

## LEGISLATIVE DIGEST

[Campaign & Governmental Conduct Code – Improving Public Financing of Elections]

**Ordinance amending the Campaign and Governmental Conduct Code and Municipal Elections Code to adjust expenditure ceilings in the public financing program in response to the U.S. Supreme Court ruling in *Arizona Free Enterprise v. Bennett*, adjust public financing deadlines and thresholds, and advance candidate filing deadlines.**

### Existing Law

The City's public financing program makes public funds available to candidates for the Board of Supervisors and Mayor. The Ethics Commission is primarily responsible for administering the public financing program. The public financing program has the following features:

1. Qualification: To qualify for the public financing program, candidates for the Board of Supervisors must collect at least \$5,000 in campaign contributions from at least 75 City residents, and candidates for Mayor must collect at least \$25,000 from at least 250 City residents. S.F. Campaign & Gov'tal Conduct Code §§ 1.140(b)(2), 1.140(c)(2).
2. Availability of public funds: The City may begin disbursement of public funds to qualifying candidates nine months prior to the election, e.g., the February prior to a November general election. *Id.* § 1.144(b).
3. Matching public funds: After qualifying, candidates receive an initial grant of funds - \$10,000 for supervisorial candidates and \$50,000 for mayoral candidates. *Id.* §§ 1.144(c)(3)(A), 1.144(d)(3)(A). Thereafter, campaign contributions raised by candidates are matched with public funds in pre-determined ratios.

For supervisorial candidates, for the first \$10,000 that they raise in private campaign contributions, each dollar is matched with four dollars in public funds (*i.e.*, up to \$40,000 in public funds). *Id.* § 1.144(d)(3)(B). Thereafter, additional contributions received by supervisorial candidates are matched on a one-to-one basis. *Id.* § 1.144(d)(3)(C). For mayoral candidates, for the first \$100,000 that they raise in private campaign contributions, each dollar is matched with four dollars in public funds (*i.e.*, up to \$400,000 in public funds). *Id.* § 1.144(c)(3)(B). Thereafter, additional contributions received by mayoral candidates are matched on a one-to-one basis. *Id.* § 1.144(c)(3)(C).

4. Individual expenditure ceilings: Candidates who participate in the City's public financing program are subject to an adjustable spending cap, referred to as an

individual expenditure ceiling. Once they qualify, supervisorial candidates are subject to an individual expenditure ceiling of \$143,000, and mayoral candidates are subject to an individual expenditure ceiling of \$1,475,000. *Id.* §§ 1.140(b)(4), 1.140(c)(4). As the election progresses, individual expenditure ceilings for publicly financed candidates increase based on the amount of funds spent by competing candidates and third-parties who oppose their candidacies. *Id.* § 1.143.

5. Penalties for violations: In addition to other penalties for violating campaign finance laws, existing law provides that if a candidate is found by a court to have exceeded the applicable individual expenditure ceiling by ten percent or more prior to the election, the candidate would no longer be eligible for election. *Id.* § 1.170(i)(2). It also provides that if those circumstances exist, the candidate may not run for local elective office for five years following the court's determination. *Id.* Section 1.170 also states that the Ethics Commission may recommend to the Board of Supervisors that any such candidate should be removed from office. *Id.*

Existing law also imposes filing deadlines on candidates seeking election to the Board of Supervisors and the office of the Mayor. Candidates for either office must generally file their nomination papers with the Department of Elections no earlier than the 113th day before the election (early or mid-July for a November general election) and no later than the 88th day before the election (early August for a November general election). S.F. Mun. Elec. Code § 200; Cal. Elec. Code § 10220.

#### Amendments to Current Law

The proposal would make the following changes to the City's public financing program for supervisorial and mayoral candidates:

1. Qualification: To qualify for the public financing program, candidates for the Board of Supervisors would be required to collect at least \$10,000 in campaign contributions from at least 100 City residents, and candidates for Mayor would be required to collect at least \$50,000 from at least 500 City residents. The proposal would also impose higher qualification thresholds for incumbents. Incumbent members of the Board of Supervisors would be required to collect at least \$15,000 from at least 150 City residents, and the Mayor would be required to collect at least \$75,000 from at least 750 City residents.
2. Availability of public funds: The City could disburse public funds to qualifying candidates no earlier than the 142nd day prior to the election. For a November general election, the 142nd day would fall in approximately early to mid-June.
3. Matching public funds: After qualifying, candidates would receive an initial grant of funds - \$20,000 for supervisorial candidates and \$100,000 for mayoral candidates.

FILE NO.

Thereafter, campaign contributions raised by candidates would be matched with public funds in pre-determined ratios.

For supervisorial candidates, for the first \$50,000 that they raise in private campaign contributions, each dollar would be matched with two dollars in public funds (*i.e.*, up to \$100,000 in public funds). Thereafter, additional contributions received by supervisorial candidates would be matched on a one-to-one basis. For mayoral candidates, for the first \$425,000 that they raise in private campaign contributions, each dollar would be matched with two dollars in public funds (*i.e.*, up to \$950,000 in public funds). Thereafter, additional contributions received by mayoral candidates would be matched on a one-to-one basis.

4. Expenditure ceilings: Candidates who participate in the City's public financing program would be subject to an upper limit on the amount of public funds that they could spend, irrespective of spending by competing candidates or third-parties. Supervisorial candidates could spend up to \$250,000 (including \$155,000 in public funds), and mayoral candidates could spend up to \$1,975,000 (including \$1,225,000 in public funds).

5. Penalties for violations: Under the proposal, if a candidate for the Board of Supervisors exceeded the expenditure ceilings, the Ethics Commission could recommend to the Board of Supervisors and the Mayor that the candidate be removed from office, following the official misconduct procedures set forth by Charter section 15.105(a).

Candidates for local elective offices, including the Board of Supervisors and Mayor, would be required to file their nomination documents by no later than the 146th day before the election. The new nomination deadline would not be operative until January 1, 2013.

#### Background Information

One purpose of this proposal is to respond to the United States Supreme Court's ruling in *Arizona Free Enterprise v. Bennett*, 131 S.Ct. 2806 (2011), a decision that found that Arizona's public financing program violated the Constitution by providing additional public funds to participating candidates in response to spending by non-participating candidates and third-parties.

