

LEGISLATIVE DIGEST
(12/1/2016, Amended in Committee)

[Campaign and Governmental Conduct Code - Requiring Commissioners to File Behested Payment Reports]

Ordinance amending the Campaign and Governmental Conduct Code to require members of City boards and commissions to file behested payment reports regarding the solicitation of charitable contributions.

Existing Law

Under state law, when a payment of \$5,000 or more from a single source is made at the “behest” of a local elected official for a governmental or charitable purpose, that official must file a “behested payment report.” See Cal. Gov. Code § 82015(b)(2)(B)(iii). This reporting requirement applies when there has been a single payment of \$5,000 or more, or a series of payments over the course of a calendar year, from a single source.

After reaching the \$5,000 threshold, elected officials subject to this requirement must file a behested payment report with their departments within 30 days. Within another 30 days, such reports must be forwarded from those departments to the Ethics Commission.

No “behested payment reporting” requirement applies to members of City boards and commissions, unless they are also elected officials.

Amendments to Current Law

The proposed amendments would require members of City boards and commissions listed in Campaign and Governmental Conduct Code Section 3.1-103(a)(1) – except for members of the Board of Supervisors – to file behested payment reports when they solicit charitable contributions in certain circumstances. Such contributions are subject to behested payment reporting if a commissioner solicits them, directly or indirectly, from a party, participant, or agent of a party or participant involved in an administrative proceeding before the commissioner’s board or commission.

The proposal requires a commissioner to file such reports if:

- the party, participant or agent of a party or participant makes a contribution, or a series of contributions, totaling \$1,000 or more while the proceeding is pending before the commissioner’s board or commission;

- the party, participant or agent of a party or participant makes a contribution, or a series of contributions, totaling \$1,000 or more during the three months following the date a final decision is rendered in the proceeding; and
- if the party, participant or agent of a party or participant makes a contribution, or a series of contributions, totaling \$1,000 or more in the 12 months prior to the commencement of a proceeding, after the commissioner learns or should have learned that the source of the contribution became involved in a proceeding before the commissioner's board or commission.

Members of City boards and commissions would be required to complete the same form that is currently required of elected officials. These reports must be filed with the Ethics Commission, and the Ethics Commission would be required to make them available through their website. The Ethics Commission may later, by regulation, require commissioners to electronically submit the same information required by Behested Payment Reports.

The proposed amendments would also provide that any member of a City board or commission who fails to comply with this reporting requirement would be subject to the administrative, civil or criminal remedies that generally apply to violations of local conflict of interest laws.

Background Information

The Fair Political Practices Commission requires elected officials to complete a Form 803 to comply with the existing behested payment reporting scheme. The Form 803 is available at: <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/behested-payment-report.html>.

The behested payment reports that have been submitted to the Ethics Commission under existing law are available at: <http://www.sfethics.org/ethics/2012/05/payments-made-at-the-behest-of-an-elected-officer.html>.

On December 1, 2016, the Government Audit and Oversight Committee amended this legislation to include contributions to entities organized under Section 527 of the U.S. Internal Revenue Code within the ordinance's definition of "charitable contribution."

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