

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: LeeAnn Pelham, Executive Director, Ethics Commission

FROM: *ll*  
*for* Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: March 22, 2017

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Rules Committee received the following legislation, introduced by Supervisor Peskin on January 10, 2017. This matter has been referred to the Ethics Commission for comment and recommendation.

Pursuant to Campaign and Governmental Conduct Code, Section 1.103, the Board of Supervisors may amend Chapter 1 of that code if the Ethics Commission approves the proposed amendment in advance by at least a 4/5 vote of all its members.

### **File No. 170029**

**Ordinance amending the Campaign and Governmental Conduct Code to require disclosure of contributions solicited by City elective officers for ballot measure and independent expenditure committees; require disclosure of bundled campaign contributions; and prohibit campaign contributions to members of the Board of Supervisors, candidates for the Board, the Mayor, candidates for Mayor, and their controlled committees, from any person with pending or recently resolved land use matters.**

Please submit the Commission's response, which will be included with the legislation, with this cover sheet.

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**RESPONSE FROM ETHICS COMMISSION**

\_\_\_\_ **Approved** (*by \_\_\_\_ vote*)

\_\_\_\_ **Rejected** (*by \_\_\_\_ vote*)

\_\_\_\_ **Recommendation Attached**

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**Chairperson, Ethics Commission**

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**Date**

c: Shaista Shaikh, Ethics Commission

1 [Campaign and Governmental Conduct Code - Disclosure Requirements for Campaign  
2 Fundraising and Prohibiting Campaign Contributions from Persons with Land Use Matters]

3 **Ordinance amending the Campaign and Governmental Conduct Code to require**  
4 **disclosure of contributions solicited by City elective officers for ballot measure and**  
5 **independent expenditure committees; require disclosure of bundled campaign**  
6 **contributions; and prohibit campaign contributions to members of the Board of**  
7 **Supervisors, candidates for the Board, the Mayor, candidates for Mayor, and their**  
8 **controlled committees, from any person with pending or recently resolved land use**  
9 **matters.**

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

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

18 Section 1. The Campaign and Governmental Conduct Code is hereby amended by  
19 revising Section 1.104 and adding Sections 1.123, 1.125, and 1.127, to read as follows:

20 **SEC. 1.104. DEFINITIONS.**

21 Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

22 \* \* \* \*

23 "Business entity" shall mean a limited liability company (LLC), corporation, or partnership.

24 \* \* \* \*

25 "Financial interest" shall mean an ownership interest of at least 10% or \$1,000,000 in the  
project or property that is the subject of the land use matter. "Financial interest" shall also mean

1 holding the position of President, Vice-President, Chief Executive Officer, Chief Financial Officer,  
2 Chief Operating Officer, Executive Director, Deputy Director, or member of Board of Directors.

3 \* \* \* \*

4 “Land use matter” shall mean any application for a permit or variance under the San  
5 Francisco Building or Planning Codes, any application for a determination or review required by the  
6 California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), or  
7 any development agreement regarding a project with a value or construction cost of \$1,000,000 or  
8 more. This term shall not include an ordinance or resolution; provided that, “land use matter” shall  
9 include any ordinance or resolution that applies only to a single project or property or includes an  
10 exception for a single project or property.

11 \* \* \* \*

12 **SEC. 1.123. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**  
13 **TO BALLOT MEASURE AND INDEPENDENT EXPENDITURE COMMITTEES.**

14 (a) Definitions. For purposes of this Section 1.123, the following words and phrases shall  
15 mean:

16 “City elective officer” shall mean a person who holds the office of Mayor, Member of the Board  
17 of Supervisors, Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, or  
18 Treasurer.

19 “Indirectly solicits” shall mean a solicitation made by any subordinate of a City elective officer,  
20 unless the subordinate or the City elective officer can demonstrate by clear and convincing evidence  
21 that the subordinate acted without the City elective officer’s authorization or knowledge.

22 “Subordinate” shall mean any employee of the City elective officer’s department; provided that,  
23 subordinate employees of a member of the Board of Supervisors shall mean the legislative aides that  
24 the member directs and supervises.

1           **(b) Disclosure Requirements.** *Any City elective officer who directly or indirectly solicits a*  
2 *contribution of \$10,000 or more to a state or local ballot measure committee, or a committee that*  
3 *makes independent expenditures in support of or opposition to a candidate for City elective office, shall*  
4 *disclose, within 24 hours after the contribution is made, the following information to the Ethics*  
5 *Commission:*

6                   **(1) the name of the contributor;**

7                   **(2) the amount of the contribution;**

8                   **(3) the name and Fair Political Practices Commission identification number of the**  
9 *committee that received the contribution;*

10                   **(4) the date the City elective officer, or the City elective officer's subordinate, solicited**  
11 *the contribution;*

12                   **(5) if a subordinate solicited the contribution, the name and governmental title or duties**  
13 *of the subordinate;*

14                   **(6) the date the contribution was made to the committee; and**

15                   **(7) whether during the 12 months prior to the contribution the contributor attempted to**  
16 *influence the City elective officer in any legislative or administrative action and if so, the legislative or*  
17 *administrative action that the contributor sought to influence and the outcome sought. The City*  
18 *elective officer shall disclose, if applicable, the title and file number of any resolution, motion, appeal,*  
19 *application, petition, nomination, ordinance, amendment, approval, referral, permit, license,*  
20 *entitlement, contract, or other matter of such legislative or administrative action.*

21           **(c) Filing Requirements.** *The Ethics Commission may, through regulation, specify the form*  
22 *and manner in which City elective officers shall submit this information.*

23           **(d) Website Posting.** *The Ethics Commission shall make all information that is submitted in*  
24 *accordance with subsection (b) publicly available through its website.*

1                    **SEC. 1.125. ADDITIONAL DISCLOSURE REQUIREMENTS FOR BUNDLED**

2 **CONTRIBUTIONS.**

3                    (a) Definition. For purposes of this Section 1.125, the following words and phrases shall  
4 mean:

5                    “Bundle” shall include the following fundraising activities:

6                    (1) requesting that another person make a contribution;

7                    (2) inviting a person to a fundraising event;

8                    (3) supplying names to be used for invitations to a fundraising event;

9                    (4) permitting one’s name or signature to appear on a solicitation for contributions or  
10 an invitation to a fundraising event;

11                    (5) providing the use of one’s home or business for a fundraising event;

12                    (6) paying for at least 20% of the costs of a fundraising event;

13                    (7) hiring another person to conduct a fundraising event;

14                    (8) delivering a contribution, other than one’s own, through a third party, or in person;

15 or

16                    (9) acting as an agent or intermediary in connection with the making of a contribution.

17                    The Ethics Commission may, through regulation, include additional fundraising activities  
18 within this definition.

19                    (b) Additional Disclosure Requirements. Any committee controlled by a City elective officer  
20 that receives contributions totaling \$5,000 or more that have been bundled by a single person shall  
21 disclose the following information:

22                    (1) the name and mailing address of the person who bundled the contributions;

23                    (2) a list of the contributions bundled by that person (including the name of the  
24 contributor and the date the contribution was made);

1                   (3) if the person who bundled the contributions is a City employee, the employee's  
2 department and job title;

3                   (4) if the person who bundled the contributions is a member of a City board or  
4 commission, the name of the board or commission that person serves on, and any City elective officer  
5 who appointed or nominated that person to the board or commission; and

6                   (5) whether during the 12 months prior to the date of the contribution the person who  
7 bundled the contributions attempted to influence the City elective officer who controls the committee in  
8 any legislative or administrative action and if so, the legislative or administrative action that the  
9 contributor sought to influence and the outcome sought. The committee shall disclose, if applicable,  
10 the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance,  
11 amendment, approval, referral, permit, license, entitlement, contract, or other matter of such legislative  
12 or administrative action.

13                   (c) **Exceptions for candidates and campaign staff.** Committees shall not be required to  
14 disclose contributions that have been bundled by:

15                   (1) candidates for City elective office who collect contributions for their candidate-  
16 controlled committees; and

17                   (2) fundraising staff who are paid by a committee to collect contributions; provided,  
18 that this exception shall only apply to one person for each committee.

19                   (d) **Filing Requirements.** Committees shall provide the information for bundled contributions  
20 required by subsection (b) at the same time that they are required to file campaign statements with the  
21 Ethics Commission. The Ethics Commission may, through regulation, specify the form and manner in  
22 which committees shall submit this information.

23                   (e) **Website Posting.** The Ethics Commission shall make all information that is submitted in  
24 accordance with subsection (b) publicly available through its website.

1                    **SEC. 1.127. CONTRIBUTION LIMITS – PERSONS WITH LAND USE MATTERS**

2 **BEFORE A DECISION-MAKING BODY.**

3                    *(a) Definitions. For purposes of this Section 1.127, the following phrase shall mean:*

4                    *“Prohibited contribution” is a contribution to (1) a Member of the Board of Supervisors, (2) a*  
5 *candidate for member of the Board of Supervisors, (3) the Mayor, (4) a candidate for Mayor, or (5) a*  
6 *controlled committee of a member of the Board of Supervisors, the Mayor or a candidate for either*  
7 *office.*

8                    **(b) Prohibition on Contributions.**

9                    *(1) No person with a financial interest in a land use matter before the Board of Appeals,*  
10 *Board of Supervisors, Building Inspection Commission, Commission on Community Investment and*  
11 *Infrastructure, Department of Building Inspection, Office of Community Investment and Infrastructure,*  
12 *Historic Preservation Commission, Planning Commission, or Planning Department shall make any*  
13 *prohibited contribution at any time from the filing or submission of the land use matter until six months*  
14 *have elapsed from the date that the board or commission renders a final decision or ruling. If the*  
15 *person is a business entity, such restriction shall also include any member of such person's board of*  
16 *directors, its chairperson, chief executive officer, chief financial officer, and chief operating officer.*

17                    *(2) The prohibition set forth in subsection (b)(1) shall not apply if the person's land use*  
18 *matter concerns their primary residence, or the primary residence of that person's family members.*

19                    *(3) For purposes of this subsection (b), the date of “filing or submission” of a land use*  
20 *matter in the form of an ordinance or resolution is the date on which the ordinance or resolution is*  
21 *introduced at the Board of Supervisors. The date of the “final decision or ruling” regarding such an*  
22 *ordinance or resolution is the date the Mayor signs the ordinance or resolution, the date the Mayor*  
23 *returns it unsigned or does not sign it within 10 days of receiving it, or the date the Board of*  
24 *Supervisors overrides the Mayor's veto.*



1           (c) Prohibition on Receipt of Contributions. *It shall be unlawful for a Member of the Board of*  
2 *Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, or*  
3 *controlled committees of such officers and candidates, to solicit or accept any contribution prohibited*  
4 *by subsection (b).*

5           (d) Forfeiture of Prohibited Contributions. *In addition to any other penalty, each member of*  
6 *the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for*  
7 *Mayor, or controlled committees of such officers and candidates, who solicits or accepts any*  
8 *contribution prohibited by subsection (b) shall pay promptly the amount received or deposited to the*  
9 *City and County of San Francisco and deliver the payment to the Ethics Commission for deposit in the*  
10 *General Fund of the City and County; provided, that the Commission may provide for the waiver or*  
11 *reduction of the forfeiture.*

12           (e) Notification. *Any person with a financial interest in a land use matter before the Board of*  
13 *Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community*  
14 *Investment and Infrastructure, Department of Building Inspection, Office of Community Investment and*  
15 *Infrastructure, Historic Preservation Commission, Planning Commission or Planning Department,*  
16 *within 10 days of filing or submitting or receiving written notice of the filing or submission of a land*  
17 *use matter, shall file with the Ethics Commission a report including the following information:*

18                   (1) the board or commission considering the land use matter;

19                   (2) the location of the property that is the subject of the land use matter;

20                   (3) if applicable, the file number for the land use matter;

21                   (4) the action requested of the board, commission, or office considering the land use  
22 matter, as well as the legal basis for that action;

23                   (5) the person's financial interest if any, in the project or property that is the subject of  
24 the land use matter; and

1                   (6) if applicable, the names of the individuals who serve as the person's chairperson,  
2 chief executive officer, chief financial officer, and chief operating officer or as a member of the  
3 person's board of directors.

4  
5           Section 2. Effective Date. This ordinance shall become effective 30 days after  
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
8 of Supervisors overrides the Mayor's veto of the ordinance.

9  
10          Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word  
11 of this ordinance, or any application thereof to any person or circumstance, is held to be  
12 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
13 shall not affect the validity of the remaining portions or applications of the ordinance. The  
14 Board of Supervisors hereby declares that it would have passed this ordinance and each and  
15 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
16 unconstitutional without regard to whether any other portion of this ordinance or application  
17 thereof would be subsequently declared invalid or unconstitutional.

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

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

10 By:

  
11 ANDREW SHEN  
12 Deputy City Attorney

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## LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Disclosure Requirements for Campaign Fundraising and Prohibiting Campaign Contributions from Persons with Land Use Matters]

**Ordinance amending the Campaign and Governmental Conduct Code to require disclosure of contributions solicited by City elective officers for ballot measure and independent expenditure committees; require disclosure of bundled campaign contributions; and prohibit campaign contributions to members of the Board of Supervisors, candidates for the Board, the Mayor, candidates for Mayor, and their controlled committees, from any person with pending or recently resolved land use matters.**

### Existing Law

The City's campaign finance laws do not require the disclosure of campaign contributions solicited by City elected officials for ballot measure and independent committees. These laws also do not generally require the disclosure of "bundling" of campaign contributions. (But the City's Lobbyist Ordinance does require lobbyists to disclose their involvement in campaign fundraising activities.)

City law prohibits campaign contributions from corporations and from persons who have a contract pending before the City. Campaign & Gov'tal Conduct Code §§ 1.114, 1.126.

### Amendments to Current Law

1. Disclosure of campaign contributions solicited by a City elected official for ballot measure and independent expenditure committees

The proposal would require City elective officers, or subordinates working on their behalf, to disclose any contributions of \$10,000 that they have solicited for a ballot measure committee or independent expenditure committee within 24 hours after the contribution is made. These officers would need to disclose their involvement in the solicitation and other information about the potential relationships between the officers and the contributors to the Ethics Commission.

2. Disclosure of bundling of campaign contributions

The proposal would require candidate-controlled committees to identify the persons who have bundled \$5,000 or more in campaign contributions for their fundraising efforts. "Bundling" includes activities such as asking others for contributions, hosting fundraising events, or delivering contributions made by other persons. Committees that have benefited from such bundling would be required to identify their "bundlers," the contributions that have been

bundled by that person, whether the bundler is a member of a City board or commission, and whether the bundler has attempted to influence the officers who control such committees within the past 12 months. Committees would be required to disclose this information at the time that they file scheduled campaign statements with the Ethics Commission.

### 3. Prohibiting campaign contributions from persons with land use matters before the City

The proposal would prohibit persons with a financial interest in certain land use matters before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Department of Building Inspection, Office of Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, or Planning Department from making certain campaign contributions. Such persons could not make a campaign contribution to a Member of the Board of Supervisors, the Mayor, candidates for those offices, and their controlled committees from the filing or submission of the land use matter until six months have elapsed from the date that the board or commission renders a final decision or ruling. Members of the Board of Supervisors, the Mayor, candidates for those offices, and their controlled committees would also be prohibited from soliciting such campaign contributions.

#### Background Information

The Board of Supervisors may only amend the City's campaign finance laws (as established by Article I, Chapter 1 of the Campaign and Governmental Conduct 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.

Campaign & Gov'tal Conduct Code § 1.103.

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