

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Behested Payments]

Ordinance amending the Campaign and Governmental Conduct Code to expand the definition of interested party, to prohibit appointed department heads from soliciting certain behested payments, and to require department heads to report solicitation of certain behested payments.

Existing Law

State law requires elected officials – but not City commissioners or department heads – to file “behested payment” reports when they solicit contributions of \$5,000 from a single source in a calendar year for legislative, governmental, or charitable purposes. Such reports must be filed with the Ethics Commission. See Cal. Gov. Code §§ 82004.5, 84224.

Local law additionally requires City commissioners and elected officials – but not appointed City department heads – to file behested payment reports for solicitations of charitable contributions totaling \$1,000 or more from “interested parties” with certain matters before their commissions. These matters include proceedings regarding administrative enforcement, a license, a permit, or other entitlement for use before their boards and commissions. Commissioners are required to file these reports when they solicit a behested payment from:

- a party, participant or agent of a party or participant in a proceeding while the matter is pending;
- a party, participant or agent of a party or participant in a proceeding during the six months following the date a final decision is rendered in the matter; and
- a party, participant or agent of a party or participant 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.

S.F. Campaign & Gov’tal Conduct Code § 3.610.

Local law also requires the donors and recipients of such contributions to file additional reports. These reports must also be filed with the Ethics Commission. S.F. Campaign & Gov’tal Conduct Code §§ 3.620, 3.630.

Amendments to Current Law

The proposed legislation would expand “interested parties” to include contractors and prospective contractors before an officer’s department or commission.

The proposed legislation would prohibit appointed department heads from soliciting behested payments from interested parties while their matters are pending before their department. The proposal would also prohibit such solicitations for six months after those matters are concluded.

This prohibition on fundraising by appointed department heads would not apply to:

- elected department heads (the Assessor-Recorder, City Attorney, District Attorney, Mayor, Public Defender, Sheriff, and Treasurer);
- solicitations for behested payments that are made directly to City departments, or
- solicitations made through “public appeals.”

The proposed legislation would also require appointed department heads to report behested payments from interested parties, if the department head sought a behested payment in the 12 months prior to the commencement of a proceeding, after the department learns or should have learned that the source of the contribution became involved in a proceeding before their department. Likewise, appointed department heads would be required to report behested payments from interested parties if the direct recipient of a behested payment is a City department.

Background Information

The behested payment reports required by existing law are available on the Ethics Commission’s website:

<https://sfethics.org/disclosures/city-officer-disclosure/payments-made-at-the-behest-of-an-elected-officer>

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