

BOARD of SUPERVISORS



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## MEMORANDUM

### PUBLIC SAFETY COMMITTEE

#### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor David Chiu, Chair  
Public Safety Committee

FROM: Gail Johnson, Committee Clerk

DATE: January 5, 2010

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, January 5, 2010

The following file should be presented as a **COMMITTEE REPORT** at today's Board meeting. This item was acted upon at the Committee Meeting on Monday, January 4, 2010, at 10:00 a.m., by the votes indicated.

**Item No. 17            File No. 091015**

Ordinance amending the San Francisco Campaign and Governmental Conduct Code by adding sections 3.600, 3.605, 3.610 and 3.615, to require City elective officers to reimburse the City for the cost of dignitary security provided by the City during travel for campaign-related activities or meetings and to require the Police Department to report to the Board of Supervisors regarding the cost of security.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote:            Chiu:            Aye  
                  Mirkarimi:    Aye  
                  Alioto-Pier:   Excused

cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Rick Caldeira, Deputy Director  
Cheryl Adams, Deputy City Attorney

FILE NO. 091015

ORDINANCE NO.

1 [Reimbursement to City for dignitary security provided during campaign-related travel by  
2 elected officials.]

3 **Ordinance amending the San Francisco Campaign and Governmental Conduct Code by**  
4 **adding sections 3.600, 3.605, 3.610 and 3.615, to require City elective officers to**  
5 **reimburse the City for the cost of dignitary security provided by the City during travel**  
6 **for campaign-related activities or meetings and to require the Police Department to**  
7 **report to the Board of Supervisors regarding the cost of security.**

8 NOTE: Additions are *single-underline italics Times New Roman*;  
9 deletions are *strike-through italics Times New Roman*.  
10 Board amendment additions are double-underlined;  
11 Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby  
13 amended by adding a new Chapter 6 to Article III, including Sections 3.600, 3.605, 3.610 and  
14 3.615, to read as follows:

15 CHAPTER 6: REIMBURSEMENT TO THE CITY FOR  
16 CAMPAIGN-RELATED TRAVEL BY ELECTED OFFICIALS.

17  
18 SEC. 3.600. REIMBURSEMENT TO CITY.

19 (a) Calculation of Average Hourly Cost of Security for Travel Outside California.  
20 Annually, Biannually, on or before June 30 and December 31 of each year, each City  
21 department providing security to City elective officers shall consult the Controller to determine  
22 the average cost per hour for security for travel outside California provided to each City  
23 elective officers who receive security. The average cost per hour shall include the base  
24  
25

1 salary, benefits, overtime pay, per diem payments, transportation, meals and all other  
2 expenses for security personnel traveling with the elective officer.

3 (a)(b) Reporting and Reimbursement. Whenever the City and County of San Francisco  
4 provides personal security to a City elective officer traveling outside the City California, and the  
5 officer engages in any campaign-related activity or meeting during the travel, the officer and the City  
6 department expending funds to provide security to the officer shall take all the steps prescribed in  
7 this Subsection (b).

8 (1) Within 45 45 days after the travel, the City elective officer shall deliver to the City  
9 department expending funds to provide security a schedule including Ethics Commission a  
10 summary of the total amount of time the officer was outside the City California and all of the  
11 officer's activities and meetings during the period when the officer was outside the City California,  
12 excluding purely personal activities or meetings that are not reasonably related to a political,  
13 governmental or legislative purpose. The summary schedule shall indicate the amount of time the  
14 officer spent on each activity or meeting and whether each activity or meeting was campaign-related,  
15 but the summary schedule need not include additional details about the activity or meeting if such  
16 details would undermine the security of the City elective officer.

17 (2) The City department expending funds to provide security shall, within 15 days after  
18 receiving the schedule described in subsection (a)(1), provide the officer a statement of the  
19 funds expended by the City for security in association with the travel. The statement shall  
20 consist of the total cost of base salary, benefits, overtime pay, per diem payments,  
21 transportation, meals and all other expenses for security personnel travelling with the elective  
22 officer. The statement shall include an itemized accounting of costs unless the City  
23 department providing the statement determines that disclosure of an itemized accounting  
24 would undermine the security of the City elective officer.

1           ~~(3)(2)~~ Within 15 days after receiving a statement from the City described in subsection  
2 ~~(a)(2)~~, Within 45 days after filing the summary described in subsection (b)(1), the City elective  
3 officer shall reimburse the City for the total cost of security provided in connection with campaign-  
4 related activities and meetings, or arrange for such reimbursement by a third party. At the time of  
5 reimbursement, the City elective office shall also disclose to the Ethics Commission the  
6 amount of the reimbursement, the person making the reimbursement, the dates of travel, and  
7 any other information required by the Ethics Commission by regulation in furtherance of this  
8 Chapter.

9           ~~(4)~~ Within 15 days after receiving a statement from the City described in subsection  
10 ~~(a)(2)~~, the City elective officer shall file with the Ethics Commission a copy of the schedule  
11 described in Subsection ~~(a)(1)~~; the statement described in Subsection ~~(a)(2)~~; and a report  
12 documenting the amount of the reimbursement described in Subsection ~~(a)(2)~~, the person  
13 making the reimbursement, the date of the travel, and any other information required by the  
14 Ethics Commission by regulation in furtherance of this Chapter.

15           (c) De minimis exception. No City elective officer shall be required to take the steps  
16 prescribed in Subsection (b) if the total cost of security for campaign-related activities and  
17 meetings during the travel is \$500 or less.

18           ~~(b)(d)~~ Definitions. For the purpose of this Section, the following words and phrases shall  
19 mean:

20           (1) "Campaign-related activity or meeting" shall mean any activity or meeting with the purpose  
21 of advocating or raising funds for the City elective officer's election or defeat of a candidate for  
22 City, to any State or Federal elective office, or raising funds for such a candidate.

23           (2) "The cost of security provided in connection with campaign-related activities and meetings"  
24 shall mean the product of (i) the total amount expended by the City for security for the time the officer  
25 was out of the City California, reported travel using the average cost per hour for security

1 determined under subsection (a), and (ii) the percentage of time in the officer's summary  
2 schedule devoted to campaign-related activities or meetings. To determine the percentage of time in  
3 the officer's summary schedule devoted to campaign-related activities, the officer shall take the total  
4 amount of time spent on campaign-related activities and meetings, including the time spent in transit to  
5 and from such activities and meetings, and divide that figure by the total amount of time spent on all  
6 activities and meetings in the officer's schedule, including the time spent in transit to and from the  
7 activities and meetings.

### 9 **SEC. 3.605. REPORT TO BOARD OF SUPERVISORS**

10 Within 30 days of a request of the Board of Supervisors or any committee thereof, the  
11 San Francisco Police Department shall report regarding the general cost of security provided  
12 in the preceding 12 months by the Police Department to City officials and visiting dignitaries,  
13 to the extent the Police Department can do so consistent with its obligations to preserve the  
14 security of its personnel, the officials and dignitaries for whom the City provides security  
15 services, and the City's public facilities.

### 17 **SEC. 3.610 3.605. FORMS AND REGULATIONS.**

18 The Ethics Commission shall specify the form and content of all forms and statements required  
19 to be filed under this Chapter. The Ethics Commission also may adopt regulations to implement this  
20 Chapter under Charter Section 15.102.

### 22 **SEC. 3.615 3.610. ENFORCEMENT AND PENALTIES.**

23 (a) Criminal penalties. Any person who willfully violates Section 3.600(b) 6.100(a)(1), (a)(3)  
24 or (a)(4) of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be


1 punished by a fine of not more than \$1,000 for each violation or by imprisonment in the County jail for  
2 a period of not more than six months or by both such fine and imprisonment.

3 (b) Civil penalties. Any person who willfully or negligently violates Section 3.600(b)  
4 6.100(a)(1), (a)(3) or (a)(4) of this Chapter shall be liable in a civil action brought by the City  
5 Attorney for an amount up to \$1,000 for each violation.

6 (c) Administrative penalties. Any person who willfully or negligently violates Section 3.600(b)  
7 6.100(a)(1), (a)(3) or (a)(4) of this Chapter shall be liable in an administrative proceeding before the  
8 Ethics Commission held pursuant to the Charter, and shall be subject to the administrative orders and  
9 penalties authorized therein. In addition to the administrative orders and penalties set forth in the  
10 Charter, the person shall be liable for the cost of the Ethics Commission's investigation. The Ethics  
11 Commission also may issue warning letters to City elective officers.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:

  
16 ANDREW SHEN  
17 Deputy City Attorney

## LEGISLATIVE DIGEST

[Reimbursement to City for dignitary security provided during campaign-related travel by elected officials.]

**Ordinance amending the San Francisco Campaign and Governmental Conduct Code by adding sections 3.600, 3.605, 3.610 and 3.615, to require City elective officers to reimburse the City for the cost of dignitary security provided by the City during travel for campaign-related activities or meetings and to require the Police Department to report to the Board of Supervisors regarding the cost of security.**

### Existing Law

Under existing State and City laws, the City and County of San Francisco may not expend City resources for political activities. These laws prohibit City employees and officers from using City resources, including work time, to support or oppose ballot measures or the election or defeat of candidates for federal, state or local office. These laws do not prohibit the City from using public funds to pay for regularly assigned, City-funded drivers and security officers to protect the safety of City officers who are on 24-hour duty, even when those officers are engaged in political activities.

Existing law does not require City officers who receive dignitary security to reimburse the City for the cost of that security.

### Amendments to Current Law

The legislation would require City elective officers to reimburse the City for the cost of dignitary security provided by the City during travel outside California when the officers participate in campaign activities supporting their own candidacy for state or federal office. The legislation would impose four requirements related to reimbursement:

1. The legislation would require each City department providing security to City elective officers to consult twice each year with the Controller to determine the average cost per hour for security for travel outside California provided to City elective officers who receive security. The average cost per hour would include base salary, benefits, overtime pay, per diem payments, transportation, meals and all other expenses for security personnel traveling with the elective officer.
2. Whenever an elective officer receives security services while traveling outside the State and engages in campaign activity for his or her own candidacy for state or federal office, the legislation would require the officer to report to the Ethics Commission all the officer's activities and meetings during the travel, excluding purely personal activities and meetings. The legislation would require the report to state the amount of time the

officer spent on each activity or meeting and whether each activity or meeting was campaign-related.

3. Within 45 days after submitting the report, the officer would be required to reimburse the City for the portion of the bill associated with the officer's campaign activities. The officer would calculate the amount of the reimbursement by determining the portion of the officer's schedule spent on campaign activities, and paying that portion of the City's bill. Instead of paying the bill to the City, the officer could also arrange for a third party to make the payment.
4. The legislation also would require the officer to file with the Ethics Commission a report documenting the amount of the reimbursement, the name of the person paying the reimbursement, the date of the travel, and any other information required by the Ethics Commission.

A City elective officer would not be required to file any reports or pay any reimbursement to the City if the total cost of City-provided security for campaign-related activities and meetings during the travel is \$500 or less.

The legislation would authorize the Ethics Commission to adopt regulations and forms. Violations of the ordinance would carry potential criminal, civil and administrative penalties for elective officers who violate these requirements.

The legislation also would require the Police Department to report to the Board of Supervisors upon request regarding the cost of security provided to City officials and visiting dignitaries.

#### Background Information

On December 3, 2009, the Rules Committee made three changes to the legislation. First, the Committee amended the legislation to require reimbursement based on an average per-hour cost determined annually, rather than an actual per-hour cost determined for each trip. Second, the Committee amended the legislation to add a de minimis exception for security costing the City \$500 or less. Third, the Committee changed the deadlines for filing an initial report and for paying the reimbursement from 15 days to 45 days.

On December 15, 2009, the Rules Committee made four additional changes. First, as initially introduced, the legislation would have applied to campaign-related activities supporting or opposing *any* candidate for City, state or federal office. In this amended version, the reimbursement requirement applies only to campaign-related activities supporting an officer's own election to state or federal office. Second, this amended version requires reimbursement only for travel outside the State, instead of travel outside the City. Third, this amended version requires the average per-hour cost to be calculated twice a year instead of annually. Fourth, this amended version requires the Police Department to report to the Board of Supervisors regarding the cost of security provided to City officials and visiting dignitaries.



On January 4, 2010, the Public Safety Committee approved two further amendments to section 3.600(a) of the proposed ordinance. The first amendment clarifies that the calculation of the average hourly cost of security should only reflect the security costs associated with travel outside California and should not include the security costs for an elected City officer's travel within California or within the City. The second amendment also changes the calculation so that it averages the cost of security for travel outside California among all elected City officers receiving security, rather than calculating an average security cost for each individual elected City officer.