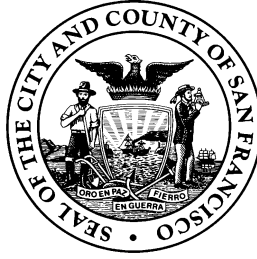


BOARD of SUPERVISORS



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

RULES COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Katy Tang, Chair
Rules Committee

FROM: Derek Evans, Assistant Clerk

DATE: July 18, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 19, 2016

The following file should be presented as a **COMMITTEE REPORT** at the Board Meeting on Tuesday, July 19, 2016. This item was acted upon at the Rules Committee Meeting on Thursday, July 14, 2016, at 11:00 a.m., by the votes indicated.

Item No. 80 **File No. 160669**

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

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

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Katy Tang - Aye
Supervisor Eric Mar - Aye
Supervisor Malia Cohen - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Acting Legislative Deputy Director
Jon Givner, Deputy City Attorney

File No. 160669

Committee Item No. 9

Board Item No. 80

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 14, 2016

Board of Supervisors Meeting

Date July 19, 2016

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"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | 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 checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

<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"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Derek Evans Date July 8, 2016
 Completed by: Derek Evans Date July 18, 2016

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
 The complete document can be found in the file.

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

3 **Ordinance amending the Campaign and Governmental Conduct Code to prohibit City**
4 **electd officials from establishing candidate-controlled general purpose committees.**

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 Campaign and Governmental Conduct Code is hereby amended by
14 revising Sections 1.104 and 1.122, to read as follows:

15 **SEC. 1.104. DEFINITIONS.**

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

17 * * * *

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

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

24 "Candidate-controlled committee" shall mean a controlled committee that is controlled by a
25 candidate.

* * * *

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

3 * * * *

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

6 * * * *

7 **SEC. 1.122. SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS**
8 **– LIMITATIONS.**

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

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

16 (b) USE OF CAMPAIGN FUNDS.

17 (1) GENERAL. Except as otherwise provided in this Chapter, funds in a
18 candidate committee's campaign account may be used only on behalf of the candidacy for the
19 office specified in the candidate's declaration of intention filed under Subsection (a) or for
20 expenses associated with holding that office, provided that such expenditures are reasonably
21 related to a legislative, governmental, or political purpose. Contributions solicited or accepted
22 under this Section for one candidate shall not be expended for the candidacy of any other
23 candidate for local, state or federal office, in support of or opposition to any measure or in
24 support of or opposition to any state ballot proposition, or for donations to a charitable
25 organization. Nothing in this section shall prohibit a candidate committee for a candidate in a

1 ranked choice election from expending funds to support the ranking of another candidate if the
2 primary purpose of the expenditure is to further the candidate's own campaign.

3 (2) PROHIBITING CANDIDATE-CONTROLLED GENERAL PURPOSE

4 COMMITTEES. No candidate holding City elective office may control a candidate-controlled general
5 purpose committee. Any candidate who controls a candidate-controlled general purpose committee
6 prior to assuming City elective office shall return, use, or dispose of all funds held by the committee
7 using the means specified in subsection (b)(4) within 90 days of the date that the candidate assumes
8 office.

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

- 12 (A) returned on a "last in, first out" basis to those persons who have
13 made said contributions;
- 14 (B) donated to the City and County of San Francisco;
- 15 (C) donated to a charitable organization;
- 16 (D) used to pay outstanding campaign debts or accrued expenses;
- 17 (E) used to pay expenses associated with terminating the committee,
18 such as bookkeeping, legal fees, preparation of campaign statements, and audits; or
- 19 (F) used for other permissible purposes established by the Ethics
20 Commission by regulation.

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

- 23 (A) returned on a "last in, first out" basis to those persons who have
24 made said contributions;
- 25 (B) donated to a charitable organization;

1 (C) donated to the City and County of San Francisco;
2 (D) used to pay outstanding campaign debts or accrued expenses;
3 (E) used to pay expenses associated with terminating the committee,
4 such as bookkeeping, legal fees, preparation of campaign statements, and audits; or
5 (F) used for other permissible purposes established by the Ethics
6 Commission by regulation.

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

13
14 Section 2. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
23 additions, and Board amendment deletions in accordance with the "Note" that appears under
24 the official title of the ordinance.
25

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By:


4 ANDREW SHEN
Deputy City Attorney

5 n:\legana\as2016\1600751\01106004.docx
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LEGISLATIVE DIGEST

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

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

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.

Background Information

The City’s campaign finance laws are found in the Article I, Chapter 1 of the San Francisco Campaign and Governmental Conduct Code, also referred to as the Campaign Finance Reform Ordinance (“CFRO”). Most of CFRO’s provisions were initially adopted by the voters and if the voters do not approve any amendments themselves, any other changes are subject to special approval requirements. The City may only amend the CFRO if:

- the amendment furthers the purposes of this CFRO;
- the Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- 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
- the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

n:\leganas2016\1600751\01111264.docx

Evans, Derek

From: Hepner, Lee (BOS)
Sent: Thursday, June 30, 2016 2:13 PM
To: Evans, Derek
Cc: Quizon, Dyanna (BOS)
Subject: FW: Ethics legislation

Hi Derek – see below. Let me know if that will suffice for the file.

Best,
Lee

Lee Hepner
Legislative Aide
Supervisor Aaron Peskin
415.554.7450 office
415.554.7419 direct

From: Andrew Shen [mailto:Andrew.Shen@sfgov.org]
Sent: Thursday, June 30, 2016 12:18 PM
To: Hepner, Lee (BOS) <lee.hepner@SFGOV1.onmicrosoft.com>
Cc: Pelham, LeeAnn (ETH) <leeann.pelham@sfgov.org>
Subject: RE: Ethics legislation

Hi Lee,

The video (and audio) recording of Monday's meeting is available here:
http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=142.

If you need something in writing that confirms that the Commission voted 4-0 in favor of Item 6, perhaps this meeting summary would suffice?

<http://www.sfethics.org/ethics/2016/06/meeting-summary-june-27-2016-summary-of-actions-taken-and-matters-discussed-at-ethics-commission-jun.html>

Hope this helps. Thanks.

Andrew Shen, Deputy City Attorney
Office of the San Francisco City Attorney
1 Dr. Carlton B. Goodlett Place, Suite 234
San Francisco, CA 94102
Direct dial: (415) 554-4780
E-mail: andrew.shen@sfgov.org

SHARE

Summary – June 28, 2016 - Summary of Actions Taken and Matters Discussed at Meeting Commission June 27, 2016 Regular Meeting Ethics

Date: June 28, 2016

Contact: LeeAnn Pelham, Executive Director (415) 252-3100

At its regular meeting on June 27, 2016, the San Francisco Ethics Commission discussed the following matters and took the following actions:

- Voted unanimously 4-0 to approve the draft minutes for its regular meeting of May 23, 2016.
- Voted unanimously 4-0 to waive the attorney-client privilege in order to release the audio recording of the Ethics Commission's closed session held on June 23, 2014, regarding Agenda Item VI.
- Discussed a Staff report and took further public comment on a possible November 2016 ballot measure to restrict lobbyists' ability to provide gifts to City officers, make campaign contributions to local candidates, and bundle contributions. The Commission directed staff to provide two proposals for its consideration and possible action at its July 25, 2016 meeting.
- Discussed and voted unanimously 4-0 to support a proposal by Supervisor Peskin to prohibit City elected officials from establishing candidate-controlled general purpose committees.
- Discussed and took public comment on Ordinance proposed by Supervisor Peskin to amend 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. (Board of Supervisors File No.160478). The Commission asked Staff to provide a report regarding the proposed Ordinance for its consideration during its July 25, 2016 meeting.
- Discussed and approved Staff's proposed Ethics Commission Annual Policy Plan for FY2017.
- Discussed and took public comment on a possible amendment to the Ethics Commission's by-laws establishing a process for the Commission to respond to public records requests. The Commission indicated that a proposed by-law would be on the agenda for the Commission's consideration during its July 25, 2016 meeting.
- Discussed and received public comment on the June 2016 Executive Director's report.

Draft Minutes for the June 27, 2016 meeting will be available upon their completion and will be included on the Agenda for the Commission's next Regular Meeting. The next Regular Meeting of the Ethics Commission is scheduled for Monday, July 25, 2016 in Room 400 of City Hall at 5:30 pm.

For further information, please feel free to contact the Ethics Commission at (415) 252-3100.

###

The Ethics Commission, established in November 1993, serves the public, City employees and officials and candidates for public office through education and enforcement of ethics laws. Its duties include: filing and auditing of campaign finance disclosure statements, lobbyist and campaign consultant registration and regulation, administration of the public financing program, whistleblower program, conflict of interest reporting, investigations and enforcement, education and training, advice giving and statistical reporting. We invite you to follow our work at www.sfethics.org.


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, Ethics Commission
John Arntz, Director, Department of Elections

FROM:  Derek Evans, Clerk, Rules Committee
Board of Supervisors

DATE: June 13, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors Rules Committee has received the following legislation, introduced by Supervisor Peskin on June 7, 2016. This matter is being referred to you in accordance with Campaign and Governmental Conduct Code, Section 1.103.

**File No. 160669 Campaign and Governmental Conduct Code - Prohibiting
Candidate-Controlled General Purpose Committees**

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

Please review and submit any reports or comments to be included with the legislative file.

If you have any questions or concerns please call me at (415) 554-7702 or email derek.evans@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.



San Francisco Campaign and Governmental Conduct Code

SEC. 1.103. AMENDMENT OR REPEAL OF CHAPTER.

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

- (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.

(Added by Ord. 3-06, File No. 051439, App. 1/20/2006)

SEC. 1.104. DEFINITIONS.

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

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

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

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

"Charitable organization" shall mean an entity exempt from taxation pursuant to Title 26, Section 501 of the United States Code.

"City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District. The Board of Supervisors consists of eleven separate City elective offices, the San Francisco Community College District consists of seven separate City elective offices, and the Board of Education of the San Francisco Unified School District consists of seven separate City elective offices.

"Code" shall mean the San Francisco Campaign and Governmental Conduct Code.

"Committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, *et seq.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) member communications;

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

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

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

"Enforcement authority" shall mean the District Attorney for criminal enforcement, the City Attorney for civil enforcement, and the Ethics Commission for administrative enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

"Ethics Commission" shall mean the San Francisco Ethics Commission.

"Executive Director" shall mean the Executive Director of the Ethics Commission, or the Executive Director's designee.

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

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

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

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

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

"Matching contribution" shall mean a contribution up to \$500, made by an individual, other

than the candidate, who is a resident of San Francisco. Matching contributions shall not include loans, contributions received more than 18 months before the date of the election, qualifying contributions or contributions made by the candidate's spouse, registered domestic partner or dependent child. Matching contributions must also comply with all requirements of this Chapter. Matching contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

"Measure" shall mean any City, San Francisco Unified School District or San Francisco Community College District referendum, recall or ballot proposition, whether or not it qualifies for the ballot.

"Member communication" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 *et seq.* and its enabling regulations, provided that the communication advocates for or against one or more City measures or candidates for City elective office.

"Person" shall mean any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.

"Qualified campaign expenditure" for candidates shall mean all of the following:

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

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

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

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

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

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

"Qualifying contribution" shall mean a contribution of not less than \$10 and not more than

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

"Recorded telephone message" shall mean a recorded audio message that expressly supports or opposes a candidate for City elective office that is distributed by telephone.

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

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

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

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

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

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

"Voter" shall mean an individual registered to vote in San Francisco.

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

"Written instrument" shall mean a check, credit card receipt, or record of electronic transfer of funds.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 187-01, File No. 010779, App. 8/31/2001; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09, File No. 090989, App. 11/20/2009; Ord. 102-15, File No. 150294, App. 6/25/2015, Eff. 7/25/2015)

SEC. 1.122. SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS – LIMITATIONS.

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

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

(b) **USE OF CAMPAIGN FUNDS.**

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

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

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

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

(C) donated to a charitable organization;

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

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

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

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

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

(B) donated to a charitable organization;

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

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

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

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

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

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09, File No. 090989, App. 11/20/2009)

To: Evans, Derek
Cc: Somera, Alisa (BOS)
Subject: RE: Rules July 14: Candidate-controlled General Purpose Committees

From: LARRY BUSH <sfwtrail@mac.com>

Date: July 11, 2016, 11:18:31 AM PDT

To: derek.evans@sfgov.org, London Breed <london.breed@sfgov.org>, katy.tang@sfgov.org, eric.mar@sfgov.org, Malia Cohen <malia.cohen@sfgov.org>

Cc: Aaron Peskin <aaron.peskin@earthlink.net>, sharyn saslafsky <sasplanner@gmail.com>, Hulda Garfola <hgarfolocgi@yahoo.com>, Oliver Luby <oliverlear@yahoo.com>, Joseph Kelly <joe@kellyandiribarren.com>, "Charles Marsteller" <cm_marsteller@hotmail.com>, Elena Schmid <eschmid@sonic.net>, bob dockendorff <docksf@sbcglobal.net>, Paul H.Melbostad <pmelbostad@g3mh.com>, Marc Saloman <marcsalomon@gmail.com>, "Robert vanRavenswaay" <mr.vanravenswaay@gmail.com>, Bob Planthold <political_bob@att.net>, Joe Julian <jjulian@sfsu.edu>, Paul Ryan <pryan@campaignlegalcenter.org>, Bob Stern <rstern2009@gmail.com>, "Alex Kaplan" <akaplan@represent.us>, Zach Goldfine <zachgoldfine@gmail.com>, <morganay28@gmail.com>, <gregorybryan@gmail.com>, "Implementation Review Committee" <ir-sfcgja@googlegroups.com>, Helen Grieco <hgrieco@commoncause.org>

Subject: Rules July 14: Candidate-controlled General Purpose Committees

Chair, Rules Committee Members:

Friends of Ethics respectfully submits our recommendation in support of the initiative ordinance or board action on the prohibition of Candidate-controlled General Purpose Committees (Item 160699).

The 2013-2014 Civil Grand Jury recommended that action be taken to close a loophole that allowed for unlimited contributions to be controlled by an officeholder or candidate over a period of years, without regard to any specific ballot measure, meanwhile paying for a political infrastructure that includes polling, consultants, fundraisers, attorneys, mail, ads, literature, and even to pay for an official's private legal defense in a case brought by the city, among other costs.

Even more alarming, a 2014 Superior Court decision in *FPPC v Reed* held that such committees may expend their funds to support or defeat candidates for offices other than the one they hold or seek. The road is open for machine politics of the worse kind, and in ways that voters earlier overwhelmingly sought to end with Proposition X and Proposition J, later amended out of existence.

The San Francisco Ethics Commission unanimously endorsed Supervisor Peskin's ballot proposal now before the Rules Committee, having heard earlier extensive testimony on the potential corrupting influence of unlimited donations by Bob Stern, co-author of the California Political Reform Act, and Corey Cook, then the Director of the Leo T. McCarthy Center for Public Service and the Common Good.

The San Francisco Ethics Commission's database reveals that more than \$700,000 was donated to candidate-controlled general purpose committees since 2012 in amounts as large as \$49,000, with many contributions at \$25,000 or \$40,000. The record shows the contributors were

primarily developers, lobbyists, industry groups, investors seeking tax laws with special benefits, builders seeking variances and others seeking city approvals on decisions by the same officials.

As Bob Stern testified before the June 5, 2015 San Francisco Ethics Commission, “The donor does not care how a contribution is used; the donor only cares about the gratitude of the officeholder. He stated that the donor at the very least wants access to the official; at the most, the donor wants a decision by the officeholder. He estimated that 90% of campaign money comes from people who want something from government.”

Dr. Cook also testified that “the appearance of corruption and the potential for corruption is present. And I would add, as importantly in my view, is the potential to increase the cynicism and disengagement of the public through these convoluted and non-transparent campaign funding mechanisms.” (taken from SF Ethics Commission June 5, 2015 minutes (<http://www.sfethics.org/ethics/2015/06/minutes-june-5-2015.html>))

These “candidate-controlled general purpose committees” are different in magnitude and potential corrupting influence from a candidate-controlled ballot measure committee. A ballot measure committee is for a specific ballot measure in a specific election. While it also can be controlled by a candidate or officeholder, the funds it collects are specifically intended to support a specific ballot measure.

A “candidate-controlled general purpose committee” by law is not about any specific ballot measure, any specific election, and may never be about a ballot measure since the law allows funds to be collected and spent for the mere prospect of a potential ballot measure. This is true even if the General Purpose Committee states that it is about “ballot measures.”

Unlike a candidate-controlled ballot measure committee, the General Purpose committee can roll its funds over from one election to another—which is exactly what is taking place in San Francisco.

Friends of Ethics reviewed all the campaign filings at the state Fair Political Practices Commission and found that only San Francisco has an active “candidate-controlled General Purpose Committee” controlled by a local officeholder. Indeed, elsewhere officials appear to have come to the realization that such committees clearly circumvent the candidate contribution limits and operate with virtually no constraints on how the funds are spent.

A Friends of Ethics poll conducted by David Binder last month found that 67% of voters believe that campaign contributions and lobbying is having a negative impact on government in San Francisco. That high percentage held true in every supervisorial district, with the highest percentage of 75% in District 10.

Friends of Ethics recommends the Rules Committee approve and support the ballot measure and ordinance to ban candidate-controlled general purpose committees at its July 14 meeting and pass it to the full Board with a recommendation to approve.

Friends of Ethics consists of former Ethics Commissioners, past civil grand jury members, past leaders of San Francisco Common Cause, and other proponents of ethics in government.

Thank you for your consideration of our recommendation.

Larry Bush for Friends of Ethics
(also a past SF Civil Grand Jury 2013-2014 member)

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

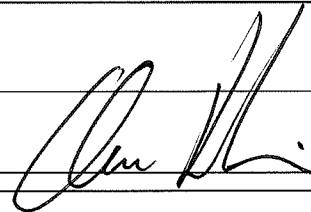
Subject:

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

The text is listed below or attached:

Attached.

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

SEC. 1.103. AMENDMENT OR REPEAL OF CHAPTER.

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

- (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.

(Added by Ord. 3-06, File No. 051439, App. 1/20/2006)

Vdme/