

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

June 27, 2016

File Nos. 160699

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On June 14, 2016, Supervisor Peskin introduced the following Motion to consider the proposed Initiative Ordinance for submission by the full Board, for the November 8, 2016, Election:

File No. 160699 Initiative Ordinance - Campaign and Governmental Conduct Code - Prohibiting Candidate-Controlled General Purpose Committees

Motion ordering submitted to the voters an Ordinance amending the Campaign and Government Conduct Code to prohibit City elected officials from establishing candidate-controlled general purpose committees, at an election to be held on November 8, 2016.

These matters are being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink, appearing to read "Derek Evans".

By: Derek Evans, Clerk
Rules Committee

Attachment

c: Joy Navarrete, Environmental Planner
Jeanie Poling, Environmental Planner

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Prohibiting Candidate-
2 Controlled General Purpose Committees]

3 **Motion ordering submitted to the voters an Ordinance amending the Campaign and**
4 **Governmental Conduct Code to prohibit City elected officials from establishing**
5 **candidate-controlled general purpose committees, at an election to be held on**
6 **November 8, 2016.**

7
8 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
9 voters of the City and County of San Francisco, at an election to be held on November 8,
10 2016.

11
12 **Ordinance amending the Campaign and Governmental Conduct Code to prohibit City**
13 **elected officials from establishing candidate-controlled general purpose committees.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain font.
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.
16 **Deletions to Codes** are in ~~italics Times New Roman font~~.
17 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
18 parts of tables.

19
20 Be it ordained by the People of the City and County of San Francisco:

21 Section 1. The Campaign and Governmental Conduct Code is hereby amended by
22 revising Sections 1.104 and 1.122, to read as follows:

23 **SEC. 1.104. DEFINITIONS.**

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

25 * * * *

1 "Candidate" shall be defined as set forth in the California Political Reform Act,
2 California Government Code section 81000, et seq., but shall include only candidates for City
3 elective office.

4 "Candidate committee" shall mean a ~~committee controlled by a candidate, and candidate-~~
5 controlled committee that is primarily formed to support that candidate's election for City elective
6 office.

7 "Candidate-controlled committee" shall mean a controlled committee that is controlled by a
8 candidate.

9 * * * *

10 "Controlled committee" shall be defined as set forth in the California Political Reform
11 Act, California Government Code section 81000, et seq.

12 * * * *

13 "General purpose committee" shall be defined as set forth in the California Political
14 Reform Act, California Government Code section 81000, et seq.

15 * * * *

16 **SEC. 1.122. SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS**
17 **– LIMITATIONS.**

18 (a) DECLARATION OF INTENT REQUIRED. No candidate or candidate committee
19 shall solicit or accept, or cause to be solicited or accepted, any contribution unless and until
20 the candidate has filed a declaration of intention to become a candidate for a specific City
21 elective office with the Department of Elections on a form prescribed by the Director of
22 Elections.

23 No person shall file a declaration of intention to become a candidate for more than one
24 City elective office.

25 (b) USE OF CAMPAIGN FUNDS.

1 (1) GENERAL. Except as otherwise provided in this Chapter, funds in a
2 candidate committee's campaign account may be used only on behalf of the candidacy for the
3 office specified in the candidate's declaration of intention filed under Subsection (a) or for
4 expenses associated with holding that office, provided that such expenditures are reasonably
5 related to a legislative, governmental, or political purpose. Contributions solicited or accepted
6 under this Section for one candidate shall not be expended for the candidacy of any other
7 candidate for local, state or federal office, in support of or opposition to any measure or in
8 support of or opposition to any state ballot proposition, or for donations to a charitable
9 organization. Nothing in this section shall prohibit a candidate committee for a candidate in a
10 ranked choice election from expending funds to support the ranking of another candidate if the
11 primary purpose of the expenditure is to further the candidate's own campaign.

12 (2) PROHIBITING CANDIDATE-CONTROLLED GENERAL PURPOSE
13 COMMITTEES. No candidate holding City elective office may control a candidate-controlled general
14 purpose committee. Any candidate who controls a candidate-controlled general purpose committee
15 prior to assuming City elective office shall return, use, or dispose of all funds held by the committee
16 using the means specified in subsection (b)(4) within 90 days of the date that the candidate assumes
17 office.

18 (23) WITHDRAWAL FROM CANDIDACY. If a candidate has withdrawn his or
19 her candidacy, campaign funds held by that candidate's committee's Campaign Contribution
20 Trust Account shall be:

- 21 (A) returned on a "last in, first out" basis to those persons who have
22 made said contributions;
- 23 (B) donated to the City and County of San Francisco;
- 24 (C) donated to a charitable organization;
- 25 (D) used to pay outstanding campaign debts or accrued expenses;

1 (E) used to pay expenses associated with terminating the committee,
2 such as bookkeeping, legal fees, preparation of campaign statements, and audits; or

3 (F) used for other permissible purposes established by the Ethics
4 Commission by regulation.

5 (34) SURPLUS FUNDS. Surplus funds held by a candidate or committee shall
6 be:

7 (A) returned on a "last in, first out" basis to those persons who have
8 made said contributions;

9 (B) donated to a charitable organization;

10 (C) donated to the City and County of San Francisco;

11 (D) used to pay outstanding campaign debts or accrued expenses;

12 (E) used to pay expenses associated with terminating the committee,
13 such as bookkeeping, legal fees, preparation of campaign statements, and audits; or

14 (F) used for other permissible purposes established by the Ethics
15 Commission by regulation.

16 (c) TRANSFER OF FUNDS. Subject to the restrictions set forth in Subsection (b), at
17 any time, funds held in a candidate committee's Campaign Contribution Trust Account may be
18 transferred to any legally constituted committee established by the candidate under the
19 California Political Reform Act, California Government Code section 81000 et seq.
20 Contributions transferred under this subsection shall be attributed to specific contributors
21 using a "first in, first out" or "last in, first out" accounting method.
22

23 Section 2. Scope of Ordinance. In enacting this ordinance, the People of the City and
24 County of San Francisco intend to amend only those words, phrases, paragraphs,
25 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other

1 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions
2 or deletions, in accordance with the "Note" that appears under the official title of the
3 ordinance.

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By:


8 ANDREW SHEN
9 Deputy City Attorney

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LEGISLATIVE DIGEST

[Initiative Ordinance - Campaign and Governmental Conduct Code - Prohibiting Candidate-Controlled General Purpose Committees]

Motion ordering submitted to the voters an Ordinance amending the Campaign and Governmental Conduct Code to prohibit City elected officials from establishing candidate-controlled general purpose committees, at an election to be held on November 8, 2016.

Existing Law

1. Local Law

San Francisco Campaign and Governmental Conduct Code Section 1.122 restricts how local candidates may use their campaign funds, i.e., campaign contributions. Section 1.122(b)(1) provides that campaign funds may be used only to further a candidate's election to office, or for expenses associated with holding that office, so long as those expenditures are reasonably related to a legislative, governmental, or political purpose.

Section 1.122(b)(3) provides that "surplus funds," e.g., funds remaining in a candidate's campaign account after the candidate leaves City elective office, must be:

- returned on a "last in, first out" basis to contributors;
- donated to a charitable organization;
- donated to the City;
- used to pay outstanding campaign debts; or
- used to pay expenses associated with terminating the committee.

2. State Law

A "controlled committee" is a committee that is controlled directly or indirectly by a candidate. Cal. Gov. Code § 82016. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee. A candidate may exercise significant influence over a committee in various ways, including being involved with decision-making or developing or implementing campaign strategy for the committee. See Pirayou Adv. Ltr., FPPC Adv. I-10-159, 2010 WL 5481367 (Dec. 13, 2010).

Under state law, a candidate typically cannot control more than one committee, except for committees formed to support or oppose ballot measures. See Bagatelos Adv. Ltr., CA FPPC Adv. I-89-240, 1989 WL 572585 (May 31, 1989).

A “general purpose committee” is a committee that supports or opposes more than one candidate or ballot measure. Cal. Gov. Code § 82027.5. (In contrast, a “primarily formed committee” is a committee that supports or opposes a single candidate or measure. *Id.* § 82047.5.) Thus, a candidate-controlled general purpose committee may spend campaign funds to support or oppose multiple ballot measures.

Local elected officeholders are subject to both state and local law restrictions. So under existing law, a local officeholder could control a general purpose committee, but that committee could spend funds only on ballot measures, not to support or oppose other candidates.

Amendments to Current Law

The proposed amendments would amend Section 1.122 to prohibit local officeholders from controlling a general purpose committee. The amendments would also provide that if a local candidate controlled a general purpose committee prior to assuming office, the candidate would have 90 days to dispose of any campaign funds as surplus funds.

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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):

Peskin

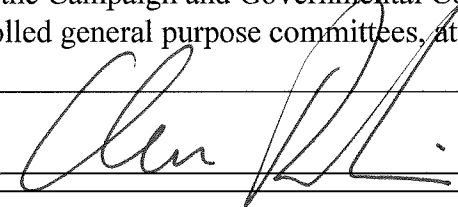
Subject:

Initiative Ordinance - Campaign and Governmental Conduct Code - Prohibiting Candidate-Controlled General Purpose Committees

The text is listed below or attached:

Motion ordering submitted to the voters an ordinance amending the Campaign and Governmental Conduct Code to prohibit City elected officials from establishing candidate-controlled general purpose committees, at an election to be held on November 8, 2016.

Signature of Sponsoring Supervisor: _____



For Clerk's Use Only: