and~~
3 ~~within 48 hours after the mailing if the date of the mailing occurs within the final 16 days before the~~
4 ~~election.~~

5 (iii) ~~Every piece of mail filed pursuant to this Section shall be clearly legible.~~

6 (iv) ~~The Ethics Commission may permit any required statement or mailing to be~~
7 ~~filed by facsimile.~~

8 SEC. 1.161. CAMPAIGN ADVERTISEMENTS.

9 (a) DISCLAIMERS. In addition to complying with the disclaimer requirements set forth in
10 Chapter 4 of the California Political Reform Act, California Government section 84100 et seq., and its
11 enabling regulations, all committees making expenditures which support or oppose any candidate for
12 City elective office or any City measure shall also comply with the following additional requirements:

3 (1) TOP TWO CONTRIBUTORS. The disclaimer requirements for primarily formed
14 independent expenditure committees and primarily formed ballot measure committees set forth in the
15 Political Reform Act with respect to a committee's top two major contributors shall apply to
16 contributors of \$20,000 or more. The Ethics Commission may adjust this monetary threshold to reflect
17 any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the
18 nearest five thousand dollars.

19 (2) WEBSITE REFERRAL. Each disclaimer required by the Political Reform Act or its
20 enabling regulations and by this section shall be followed in the same required format, size and speed
21 by the following phrase: "Financial disclosures are available at sfethics.org." A substantially similar
22 statement that specifies the web site may be used as an alternative in audio communications.

23 (3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS.

1 Any disclaimer required by the Political Reform Act and by this section on a mass
2 mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print
3 advertisement shall be printed in at least 12-point font.

4 (4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate committees shall
5 include the following disclaimer statements: "Paid for by _____ (insert the name of the candidate
6 committee)." and "Financial disclosures are available at sfethics.org." Except as provided in
7 subsection (a)(3), the statements' format, size and speed shall comply with the disclaimer requirements
8 for independent expenditures for or against a candidate set forth in the Political Reform Act and its
9 enabling regulations.

10 (b) FILING REQUIREMENTS.

11 (1) INDEPENDENT EXPENDITURES. Committees required by state law to file late
12 independent expenditure reports disclosing expenditures that support or oppose a candidate for City
13 elective office shall also file with the Ethics Commission on the same date a copy of the associated
14 advertisement(s), and

15 (A) if the advertisement is a telephone call, a copy of the script and, if the
16 communication is recorded, the recording shall also be provided; or

17 (B) if the advertisement is audio or video, a copy of the script and an audio or
18 video file shall be provided.

19 (2) CANDIDATE MASS MAILINGS.

20 (A) Each candidate committee that pays for a mass mailing shall, within five
21 working days after the date of the mailing, file a copy of the mailing and an itemized disclosure
22 statement with the Ethics Commission for that mailing.

23 (B) Each candidate committee that pays for a mass mailing shall file a copy of
24 the mailing and the itemized disclosure statement required by subsection (b)(2) within 48 hours of the
25 date of the mailing if the date of the mailing occurs within the final 16 days before the election.

1 (3) The Ethics Commission shall specify the method for filing copies of advertisements
2 and mass mailings.

3 SEC. ~~1.161.5.~~ 1.162. DISCLOSURE AND FILING FOR ELECTIONEERING
4 COMMUNICATIONS.

5 (a) DISCLOSURE STATEMENTS DISCLAIMERS.

6 (1) Every electioneering communication for which a statement is filed pursuant to
7 subsection (b) shall include a disclosure statement the following disclaimer: "Paid for by _____
8 (insert the name of the person who paid for the communication)." and "Financial disclosures are
9 available at sfethics.org." identifying the person who paid for the communication. Such disclosure
10 statement shall, at a minimum, contain the following words, "paid for by _____ (insert the
11 name of the person who paid for the communication)."

12 ~~(2) Any disclosure statement required by this section to be in printed form shall be~~
13 ~~printed in a type and color so as to be easily legible to the intended public. Such disclosure statement~~
14 ~~shall be printed in at least 14 point type and in a color or print that contrasts with the background so as~~
15 ~~to be easily legible to the intended public.~~

16 ~~(3) Any disclosure statement required by this Section to be in spoken form shall be~~
17 ~~spoken at the same volume and speed as the rest of the communication so as to be clearly audible and~~
18 ~~understood by the intended public and otherwise appropriately conveyed for the hearing impaired.~~

19 (2) Any disclaimer required by this Section shall be included in or on an electioneering
20 communication in a size, speed or format that complies with the disclaimer requirements for
21 independent expenditures supporting or opposing candidates set forth in the Political Reform Act and
22 its enabling regulations.

23 (3) Notwithstanding subsection (a)(2), any disclaimer required by this Section to appear
24 on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print
25 advertisement shall be printed in at least 12-point font.

1 (b) REPORTING OBLIGATIONS.

2 (1) Every person who makes payments for electioneering communications in an
3 aggregate amount of \$1,000 per candidate during any calendar year shall, within ~~48~~ 24 hours of
4 each ~~disclosure date~~ distribution, file ~~an itemized~~ a disclosure statement with the Ethics
5 Commission, ~~unless that person is otherwise required to file disclosures regarding the communication~~
6 ~~under Section 1.134, 1.152, or 1.161 of this Code.~~ For the purposes of this subsection, payments for a
7 communication that refers only to one candidate shall be attributed entirely to that candidate.
8 Payments for a communication that refers to more than one candidate, or also refers to one or more
9 ballot measures, shall be apportioned among each candidate and measure according to the relative
10 share of the communication dedicated to that candidate or measure.

11 (2) Each ~~itemized~~ disclosure statement required to be filed under this Section
12 shall contain the following information for each communication:

13 (A) the full name, street address, city, state and zip code of the person
14 making payments for electioneering communications;

15 (B) the name of any individual sharing or exercising direction and control
16 over the person making payments for electioneering communications;

17 ~~(C) the total amount of payments made by the person for electioneering~~
18 ~~communications during the calendar year;~~

19 ~~(D) a detailed description of each payment made by the person for~~
20 ~~electioneering communications during the calendar year, provided that the person has not already~~
21 ~~reported such payments on an itemized disclosure statement filed under this Section; such detailed~~
22 ~~description shall include the date the payment was made, the full name and address of the person to~~
23 ~~whom the payment was made, the amount of the payment, and a brief description of the consideration~~
24 ~~for which each payment was made;~~

1 (C) the distribution date of the electioneering communication, the name(s) and
2 office(s) of the candidate(s) for City elective office or City elective officer(s) referred to in the
3 communication, the payments for the communication attributable to each such candidate or officer, a
4 brief description of the consideration for which the payments were made, whether the communication
5 supports, opposes, or is neutral with respect to each such candidate or officer, and the total amount of
6 reportable payments made by the person for electioneering communications referencing each such
7 candidate or officer during the calendar year;

8 ~~(E) a detailed accounting of any payments of \$100 or more that the person has~~
9 ~~received from another person, which were used for making electioneering communications, provided~~
10 ~~that the person has not already reported such payments received on an itemized disclosure statement~~
11 ~~filed under this Section; such detailed accounting shall include the dollar amount or value of each~~
12 ~~payment, the date of the payment's receipt, the name, street address, city, state, and zip code of the~~
13 ~~person who made such payment, the occupation and employer of the person who made such payment, if~~
14 ~~any, or, if the person is self-employed, the name of the person's business, and the cumulative amount of~~
15 ~~payments received for the purpose of making electioneering communications from that person during~~
16 ~~the calendar year;~~

17 (D) for any payments of \$100 or more that the person has received from another
18 person, which were used for making electioneering communications, the date of the payment's receipt,
19 the name, street address, city, state, and zip code of the person who made such payment, the occupation
20 and employer of the person who made such payment, if any, or, if the person is self-employed, the name
21 of the person's business, and the cumulative amount of payments received from that person during the
22 calendar year which were used for making electioneering communications;

23 ~~(F) the total amount of all payments reported under Subsection (E) during the~~
24 ~~calendar year;~~

1 (~~GE~~) a legible copy of the electioneering communication, and if in printed
2 form, or a transcript of the electioneering communication if in spoken form; and

3 (i) if the communication is a telephone call, a copy of the script and if the
4 communication is recorded, the recording shall be provided; or

5 (ii) if the communication is audio or video, a copy of the script and an
6 audio or video file shall be provided.

7 (~~HF~~) any other information required by the Ethics Commission consistent
8 with the purposes of this Section.

9 (3) The filer shall verify, under penalty of perjury, the accuracy and
10 completeness of the information provided in the ~~itemized~~ disclosure statement, and shall retain
11 for a period of five years all books, papers and documents necessary to substantiate the
12 ~~itemized~~ statements required by this Section.

13 (4) ~~The Ethics Commission may permit any required statement or mailing to be filed by~~
14 ~~facsimile~~ The Ethics Commission shall determine the method for filing the disclosure statement and the
15 copy of the communication, which may include electronic filing.

16 (c) REGULATIONS. The Ethics Commission may issue regulations implementing this Section.

17 (e) ~~DEFINITIONS.~~ ~~Whenever in this Section the following words or phrases are used, they~~
18 ~~shall mean:~~

19 (1) ~~"Disclosure Date" shall mean:~~

20 (A) ~~the first date during any calendar year when an electioneering~~
21 ~~communication is distributed after a person has made payments aggregating \$1,000.00 for~~
22 ~~electioneering communications; and~~

23 (B) ~~after a person has met the threshold under Subsection (A), any date during~~
24 ~~that same calendar year when an electioneering communication is distributed, if that same person~~
25 ~~made any payments for such electioneering communication.~~

1 ~~(2) "Distributed" shall mean any act that permits an electioneering communication to~~
2 ~~be viewed, read or heard.~~

3 ~~(3) "Electioneering Communication" shall mean any communication, including but not~~
4 ~~limited to any broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing,~~
5 ~~flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:~~

6 ~~(A) refers to a clearly identified candidate for City elective office or a City~~
7 ~~elective officer who is the subject of a recall election; and~~

8 ~~(B) is distributed within 90 days prior to an election for the City elective office~~
9 ~~sought by the candidate or a recall election regarding the City elective officer to 500 or more~~
10 ~~individuals who are registered to vote or eligible to register to vote in the election or recall election.~~

11 ~~There shall be a rebuttable presumption that any that any broadcast, cable, satellite, or radio~~
12 ~~communication and any sign, billboard or printed advertisement is distributed to 500 or more~~
13 ~~individuals who are eligible to vote for or against the candidate clearly identified in the~~
14 ~~communication.~~

15 ~~(C) The term "Electioneering Communication" shall not include:~~

16 ~~(i) communications that constitute independent expenditures under this~~
17 ~~Chapter;~~

18 ~~(ii) communications made by a slate mailer organization if such~~
19 ~~communications are required to be disclosed under the California Political Reform Act, California~~
20 ~~Government Code Section 81000, et seq.;~~

21 ~~(iii) communications paid for by the City or any other local, State or~~
22 ~~Federal government agency;~~

23 ~~(iv) non-recorded communications between two or more individuals in~~
24 ~~direct conversation unless such communications are made by telephone and at least one of the~~
25 ~~individuals is compensated for the purposes of making the telephone communication;~~

1 (v) ~~communications that appear on bumper stickers, pins, stickers, hat~~
2 ~~bands, badges, ribbons and other similar memorabilia;~~

3 (vi) ~~news stories, commentaries or editorials distributed through any~~
4 ~~newspaper, radio station, television station, or other recognized news medium unless such news~~
5 ~~medium is owned or controlled by any political party, political committee or candidate;~~

6 (vii) ~~communications to all members, employees and shareholders of an~~
7 ~~organization, other than a political party, provided that such communications do not constitute general~~
8 ~~public advertising such as, but not limited to, broadcasting, billboards, and newspaper advertisements;~~

9 (viii) ~~that occur during a candidate debate or forum; and~~

10 (ix) ~~communications made solely to promote a candidate debate or~~
11 ~~forum made by or on behalf of the person sponsoring the debate or forum, provided that such~~
12 ~~communications do not otherwise discuss the positions or experience of a candidate for City elective~~
13 ~~office or a City elective officer who is the subject of a recall election.~~

14 (4) ~~"Internet Communication" shall include paid internet advertisements such as~~
15 ~~"banner" and "pop up" advertisements, paid emails or emails sent to addresses purchased from~~
16 ~~another person, and similar types of internet communications as defined by the Ethics Commission by~~
17 ~~regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender,~~
18 ~~discussion forums, or general postings on web pages.~~

19 (5) ~~"Payment" shall be defined as set forth in Government Code of the State of~~
20 ~~California (commencing at Section 81000); provided, however, that "payment" shall also include any~~
21 ~~enforceable promise to make a payment.~~

22 (6) ~~"Refers to a clearly identified candidate for City elective office or a City elective~~
23 ~~officer who is the subject of a recall election" shall mean any communication that contains the~~
24 ~~candidate's or officer's name, nickname or image or makes any other unambiguous reference to the~~
25 ~~candidate or officer such as "your Supervisor" or "the incumbent."~~

1 ~~(D) REGULATIONS. The Ethics Commission shall issue regulations implementing this~~
2 ~~Section, including regulations defining all members, employees and shareholders of an organization.~~

3 ~~SEC. 1.162. DISCLOSURE REQUIREMENTS CAMPAIGN ADVERTISEMENTS.~~

4 ~~(a) Disclosure. Any campaign advertisement that urges support for or opposition to one or~~
5 ~~more candidates for City elective office shall include a disclosure statement identifying the person who~~
6 ~~paid for the advertisement. Such disclosure statement shall, at a minimum, contain the following~~
7 ~~words, "paid for by _____ (insert the name of the person who paid for the communication)"~~
8 ~~and appear at least once on the advertisement.~~

9 ~~(1) Any disclosure statement required by this section to be in printed form shall be~~
10 ~~printed in a type and color so as to be easily legible to the intended public. Such disclosure statement~~
11 ~~shall be printed in at least 14 point type and in a color or print that contrasts with the background so~~
12 ~~as to be easily legible to the intended public.~~

13 ~~(2) Any disclosure statement required by this section to be in spoken form shall be~~
14 ~~spoken at the same volume and speed as the rest of the communication so as to be clearly audible and~~
15 ~~understood by the intended public and otherwise appropriately conveyed for the hearing impaired.~~

16 ~~(b) Definitions. For the purposes of this Section, the term "campaign advertisement" means:~~

17 ~~(1) Programming received by a television or radio;~~

18 ~~(2) A communication placed in a newspaper, periodical or magazine of general~~
19 ~~circulation;~~

20 ~~(3) Posters, door hangers, and yard signs produced in quantities of 200 or more; and~~

21 ~~(4) A billboard.~~

22 ~~SEC. 1.163. DISCLOSURE REQUIREMENTS RECORDED TELEPHONE MESSAGES.—~~

23 ~~Any recorded telephone message distributed to 500 or more individuals or households must~~
24 ~~include the following statement: "paid for by _____ (insert name of person who paid for the~~
25 ~~recorded telephone message)." Statements required pursuant to this Section shall be audible and~~

1 ~~played at the same volume and speed as the rest of the recorded telephone message. Any person paying~~
2 ~~for a recorded telephone message must maintain a transcript of the message and a record of the~~
3 ~~number of distributed calls for each message.~~

4 SEC. 1.163. MEMBER COMMUNICATIONS.

5 (a) Every person who makes payments for member communications in an aggregate amount of
6 \$1,000 per candidate within the 90 days prior to an election shall, within 24 hours of each distribution,
7 file a disclosure statement with the Ethics Commission. For the purposes of this subsection, payments
8 for a communication that supports or opposes only one candidate shall be attributed entirely to that
9 candidate. Payments for a communication that supports or opposes more than one candidate, or also
10 supports or opposes one or more ballot measures, shall be apportioned among each candidate and
11 measure according to the relative share of the communication dedicated to that candidate or measure.

12 (b) Each disclosure statement required to be filed under this Section shall contain the following
13 information:

14 (1) the full name, street address, city, state and zip code of the person making payments
15 for member communications;

16 (2) the name of any individual sharing or exercising direction and control over the
17 person making payments for member communications;

18 (3) the distribution date of the member communication, the name(s) and office(s) of the
19 candidate(s) for City elective office or City elective officer(s) referred to in the communication, the
20 payments for the communication attributable to each such candidate or officer, a brief description of
21 the consideration for which the payments for such costs were made, whether the communication
22 supports or opposes each such candidate or officer, and the total amount of reportable payments made
23 by the person for member communications supporting or opposing each such candidate or officer
24 during the calendar year;

25 (4) a legible copy of the member communication; and

1 (A) if the communication is a telephone call, a copy of the script and if the
2 communication is recorded, the recording shall be provided; or

3 (B) if the communication is audio or video, a copy of the script and an audio or
4 video file shall be provided.

5 (5) any other information required by the Ethics Commission consistent with the
6 purposes of this Section.

7 (c) The filer shall verify, under penalty of perjury, the accuracy and completeness of the
8 information provided in the disclosure statement, and shall retain for a period of five years all books,
9 papers and documents necessary to substantiate the statements required by this Section.

10 (d) REGULATIONS. The Ethics Commission may issue regulations implementing this Section.

11
12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.


16
17 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the "Note" that appears under
22 the official title of the ordinance.

23
24 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
25 of this ordinance, or any application thereof to any person or circumstance, is held to be

1 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
2 shall not affect the validity of the remaining portions or applications of the ordinance. The
3 Board of Supervisors hereby declares that it would have passed this ordinance and each and
4 every section, subsection, sentence, clause, phrase, and word not declared invalid or
5 unconstitutional without regard to whether any other portion of this ordinance or application
6 thereof would be subsequently declared invalid or unconstitutional.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By:



11 ANDREW SHEN
12 Deputy City Attorney

13 n:\egana\as2015\1500317\01000193.docx

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Amending Campaign Disclaimer and Disclosure Requirements]

Ordinance amending the Campaign and Governmental Conduct Code to simplify and consolidate campaign finance disclaimer and disclosure requirements.

Existing Law

1. Contribution Limits

a. Aggregate limit

Section 1.114(a)(2) imposes an aggregate limit on contributions to City candidates in a given City election. Under this aggregate limit, no person may contribute more than \$500 multiplied by the number of City elective offices to be voted on at that election. In *McCutcheon v. Federal Election Commission*, 134 S.Ct. 1434 (2014), the United States Supreme Court struck down as unconstitutional a similar federal law limiting how much an individual could contribute to federal candidates, parties and PACs in a two-year election cycle. At its meeting on May 28, 2014, the Ethics Commission adopted a resolution stating that it will not enforce the aggregate limit in Section 1.114(a)(2) against contributors in City elections given the *McCutcheon* decision.

b. Contributions to independent committees

Section 1.114(c) imposes limits on contributions to independent committees not controlled by a City candidate or officeholder. On September 20, 2007, Judge Jeffrey White of the United States District Court for the Northern District of California enjoined enforcement of this section and, in accordance with the District Court's order, the City has not enforced this contribution limits since that date.

2. Third-Party Disclosure Reports

Local law currently requires third-parties to file disclosure reports with the Ethics Commission to (1) allow the Ethics Commission to track spending for the purposes of the City's public financing system, and (2) provide the public with information about who is spending money to affect local elections. To fulfill these purposes, local law requires disclosure reports – typically consisting of a copy of the communication and information about its funding – regarding the following types of communications:

a. Mass mailings – over 200 pieces of mail advocating for or against a candidate

(Section 1.161(b));

- b. Electioneering communications – communications that clearly identify a candidate within 90 days of a City election and are distributed to 500 or more people (Section 1.161.5(b));
- c. Persuasion polls – telephone surveys referencing a candidate which are made through at least 1,000 calls, of which at least one is within 60 days of a City election, and which meet certain other criteria (Section 1.160.5); and
- d. “\$5,000 reports” – independent expenditures, electioneering communications, and member communications for or against candidates in races where there is at least one publicly financed candidate or where at least one candidate has accepted a voluntary expenditure ceiling (Sections 1.134, 1.152).

In addition to these local law requirements, within 90 days of an election, state law imposes a 24-hour reporting requirement for persons making independent expenditures of \$1,000 or more which support or oppose a City candidate. To comply with this separate state law requirement, persons making such independent expenditures must file a state disclosure form (FPPC Form 496) with the Ethics Commission.

Under current law, it is possible that a third-party – pursuant to all of these distinct thresholds – would be required to file more than one report for a single communication.

3. Disclaimers on Election-Related Communications (e.g., “Paid for by ...”)

Local law currently requires any person distributing an election-related communication to include – on the communication itself – basic information about its funding so that voters will be able to know immediately who is paying for it. Currently, local law requires the following disclaimers:

- a. mass mailings, television ads, radio ads, newspaper ads, posters, door hangers, yard signs billboards, and robo-calls must include a “Paid for by” disclaimer (followed by sender information) in 14-point type or, if spoken, at the same volume and speed as the rest of the communication (Sections 1.161, 1.161.5, 1.162 & 1.163);
- b. mass mailings sent by third-parties (*i.e.*, non-candidates) must include a different disclaimer appearing in 14-point type that states it “is not authorized or approved by any candidate for City and County office or by any election official” and provides information about the communication’s funder (Section 1.161); and

- c. persuasion polls must include a disclaimer stating that the call is, in fact, a paid political advertisement and identifying both the funder and the person making the call (Section 1.160.5).

In addition to these local law requirements, state law imposes different – and potentially conflicting – disclaimer requirements. For example, state law generally requires disclaimers to appear 10-point font and specifies different phrasing than what is set forth in local law. State law also requires disclaimers for ballot measure committees and primarily formed independent expenditure committees to include the names of the committee's top two donors of \$50,000 or more.

Amendments to Current Law

1. Contribution Limits

The proposed amendments delete sections 1.114(a)(2) and 1.114(c) in their entirety.

2. Third-Party Disclosure

The proposal amends sections 1.134, 1.135, 1.143, 1.152, 1.160.5, 1.161, 1.161.5, 1.162, and 1.163 to make the following changes to locally-mandated disclosure reporting:

- remove the mass mailing, persuasion poll and \$5,000 disclosure reporting requirements;
- lower the reporting threshold for member communications (*i.e.*, communications by an organization to its members made within 90 days of an election and which advocate for or against a City candidate);
- standardize the reporting threshold for independent expenditures, electioneering communications, and member communications at \$1,000 per candidate;
- require the filing of copies of all reported independent expenditures, electioneering communications, and member communications; and
- consistent with state law, require 24-hour reporting within 90 days of an election.

3. Disclaimers on Campaign Communications

The proposal amends sections 1.161, 1.162, and 1.163 so that state law would generally apply, with the following modifications:

- require 12-point type for all disclaimers on mass mailers, door hangers, flyers, posters, oversized buttons and bumper stickers, and print ads;
- require independent expenditure and ballot measure committees to report their two top funders who have contributed at least \$20,000; and

- require a reference to the Ethics Commission's website for more information about campaign activity and spending.

Background Information

Under Campaign and Governmental Conduct Code section 1.103, the Board of Supervisors may amend the campaign finance provisions of the Code if:

- (a) The amendment furthers the purposes of this Chapter;
- (b) The Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- (c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and
- (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

At its January 26 and February 23, 2015 meetings, the Ethics Commission considered and unanimously approved the proposed amendments.

n:\egana\as2015\1500317\00999110.doc

Minutes of the Regular Meeting of
The San Francisco Ethics Commission
January 26, 2015
Room 400, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

I. Call to order and roll call.

Chairperson Hur called the meeting to order at 5:33 PM.

COMMISSION MEMBERS PRESENT: Benedict Y. Hur, Chairperson; Paul Renne, Vice-Chairperson; Brett Andrews, Commissioner; Beverly Hayon, Commissioner; Peter Keane, Commissioner.

STAFF PRESENT: John St. Croix, Executive Director; Jesse Mainardi, Deputy Executive Director; Catherine Argumedo, Investigator/Legal Analyst; Garrett Chatfield, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Joshua White, Deputy City Attorney (DCA); Andrew Shen, DCA.

OTHERS PRESENT: Peter Warfield; Allen Grossman; Larry Bush; Anita Mayo, Pillsbury Winthrop Shaw Pittman; Robert van Ravenswaay; Jonathan Mintzer, Sutton Law Firm; Elli Abdoli, Nielsen Merksamer; Kevin Heneghan; and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Staff Memorandum re: Show Cause Hearing – Ethics Complaint No. 01-140107, and supporting documents;
- Ethics Commission Regulations for Handling Violations of the Sunshine Ordinance;
- Sunshine Ordinance, Chapter 67 of San Francisco Administrative Code;
- Staff Memorandum, including Exhibits, re: Proposed Amendments to the Campaign Finance Reform Ordinance, dated January 16, 2015;
- Letter from Larry Bush for Friends of Ethics;
- Letter from James Sutton, Sutton Law Firm, re: Proposed Amendments to San Francisco Campaign Finance Reform Ordinance, dated January 23, 2015;
- Letter from Nancy Warren, Vice President – Legislation, California Political Treasurers Association, and Principal of Warren & Associates, dated January 25, 2015;
- Staff Memorandum re: Fiscal Year 2015/2016 Budget Request, dated January 21, 2015;
- Draft Minutes of the Ethics Commission’s Special Meeting of December 16, 2014;
- Executive Director’s Report.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

A member of the public stated that he heard a recording of Commission Keane praising a man for the successful prosecution of a Sunshine matter. He repeated Commissioner Keane's statements and asked how everyone else who is unsuccessful feels knowing they are not competent enough to pursue a successful ethics complaint. He asked whether the Commission wants an Ethics complaint to be the most exclusive complaint in town. He stated that the public wants decency and fairness.

Commissioner Keane stated that his comments were not made with a degree of pride. He stated that he had a tremendous amount of admiration for a gentleman who persevered through a Kafkaesque nightmare. He stated that the process is shameful.

Peter Warfield stated that he made a complaint to the Sunshine Ordinance Task Force about ten years ago. He stated that after a Civil Grand Jury report, the Ethics Commission heard a complaint concerning the then-President of the Library Commission. He stated that the Commission was unable to "unseat" her and recommended to the Mayor that she lose her appointment. He stated that the Commission sent another letter to the Mayor a year later. He stated that about a year ago, the Mayor did not reappoint Jewelle Gomez or Lee Munson.

III. Discussion and possible action on matters submitted under Chapter Two of the Ethics Commission's Regulations for Violations of the Sunshine Ordinance.

Executive Director St. Croix stated that, as this matter is being considered under Chapter Two of the Regulations, staff did not conduct an investigation and is not making a recommendation in this case. He stated that the Court of Appeals heard Mr. Grossman's arguments and made its ruling. He stated that the City continues to spend resources on this matter and respectfully asked the Commission to find there was no violation.

Chairperson Hur asked how the documents were withheld if he stated that he had never read them. Director St. Croix stated that he had discussed the matter with staff and the City Attorney's Office. He stated that he had accepted the documents as reviewed and did not look at them until the original lawsuit was filed.

Allen Grossman addressed the Commission's conflict. He stated that the Commission cannot hear this matter. He stated that Director St. Croix recognized the conflict issue because he previously proposed amending the Sunshine Regulations to exclude the handling of complaints made against Commission members, Director, and staff. He stated that the Court only considered one issue and there were two other violations from the Sunshine Ordinance Task Force, which remains to be enforced. He stated that the Director has failed to enforce Sunshine Orders and the trust given to the Commission to enforce public access has been broken. He stated that the Commission must repudiate Director St. Croix's actions or amend its by-laws to state that it will not enforce open government laws.

Commissioner Renne asked how Mr. Grossman could argue that Director St. Croix violated open government laws when the Court of Appeal ruled against Mr. Grossman on that question. Mr. Grossman conceded that the provision in the Ordinance is no longer enforceable. He stated that the matter involves two other violations, but that the Commission should not even be hearing this

case. Chairperson Hur asked Mr. Grossman what the other two violations were. Deputy Executive Director Mainardi referenced the Task Force's referral letter to the Commission from November 2013.

Public Comment:

A member of the public stated that he was gratified that Commissioner Keane recognized the obstacles in pursuing a violation of open government laws. He stated that the City Attorney turned over records to Mr. Grossman after he filed the lawsuit.

Peter Warfield stated that there are many conflicts and specifically noted that Commissioner Hayon had previously granted an extension for this matter. Mr. Warfield read the three violations and objected to Director St. Croix's statement that departments are not required to create a document.

Chairperson Hur asked the DCA whether there is a conflict in the Commission adjudicating this matter. DCA White stated that the Commission is not reviewing its own actions; it is reviewing what staff did. He stated that the City Attorney does not believe there is a conflict in this matter. He stated that, under the Charter, staff has the authority to conduct the department's day-to-day affairs. Commissioner Keane asked whether staff had the authority to defend itself in litigation without the permission of the Commission. DCA White says that in this instance, staff had the authority because the allegations made by Mr. Grossman did not involve the Commission and thus there was no obligation to seek the Commission's approval before defending itself in litigation.

Mr. Grossman disagreed with DCA White's statements. DCA White stated that Mr. Grossman raised this argument before the Court of Appeal and it was rejected. Chairperson Hur stated that the issue was adjudicated and the Court of Appeal did not find in Mr. Grossman's favor. He stated that the Court of Appeal also addressed the issue of whether the Commission was required to authorize the lawsuit.

Motion 15-01-26-01 (Renne/Hayon): Moved, seconded and passed (5-0) that the Ethics Commission find there is no basis to find that Executive Director St. Croix violated his obligations and that the Commission is bound by the finding of the Court of Appeals that his actions were consistent with San Francisco open government ordinances.

- IV. Discussion and possible action regarding the approval of proposed amendments to San Francisco Campaign Finance Reform Ordinance, which are intended to update and streamline certain reporting disclaimer requirements, as well as to repeal certain contribution limits.**

Motion 15-01-26-02 (Keane): Moved and not seconded that the Ethics Commission continue this item to the Commission's next meeting.

Commissioner Keane moved to continue the item. He stated that Mr. Mainardi did an excellent job, but that he has not digested everything in light of all of the other materials. Chairperson Hur stated that it would be useful for the Commission to have a discussion. Commissioner Hayon

stated that she would like to hear from the people who attended the meeting. Commissioners Renne and Andrews agreed. Commissioner Keane then proposed to add the item to the next meeting for any additional issues.

Deputy Executive Director Mainardi introduced the item and briefly outlined the three main proposals presented in staff's memorandum.

Decision Point 1 – repeal of two contribution limitations

Mr. Mainardi stated that, for the sake of clarity and by virtue of case law, staff has proposed the repeal of two provisions of the contribution limit sections - section 1.114(a)(2) and section 1.114(c).

Public Comment:

Larry Bush stated, on behalf of Friends of Ethics, that the Commission has never, as a body, decided to take up the issues addressed by staff's proposed amendments. He also stated that he had sent a memo to the Commission and none of the issues he raised was included in staff's draft.

Anita Mayo, from Pillsbury Winthrop Shaw Pittman, applauded staff's efforts to clean up the contribution limits, as it would conform with prevailing case law.

Chairperson Hur stated that these proposals seem clear and that the Commission should not have to deal with all CFRO changes in one meeting. He stated that if there are things the Commission has not addressed, then the Commission should address those, but it should not hold up all of the proposed changes.

Motion 15-01-26-03 (Renne/Keane): Moved, seconded and passed (5-0) that the that the Ethics Commission approve Decision Point 1 and repeal sections 1.114(a)(2) and 1.114(c) as set forth in Appendix A.

Decision Point 2 – consolidating, streamlining, and enhancing third-party disclosure

Deputy Executive Director Mainardi explained that the second set of amendments relates to disclosure requirements for third parties who are involved in supporting or opposing local candidates.

Chairperson Hur asked which proposal from pages 7-10 received the most negative feedback. Mr. Mainardi mentioned four criticisms from the Friends of Ethics letter. Commissioner Keane asked about the issue of member communications. Mr. Mainardi explained that it is difficult for some organizations, such as labor unions, to determine how much of each individual's membership dues is attributable to a particular mailer and that no jurisdiction at any level requires such disclosure of membership dues.

Public Comment:

Larry Bush discussed the four issues raised in his letter. He stated that non-profits are involved in ballot measure campaigns and that there should not be an exemption for 501(c)(3) organizations. He stated that his group wants disclosure of groups' membership. He also suggested adding a 24-hour reporting requirement for expenditures made on Election Day, as it is not the practice now.

Robert van Ravenswaay stated that he was on the Civil Grand Jury last year. He stated that the amendments need to say how they would further the purpose of the Ordinance. He also wondered how the changes would affect the datasets currently available on the Commission's website.

Mr. Mainardi stated that the proposed amendment language currently states how the amendments would further the purpose of the Ordinance. He also stated that the disclosure would be made on state forms and that they would be easier to read than they currently are and would be available electronically.

Johnathan Mintzer, Sutton Law Firm, stated that the firm had submitted a letter on Friday and urged the Commission to adopt the amendments without delay. He stated that the laws are currently complex and there is no reason to have multiple state and local disclosure requirements. He stated that the amendments would increase compliance and disclosure.

Elli Abdoli, Nielsen Merksamer, stated that her firm represented a number of campaigns in San Francisco and that the firm supports the recommended changes. She stated that the amendments would also improve the database. She also stated that she did not hear objections to the content of staff's proposals, only that the Commission should do more. She stated that she supports the Commission doing more, but that it should clean up what is there now. She encouraged the Commission not to delay.

Kevin Heneghan stated that he has not had a chance to review the amendments line by line, but that there are times during an election cycle that he reviews a mail piece and there may be eight or nine filings for a mailing that costs about \$4,000. He stated that the Commission is just one step in the process to amend CFRO. The proposals would then need to move to a Board Committee, then the full Board, subject to the 30-day rule. He suggested that the Commission move forward.

Commissioner Keane expressed concern that there are a number of items that the Commission has discussed in the past that were not incorporated in the proposed changes. Mr. Bush stated that the Commission agreed to amend CFRO to increase the contractor contribution ban from six to twelve months. He stated that the Commission had also asked staff for an amendment to cover draft committees. He stated the Commission also discussed requiring specific language on contribution forms. Mr. Mainardi offered to go through the concerns raised by Mr. Bush and Commissioner Keane suggested not to do so, but to provide a memorandum with respect to those concerns for the next meeting. Mr. Mainardi agreed and stated that the Commission had passed draft committee rules but no one on the Board of Supervisors agreed to present it to the Board.

Chairperson Hur stated that he wanted to make sure that, if there is consensus among the Commissioners on the proposals, then the Commission should not postpone its vote. Commissioner Keane stated that he was satisfied with the discussion, with the understanding that the Commission will hear the matter on the next agenda for possible augmentation.

Commissioner Hayon asked about the deadline for the proposed changes, when taking the November 2015 election into consideration. DCA Shen stated that there is a timing issue, as there is a minimum of two months for the Board process after the Commission approves a final version of changes. He stated that would be the timing if the Board has no additional amendments. He stated if the Board has additional changes, then it would add another month or two. He suggested that the Commission approve changes soon. He stated that if the Commission approves changes during its February 2015 meeting, it would be a close call.

Motion 15-01-26-04 (Keane/Renne): Moved, seconded and passed (5-0) that the Ethics Commission approve Decision Point 2.

Decision Point 3 – Standardizing and improving disclaimer requirements

Deputy Executive Director Mainardi reviewed staff's proposals and referenced page 12 of staff's memo. He stated that staff's proposals looked to what is required in state law and then augmented it.

Public Comment:

A member of the public stated that anonymous donations are funding campaign communications and suggested the Commission require disclosure of anonymous donations.

Jonathan Mintzer stated that the proposed changes to the disclaimers will strengthen, not weaken the current system. He stated that there is currently overlapping regulation and the proposed changes would make compliance easier.

Commissioner Keane asked Mr. Mainardi to analyze the issue of anonymous donors. Mr. Mainardi referenced a portion of staff's memorandum devoted to this issue. He explained that there is no need for this type of disclosure at the local level, as the disclosure requirements are different from federal law, and that San Francisco has an existing electioneering communication rule that requires disclosure of donors.

DCA Shen stated that under state law, that there could not be anonymous donors, and that the issue is more applicable to federal elections. Mr. Heneghan stated that there is no way an anonymous donor could fund an independent expenditure in San Francisco or California. He stated that the forms mentioned in Decision Point 2 would be required to be filed within 24 hours of an expenditure being made and all contributors of \$100 or more would be disclosed.

Chairperson Hur asked why staff was proposing omitting the requirement to include the total cost of the mailer in the disclosure. Mr. Mainardi stated that staff proposed to make the same rules for all communications, and that rule only applied to mailers. He also stated that staff proposed that the disclosure include a reference to the Commission's website so that more

information would be provided. The Commissioners then discussed changes in the font size of disclaimers.

Motion 15-01-26-05 (Keane/Hayon): Moved, seconded and passed (5-0) that the Ethics Commission approve Decision Point 3.

Decision Point 4 – overall approval of the draft amendments

Public Comment:

Larry Bush commented on Decision Point 2. He stated he was sorry to see the vendor payments removed.

Commissioner Keane suggested that the issue be revisited during the next meeting. DCA Shen stated that the decision point summarizes technical changes that are already in the version presented to the Commission and public.

Motion 15-01-26-06 (Hayon/Keane): Moved, seconded and passed (5-0) that the Ethics Commission approve Decision Point 4.

[The Commission recessed at 7:48 PM and returned to open session at 7:59 PM.]

V. Discussion and possible action on Ethics Commission budget.

Executive Director St. Croix stated that there is no requirement that the Commission make any cuts this year. He stated that he would like to enhance the responsibilities of campaign finance staff, as there has been and will be more electronic filing. He stated that the responsibilities are more sophisticated and he would therefore like to alter the requirements for future positions. He stated that the request would fund the vacant investigator position and he hopes to get two new auditors. He stated that, if the Commission were to get the requested funding, staff would use its entire workspace and would need to look for a new office for Commission staff. He also stated that the Commission would like to get additional funds to pay for the migration of Forms 700 filed directly with departments, so that all 3000+ other employees' forms would be available through the Commission's website.

Commissioner Keane asked about the status of making the Commission's materials available in other languages. Director St. Croix stated that he is working with the City to address translations and that he does not know yet what the cost, if any, will be.

Commissioner Andrews asked whether the Commission staff would be required to be in a City-owned building. Director St. Croix stated that he doubted the City would provide rent where there is City space available. Commissioner Andrews asked to see an organization chart, with the proposed additional positions.

Chairperson Hur asked whether staff has checked to see if the NetFile contract is still a good deal and expressed concern that the Commission be able to keep a contract at a reasonable cost.

Public Comment:

Larry Bush stated that he was delighted to hear that Forms 700 will be searchable. He stated that information on the forms is being missed since they are difficult to review. He suggested that the Commission use any additional funds for a part-time Commission Secretary.

Motion 15-01-26-07 (Hayon/Andrews) Moved, seconded and passed (5-0) that the Ethics Commission approve the budget request.

VI. Discussion and possible regarding action regarding a complaint received or initiated by the Ethics Commission.

Public Comment:

Larry Bush asked whether the complaints involved campaigns. Deputy Executive Director Mainardi read the agenda item.

Motion 15-01-26-08 (Renne/Keane) Moved, seconded and passed (5-0) that the Ethics Commission move into closed session.

The Commission entered closed session at 8:16 PM. All members of the public left the hearing room. The members of the Ethics Commission, Executive Director St. Croix, Deputy Executive Director Mainardi, DCA White, Kevin Heneghan, and Ethics Commission staff members Ms. Argumedo and Mr. Chatfield remained in the hearing room. Mr. Mainardi and Mr. Heneghan left the hearing room at 9:28 PM. Mr. Mainardi returned at 9:30 PM. The Commission returned to open session at 9:37 PM.

Motion 15-01-26-09 (Renne/Keane) Moved, seconded and passed (5-0) that the Ethics Commission keep confidential the matters discussed in closed session, except for an announcement.

Executive Director St. Croix made an announcement. He stated that, in the matter of Ethics Complaint Number 19-131115, the Ethics Commission made a determination that there is probable cause to believe eight violations of the California Government Code and two violations the San Francisco Campaign and Governmental Conduct Code occurred (including California Government Code sections 84200(a) and 84104, and San Francisco Campaign and Governmental Conduct Code section 1.118); and that the Respondents, Lynette Sweet and Sweet for Supervisor 2010, committed them. Each Commissioner who participated in the decision to find probable cause certified on the record that he or she personally heard or read the testimony, reviewed the evidence, or otherwise reviewed the entire record of the proceedings. Executive Director St. Croix stated that the Respondents are presumed to be innocent unless and until such time that the allegations are proved in a subsequent hearing on the merits.

Public Comment:

None.

VII. Discussion and possible action on the minutes of the Commission's special meeting of December 16, 2014.

Public Comment:

None.

Motion 15-01-26-10 (Renne/Keane): Moved, seconded and passed (5-0) that the Ethics Commission adopt the minutes of the Commission meeting of December 16, 2014, as written.

VIII. Discussion of Executive Director's Report.

Executive Director St. Croix stated that BDR had obtained a judgment in favor of the City in the second case.

Public Comment:

None.

Commissioner Andrews asked about any surplus funds raised by the Commission during the fiscal year. Director St. Croix stated that the funds are returned to the City's general fund.

IX. Items for future meetings.

Public Comment:

None.

X. Adjournment.

Motion 15-01-26-11 (Hayon/Keane): Moved, seconded and passed (5-0) that the Ethics Commission adjourn.

Public Comment:

None.

The Ethics Commission adjourned the meeting at 9:44 PM.

Minutes of the Regular Meeting of
The San Francisco Ethics Commission
February 23, 2015
Room 400, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

I. Call to order and roll call.

Vice-Chairperson Renne called the meeting to order at 5:31 PM.

COMMISSION MEMBERS PRESENT: Paul Renne, Vice-Chairperson; Brett Andrews, Commissioner; Beverly Hayon, Commissioner; Peter Keane, Commissioner. Chairperson Hur was excused.

STAFF PRESENT: John St. Croix, Executive Director; Jesse Mainardi, Deputy Executive Director; Shaista Shaikh, Assistant Deputy Director; Steven Massey, Information Technology Officer; Catherine Argumedo, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Andrew Shen, Deputy City Attorney (DCA).

OTHERS PRESENT: Larry Bush; Anita Mayo, Pillsbury Winthrop Shaw Pittman; Robert van Ravenswaay; Kevin Heneghan; Michael Garcia; and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Draft Report on San Francisco's Limited Public Financing Program – November 4, 2014 Board of Supervisors Election;
- Staff Memorandum re: Proposed Regulatory Change for Public Financing Submissions, dated February 18, 2015, including proposed amendment;
- Staff Memorandum re: Proposed Campaign Finance Reform Ordinance Amendments, dated February 18, 2015;
- Letter from Larry Bush for Friends of Ethics;
- E-mail, dated February 9, 2015, from Larry Bush for Friends of Ethics;
- E-mail, dated February 16, 2015, from Larry Bush;
- Letter from Anita Mayo, dated February 23, 2015, regarding potential amendments to Campaign Finance Reform Ordinance;
- Staff Memorandum re: Amendment Correction for the Campaign Finance Reform Ordinance, dated February 19, 2015;
- Letter from James R. Sutton, re: Common Sense Voters Matter, dated December 16, 2014;
- Letter from Charles H. Bell, Jr., re: Common Sense Voters, SF 2010, Mark Farrell for Supervisor 2010, dated December 18, 2014;
- Letter from Charles H. Bell, Jr., re: Common Sense Voters, SF 2010, Mark Farrell for Supervisor 2010, dated January 2, 2015;
- Draft Minutes of the Ethics Commission's Regular Meeting of January 26, 2015;
- Executive Director's Report.

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

None.

III. Presentation by San Francisco State University students Kristen Wolslegel and Jeffrey Thorsby regarding their campaign finance data visualization project regarding the November 4, 2014 election.

Information Technology Officer Steven Massey introduced the San Francisco University students, Kristen Wolslegel and Jeffrey Thorsby, and provided a brief overview of their data visualization project. He stated that their work has been impressive and that the Commission is lucky to have had them.

Kristen Wolslegel and Jeffrey Thorsby led the Commission through their data visualization project that analyzed campaign finance data from the 2014 election cycle. Ms. Wolslegel stated that they were presenting a preview of the project and that the final version will be included on the Commission's website within a few weeks. Ms. Wolslegel and Mr. Thorsby presented six categories of information that they analyzed in their project: total contributions or contributor type, total campaign spending, expenditures on campaign consultants, lobbyist data – including a word cloud relating to the subject matter of each lobbyist contact, central county committee data, and the activity of political action committees and general purpose committees. Mr. Wolslegel and Mr. Thorsby created many different types of visualizations which allow a user to interact with the data.

The Commissioners were impressed with Mr. Wolslegel and Mr. Thorsby's work and thanked them for their work. Ms. Wolslegel noted that \$12 million was spent by committees on campaign consultant activity in 2014, whereas in previous years, committees spent on average of \$2-3 million. Mr. Thorsby stated that the campaign consultant data is manually entered and suggested electronic filing.

Public Comment:

Larry Bush had questions about "drilling down information." He asked whether standardizing categories of employment would make searches easier. He also asked whether the map could show where a donor lives. He also asked whether a donor is employed by a nonprofit.

IV. Discussion and possible action on public finance report.

Assistant Deputy Director Shaista Shaikh introduced the item and summarized the report. She stated that only two individuals qualified for public financing during the last election – both in District 10 – and that approximately \$195,000 had been distributed. Ms. Shaikh also briefly explained the threshold for receiving public financing from the Commission.

Public Comment:

None.

V. Discussion and possible action regarding a proposed amendment to Commission regulation 1.142-2, which would allow staff to implement an electronic filing system for candidates participating in the City's public financing program.

Deputy Executive Director Mainardi introduced the item. He stated that the proposed regulation would allow staff to accept filings for the public financing program electronically through NetFile. Information Technology Officer Massey stated that all of the qualifying forms and various administrative forms would be instantly posted on the Commission's website and the amendment would increase efficiency.

Public Comment:

None.

Motion 15-02-23-01 (Hayon/Keane): Moved, seconded and passed (4-0; Hur excused) that the Ethics Commission approve the proposed language in Regulation 1.142-2.

VI. Discussion and possible regarding potential additional amendments to the San Francisco Campaign Finance Reform Ordinance.

Deputy Executive Director Mainardi introduced the item and briefly outlined the proposals in staff's memorandum. The Commission decided to discuss each of the six proposals separately.

1. Contribution limits and bans for candidate-controlled ballot measure and/or general purpose committees.

Commissioner Keane stated that this proposal had a great deal of merit and the Commission should go forward on it. He stated that the item should be on the November 2015 ballot. DCA Shen noted that, as the Commission would be proposing additional limits on contributions, the amendments would need to be substantiated by a legislative record. He also noted that the legislative record would need to be built prior to reaching the step of placing something on the ballot. Vice-Chairperson Renne asked staff to draft proposed language in order to discuss it at the Commission's next meeting.

Public Comment:

Larry Bush stated that establishing a record was critical, including interested persons' meetings and additional Commission meetings. He stated that it made sense to put this item on the ballot.

Anita Mayo distributed a letter to the Commissioners and stated that the amendments could raise constitutional issues, as an ordinance limiting ballot measure committees could have First Amendment implications. She stated that contributors are already identified in public filings.

Robert van Ravenswaay agreed with staff's point to build a record. He stated that the Commission may wish to seek legal briefing regarding possible legal challenges.

Motion 15-02-23-02 (Keane/Hayon): Moved and seconded that the Ethics Commission go forward and hold the necessary IP meetings that staff determines are necessary to build a record relating to this and that the Commission discuss the matter at its next meeting.

Commissioner Andrews expressed concerns about the Commission's ability to place something on the November ballot. He stated that the Commission needs to do its due diligence and to make sure it has all of the necessary information in the record. Vice-Chairperson Renne agreed that the matter may not be ready for the November 2015 ballot. Commissioner Keane agreed that it is better to do it correctly than to rush.

Motion 15-02-23-03 (Keane/Hayon): Moved, seconded, and passed (4-0; Hur excused) that the Ethics Commission hold the necessary IP meetings that staff determines are necessary to build a record relating to this matter and that the Commission discuss the matter at its next meeting to put the matter on the ballot for the voters of San Francisco.

Vice-Chairperson Renne renewed his request that staff draft proposed language that the Commission should recommend to go on the ballot.

2. Fundraising and/or bundling reporting.

Deputy Executive Director Mainardi explained that the proposal would required individuals who engage in a certain level of fundraising and/or bundling for candidates to report activity. He stated that the Commission would need to decide what the proposed threshold would be for reporting. He explained that lobbyists are already required to report fundraising for candidates as the risk for quid quo pro corruption is particularly great.

Commissioner Keane recommended that staff move forward on this issue. He suggested staff to draft proposed regulations that would address the bundling problem with some teeth. Vice-Chairperson Renne suggested that the bundler would have to be someone who is seeking favors from the City, as many individuals support candidates who never lobby or do business with the City. Deputy Executive Director Mainardi suggested that the Commission could require a monetary threshold or impose the disclosure requirement on the candidate committee.

Public Comment:

Larry Bush stated that City contractors are not currently prohibited from raising money for a candidate, even though that contractor may be prohibited from contributing to that candidate. He supported the amendment, so that the Commission would close the loophole.

Anita Mayo suggested that the additional reporting requirements should be on the recipient candidate committees and not donors.

Motion 15-02-23-04 (Keane/Andrews): Moved, seconded, and passed (4-0; Hur excused) that the Ethics Commission request staff to go forward and come back to the Commission with language relating to the regulation of bundling, sensitive to the concerns of not picking up some innocent member of the public.

3. Enhanced private right of action.

Deputy Executive Director Mainardi stated that this proposal, which would allow a successful plaintiff to recover half of any penalties imposed, was in the Civil Grand Jury's most recent report. He stated that similar provisions on the state level and in Los Angeles are not frequently used in those jurisdictions. Commissioner Hayon asked if someone may sue under current law. Deputy Executive Director Mainardi stated that a plaintiff may currently sue to force compliance, after hearing from the Commission and City Attorney's Office that they will not enforce the alleged violations.

Public Comment:

Larry Bush stated that public loses confidence when investigations take so long. He stated that there is some value in having something hanging over enforcement.

Robert van Ravenswaay stated that Proposition J had a provision allowing a plaintiff to recover 10% of any penalty and attorney's fees.

Anita Mayo stated that this amendment would appear to give the impression of something other than wanting to enforce compliance of the law. She stated that ensuring compliance with the law should be the priority of the Commission, City Attorney, and District Attorney and not bounty hunters.

4. Contribution bans for persons receiving a "public benefit" from the City.

Deputy Executive Director Mainardi explained the proposal. He stated that a contractor ban currently exists, but that this proposal would return to the previous ban on contributions from those seeking "benefits" from the City. He explained that this proposal would expand the ban to include decisions on permits, which are not currently covered by the ban. He also noted that the Commission would need to build a legislative record for this amendment, involving complicated housing and tax issues, in order to justify the limit.

Commissioner Keane suggested that the Commission move forward with this proposal. He suggested that staff draft proposed language for a regulation that would have some teeth.

Motion 15-02-23-05 (Keane/Hayon): Moved, seconded, and passed (4-0; Hur excused) that the Ethics Commission direct staff to draft language that will address the question of someone who is receiving a public benefit from the City not being allowed to engage in contributing or engaging in any other type of pay to play activity.

Public Comment:

Robert van Ravenswaay referred to the Civil Grand Jury report and its section on the history of Proposition J and its repeal.

Larry Bush stated that Proposition E was passed under the radar. He stated that he doubts anyone at the Board of Supervisors would sponsor this proposal.

Anita Mayo stated that the legislative digest for Proposition E specifically stated that it would delete the taxpayer language and that the ordinance was being more narrowly tailored to accomplish goals. She urged the Commission not to reenact any of the confusing portions of Proposition J.

5. Debarment as a penalty.

Deputy Executive Director Mainardi explained that this proposal would render a person ineligible from bidding or being considered for a City contract for a certain amount of time. He stated that this was a serious penalty and it may not be warranted and/or the City may have other interests. DCA Shen explained the debarment procedures which currently exist in Chapter 28 of the Administrative Code. He stated that Chapter 28 is not explicitly linked to the Ethics Commission enforcement process, but that the Commission could try to incorporate debarment as part of a settlement.

Public Comment:

Larry Bush stated that the federal government has debarment and it is a serious tool not to be used frivolously. He objected to the other procedures as the process does not happen in public.

Anita Mayo stated that debarment would be a harsh penalty when applied to a negligent campaign finance violation. She stated that debarment should only occur with intentional violations of law.

Kevin Heneghan spoke against the proposal to add debarment to CFRO. He stated that the current City process could seek debarment regarding serious violations.

6. Slate Mailer filings.

Deputy Executive Director Mainardi explained that slate mailer organizations file campaign statements with the Secretary of State. He stated that currently courtesy copies are filed with the Department of Elections and this proposal would require those copies to be filed with the Ethics Commission instead.

Public Comment:

Larry Bush stated that the clerk at the Department of Elections does not sort out San Francisco submissions and it is difficult to find filings for San Francisco candidates.

Motion 15-02-23-06 (Hayon/Keane): Moved, seconded, and passed (4-0; Hur excused) that the Ethics Commission endorse action to make the change possible.

Vice-Chairperson Renne stated that the Commission asked staff to take further action on 1, 2, 4, and 6. Deputy Executive Director Mainardi stated that staff would draft proposed language for the first item, begin the interested persons process, and submit the draft language for discussion at the Commission's March meeting. He also stated that staff would present a calendar for all of the proposals so that the Commission may review, comment, and/or modify.

Public Comment:

Robert van Ravenswaay expressed support for the calendar.

VII. Discussion and possible action regarding an amendment to the changes to the San Francisco Campaign Finance Reform Ordinance which were approved by the Commission at its January 26, 2015 meeting.

Deputy Executive Director Mainardi stated that staff omitted language from its draft proposal of section 1.162(a)(3), regarding electioneering communications, which the Commission approved at its last meeting. He asked the Commission to approve the omitted language.

Public Comment:

None.

Motion 15-02-23-07 (Andrews/Hayon): Moved, seconded, and passed (4-0; Hur excused) that the Ethics Commission adopt the amended corrections.

VIII. Discussion with City Attorney's Office regarding potential litigation against local committees, including Common Sense Voters, SF 2010; Vote for Mark Farrell for District 2 Supervisor, for violations of local campaign finance laws.

Deputy Executive Director Mainardi recused himself and sat with the public.

Public Comment:

Michael Garcia, former Ethics Commissioner and current member of the Citizens' General Obligation Bond Oversight Committee, stated that he also ran for office and also had Chris Lee as a campaign consultant. He stated that Supervisor Farrell had a reasonable expectation that Mr. Lee would act in good faith and exercise a duty of loyalty. He stated that Mr. Lee violated campaign finance laws and breached his fiduciary duty to Supervisor Farrell. He stated that the FPPC did not find Supervisor Farrell to be culpable. He stated that any action to find violations against Supervisor Farrell would be a waste of City resources, as he was exonerated at the FPPC. He suggested that the Commission take no action on this item.

Motion 15-02-23-08 (Keane/Andrews): Moved, seconded and passed (4-0; Hur excused) that the Ethics Commission move into closed session.

[The Commission recessed at 7:43 PM and returned into closed session at 7:50 PM.]

The Commission entered closed session at 7:50 PM. All members of the public left the hearing room. The members of the Ethics Commission (Chairperson Hur excused), Executive Director St. Croix, DCA Shen, and Ms. Argumedo remained in the hearing room. The Commission returned to open session at 8:48 PM.

Motion 15-02-23-09 (Keane/Andrews): Moved, seconded and passed (4-0; Hur excused) that the Ethics Commission keep confidential the matters discussed in closed session and

request that Supervisor Farrell file a response to the Commission no later than March 15, 2015 to the forfeiture letter.

Public Comment:

None.

Vice-Chairperson Renne stated that the Commission requested a response from Supervisor Farrell regarding the forfeiture letter, no later than March 15, 2015.

IX. Discussion and possible action on the minutes of the Commission's meeting of January 26, 2015.

Motion 15-02-23-10 (Andrews/Hayon): Moved, seconded and passed (4-0; Hur excused) that the Ethics Commission adopt the minutes of the Commission meeting of January 26, 2015, as written.

X. Discussion of Executive Director's Report.

Executive Director St. Croix reminded the Commissioners that the Forms 700 and Sunshine/Ethics forms are due by April 1, 2015. He stated that the Commission will begin interested persons' meetings regarding searchable Form 700 on Friday. He also stated that staff had met with the Language Access office and the documents and cost to translate have been identified. He stated that the Commission may need to ask for a small supplement appropriation.

Public Comment:

None.

XI. Items for future meetings.

Public Comment:

None.

XII. Adjournment.

Motion 15-02-23-11 (Keane/Andrews): Moved, seconded and passed (4-0; Hur excused) that the Ethics Commission adjourn.

Public Comment:

None.

The Ethics Commission adjourned the meeting at 8:54 PM.

File No. 150294

5/28/2015 Presented in Committee

Proposed Amendments to the Campaign Finance Reform Ordinance (“CFRO”)

4710

Sponsored by Board President London Breed
Approved by the Ethics Commission – January 26 and February 23, 2015

Presented by Jesse Mainardi, Deputy Director, Ethics Commission

Goals:

- 1) Bring CFRO **up-to-date** with recent legal developments
- 2) Provide for “**smart disclosure**” by simplifying and improving CFRO's requirements
- 3) **Supplement robust state law** requirements

Primary Changes:

- 1) Repeal **limits** struck down, or likely to be struck down, by the courts
- 2) Consolidate, streamline, and enhance **third-party reporting** rules
- 3) Standardize and improve **disclaimer** requirements (“Paid for by ...”)

Contribution Limits

- 1) Section 1.114(a)(2): aggregate limit for candidates in a City election
 - Similar federal limit struck down in *McCutcheon v. FEC* in 2014
- 2) Section 1.114(c): \$500 limit for non-candidate committees
 - Federal court enjoined enforcement in 2007

Third-Party Reporting

Main points:

- 1) Concerns **outside groups** participating in City **candidate elections**
- 2) **Consolidates and streamlines** reporting requirements
- 3) **24 hour** reporting of **\$1,000+/candidate** 90 days before an election
- 4) **Copies** of reported communications filed at the Ethics Commission

Third-Party Reporting

Types of Spending:

Independent Expenditures:	“Vote for Candidate X” or “Vote against Candidate Y”
Electioneering Communications:	Mention candidates within 90 days of an election and are distributed to 500 or more people (e.g., a candidate’s name or appearance on a ballot measure ad)
Member Communications:	Communications to members, employees, or shareholders of an organizations advocating the election or defeat of a candidate
Persuasion Polls	Telephone surveys referencing a candidate within 60 days of an election through at least 1,000 calls + other criteria

Third-Party Reporting

Current Requirements

Communication	Threshold (\$)	Due Date	Form
Independent Expenditures – All* (within 90 days of an election)	\$1,000/candidate	24 hrs.	FPPC Form 496
Independent Expenditures – Mass Mailings	\$1,000	5 working days or 48 hrs. if 16 days before election	Third-Party Disclosure Form (Parts 1, 2, 3 & 5) plus two copies
Electioneering Communications (within 90 days of an election)	\$1,000	48 hrs.	Third-Party Disclosure Form (Parts 1, 2, 3 & 6) plus a copy
“\$5,000 expenditures” – Independent Expenditures, Electioneering Communications, Member Communications	\$5,000/candidate	24 hrs.	Third-Party Disclosure Form (Parts 1, 2, 3 & 4) plus a copy
Persuasion Polls (within 60 days of an election)	N/A	48 hrs.	Third-Party Disclosure Form (Parts 1, 2, 3 & 7) plus a copy

* Does not include mid-year report, end-of-year report, two pre-election reports, or non-coordination verification.

Third-Party Reporting

Proposed Requirements

Communication	Threshold (\$)	Due Date	Form
Independent Expenditures – All (within 90 days of an election)	\$1,000/candidate	24 hrs.	FPPC Form 496 plus a copy
Electioneering Communications (within 90 days of an election)	\$1,000/candidate	24 hrs.	Electioneering Communications Form plus a copy
Member Communications (within 90 days of an election)	\$1,000/candidate	24 hrs.	Member Communications Form plus a copy

4717

Third-Party Reporting

Various Other Issues

- Keeps the mass mailing reporting for **candidates**, but requires filing only one copy instead of two
- Contents of **electioneering communications** disclosure mirror state-mandated IE disclosure (Form 496)
- Same type of **member communications** disclosure currently in CFRO
- “General purpose” committees only paying administrative costs do not file pre-election statements

Disclaimer Requirements



Political Advertising Disclaimers

2. Independent Expenditure Ads on Candidates

→ **General purpose committees provide a disclaimer that must include, unless otherwise noted: "Paid for by committee name" and "Not authorized by the candidate or a committee controlled by the candidate"**
 Examples:

- "This call was paid for by ABC Trade Association and was not authorized by Senator Jones"
- "This ad was paid for by Susan Johnson and was not authorized by a candidate or committee controlled by a candidate"

→ **Primarily formed committees for or against a candidate must add an additional disclaimer that lists \$50,000 donors.**

Examples:

- "Paid for by Citizens Against Senator Smith, major funding by International Workers Association and California Insurance Committee. This ad was not authorized by Senator Smith."

The following disclaimers apply to ads that expressly advocate support or opposition of a candidate

Communication	Manner of Display
All mass mailings (more than 200) (see note)	<ul style="list-style-type: none"> • Committee name/address (on file with Forms 410 or 461) on outside of mailing in no less than 10 pt type/contrasting print color • An insert in the mailing must also state that the ad was not authorized by the candidate or a committee controlled by the candidate
Telephone calls (more than 200) - made by vendors ("robo" calls) or paid individuals	<ul style="list-style-type: none"> • Disclaimer must state that the call is "paid for by" committee name • Must be at least 3 seconds either at the beginning or end of the call
Radio	<ul style="list-style-type: none"> • Must be at least 3 seconds either at beginning or end of the ad
Television	<ul style="list-style-type: none"> • Both written & spoken at the beginning or end of ad • Not less than 4 seconds • Size & contrasting color must be legible to average viewer • <u>Exception</u> - no spoken disclosure required if written statement is shown for at least 5 seconds on a 30 second broadcast or 10 seconds on 60 second broadcast

Disclaimer Requirements

Additional City Requirements:

Campaign Communications:	"Paid for by" in 14-point type or, if spoken, at the same volume and speed as the rest of the communication
Electioneering Communications:	"Paid for by" in 14-point type or, if spoken, at the same volume and speed as the rest of the communication
Third-Party Mass Mailings:	Lengthy "Notice to Voters" disclaimer, including the cost of the mailing
Persuasion Polls	"This is a paid political advertisement by [Name of person(s)]," and if different is person making the call "This call is conducted by [Name of person]."

Disclaimer Requirements

Complexity Issues:

- 1) Found in five different sections of CFRO
- 2) Overlap/conflict with already robust state law
- 3) 14-point type/"same volume and speed" standard unclear:
 - Billboards
 - YouTube ads
 - TV
- 4) Ballot measure endorsements

Disclaimer Requirements

Ballot measures and **candidate IEs**: follow state law but also . . .

1. **12 point font** for mass mailers and smaller printed items
2. Lower **\$20,000** threshold for disclosing top two donors*
3. Reference to the Ethics Commission's **website**

Disclaimer Requirements

*Examples of relative font size, as they would
appear on an 8.5" x 11" sheet of paper*

4723

Example A: current CFRO/state law (14 point font):

Notice to Voters (Required by City and County of San Francisco)
This mailing is not authorized or approved by any candidate for City and County
office, a committee controlled by such candidate, or by any election official.
It is paid for by the Committee Supporting Candidate X for Supervisor 2016,
Major Funding By Donor 1 and Donor 2. (ID#1234567)
12345 67th Avenue, Suite 89, San Francisco, CA 94100
Total Cost of this mailing is \$1,000.

Example B: current state law (10 point font):

Paid for by the Committee Supporting Candidate X for Supervisor 2016, Major Funding By Donor 1 and Donor 2
12345 67th Avenue, Suite 89, San Francisco, CA 94100
Not authorized by a candidate or a committee controlled by a candidate.

Example C: proposal (12 point font):

Paid for by the Committee Supporting Candidate X for Supervisor 2016,
Major Funding By Donor 1 and Donor 2
12345 67th Avenue, Suite 89, San Francisco, CA 94100
Not authorized by a candidate or a committee controlled by a candidate.
Financial disclosures are available at statelica.org.

Disclaimer Requirements

- Electioneering communications
- Candidates

THANK YOU

QUESTIONS?

Somera, Alisa (BOS)

From: Bob Planthold <political_bob@att.net>
Sent: Tuesday, May 26, 2015 6:22 PM
To: Avalos, John (BOS); Tang, Katy (BOS); Cohen, Malia (BOS)
Cc: Pollock, Jeremy (BOS); Hsieh, Frances (BOS); Rubenstein, Beth (BOS); Summers, Ashley (BOS); Quizon, Dyanna (BOS); Law, Ray (BOS); Bruss, Andrea (BOS); Chan, Yoyo (BOS); Tugbenyoh, Mawuli (BOS); Somera, Alisa (BOS); Bob Planthold
Subject: 28 May Rules --items 2 and 3

Rues Committee members and staff,

I support Item 3, the requirement for Supes. also to disclose calendar of meetings.

I oppose item 2.

Item 2 --There is much history, regarding the topics covered/ addressed in this draft. Recommending passage would weaken SF's public disclosure laws on the eve of a major election. Please consider continuing this item, for further hearings.

Also, I support the analysis provided by/ through Friends of Ethics.

Item 3 --

It only makes sense for Supes. to be subject to same disclosure requirements as already applicable to the SF officials. One concern raised is the possibility of a so-called "de minimis" complaint, if somehow a Supe. failed to disclose the name of one person among several who meet with a Supe.

This is developing an hypothetical scenario to undermine an ordinance that already affects other city officials. The Ralph M. Brown Act and the Sunshine ordinance both specifically prohibit requiring any member of the public from disclosing an identifying name in order to attend a public meeting.

Even if a meeting with a Supe. on a pending measure is somehow not construed as a public meeting, the ordinance could be written so as to require those in the regulated community to report their contacts with a Supe. while also providing that a group meeting with a Supe. ought to provide the Supe. with a sign-in sheet where attendees are asked, but not required, to sign in.

Bob Planthold

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Nicole Elliott, Mayor's Office
John Arntz, Director, Department of Elections
John St. Croix, Executive Director, Ethics Commission
George Gascon, District Attorney
Jose Cisneros, Treasurer
Ross Mirkarimi, Sheriff
Carmen Chu, Office of the Assessor-Recorder
Jeff Adachi, Public Defender
Richard Carranza, Superintendent of Schools

FROM: Alisa Somera, Clerk, Rules Committee
Board of Supervisors

DATE: March 30, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Breed on March 24, 2015. This matter is being referred to you for informational purposes since it affects your department.

File No. 150294

Ordinance amending the Campaign and Governmental Conduct Code to simplify and consolidate campaign finance disclaimer and disclosure requirements.

If you wish to submit any reports or documentation to be considered with the legislation, please send those to me at the Board of Supervisors, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102.

c: Cristine Soto DeBerry, Office of the District Attorney
Amanda Kahn Fried, Office of the Treasurer & Tax Collector
Katherine Gorwood, Sheriff's Department
Edward McCaffrey, Office of the Assessor-Recorder
Chris Armentrout, San Francisco Unified School District
Jamila Brooks, San Francisco Unified School District

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

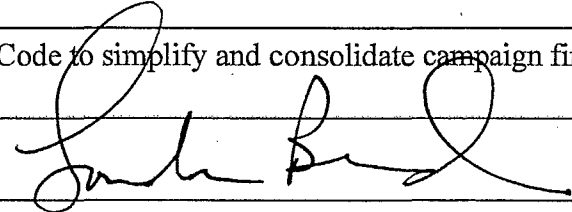
Breed

Subject:

Campaign and Governmental Conduct Code – Amending Campaign Disclaimer and Disclosure Requirements

The text is listed below or attached:

Ordinance amending the Campaign and Governmental Conduct Code to simplify and consolidate campaign finance disclaimer and disclosure requirements.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: