

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Campaign Advertisement Disclaimer Requirements]

Ordinance amending the Campaign and Governmental Conduct Code to modify disclaimer requirements for campaign advertisements, to conform to a court order.

Existing Law

Proposition F, adopted by the voters at the November 5, 2019 election, included several amendments to the Campaign and Governmental Conduct Code: prohibiting campaign contributions from limited liability companies and limited liability partnerships; prohibiting campaign contributions to certain City elected officials, candidates, and committees from persons with pending or recent land use matters before the City; and expanding disclaimer requirements for independent expenditure committee advertisements. Proposition F's new disclaimer requirements on campaign advertisements included a requirement that a committee disclose "secondary contributors" – that is, for primarily formed independent expenditure committees and ballot measures, if any of the top three major contributors of \$5,000 or more is a committee, the disclaimer must also disclose the top two major contributors to that committee as well.

Amendments to Current Law

To conform with a court order, the proposed ordinance creates exceptions to the requirement to disclose secondary contributors for the following types of smaller or shorter advertisements: (1) print advertisements measuring 25 square inches or less, and (2) spoken disclaimers in audio or video advertisements that are 30 seconds or less.

Background Information

In January 2020, a group of plaintiffs challenged the constitutionality of the disclaimer requirements imposed by Proposition F, specifically with respect to the required disclosure of secondary contributors. In February 2020, the Honorable Charles R. Breyer, District Court Judge for the Northern District of California, granted in part and denied in part, the plaintiffs' request for a preliminary injunction. The court granted the preliminary injunction with respect to disclaimers of secondary contributors as applied to print advertisements that are 5 inches by 5 inches or smaller, other smaller print advertisements sometimes referred to as "ear" advertisements, and spoken disclaimers in audio or video advertisements that are 30 seconds or less. The court otherwise upheld the Proposition F disclaimer requirements.

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