

File No. 110335

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 5/19/11

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget 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 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 |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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Completed by: Linda Wong

Date 5/16/11

Completed by: _____

Date _____

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

[Government Ethics Ordinance - Gift Restrictions.]

Ordinance amending Campaign and Governmental Conduct Code section 3.216 to: (1) prohibit loans from restricted sources and subordinates; and (2) modify the reporting requirements for elected officials receiving gifts of travel.

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

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

Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby amended by amending Section 3.216, to read as follows:

SEC. 3.216. GIFTS.

(a) Prohibition on Bribery. No person shall offer or make, and no officer or employee shall accept, any gift with the intent that the City officer or employee will be influenced thereby in the performance of any official act.

(b) General gift restrictions. In addition to the gift limits and reporting requirements imposed by the Political Reform Act and this Code ~~California Government Code section 89503, section 3.1-101 of the Campaign and Governmental Conduct Code~~ and any subsequent amendments ~~to those sections~~ thereto, no officer or employee of the City and County shall solicit or accept any gift or loan from a person who the officer or employee knows or has reason to know is a restricted source, except loans received from commercial lending institutions in the ordinary course of business.

(1) Restricted Source. For purposes of this section, a restricted source means: (A) a person doing business with or seeking to do business with the department of the officer or

1 employee; or (B) ~~any~~ a person who during the prior 12 months knowingly attempted to
2 influence the officer or employee in any legislative or administrative action.

3 (2) Gift. For purposes of this subsection, the term gift has the same meaning as under
4 the Political Reform Act, California Government Code section 81000 et. seq., and the
5 regulations adopted thereunder, including any subsequent amendments. Gifts exempted from
6 the limits imposed by California Government Code section 89503 and section 3.1-101 of the
7 Campaign and Governmental Conduct Code shall also be exempted from the prohibition set
8 forth in this subsection.

9 (3) Regulations. The Ethics Commission shall issue regulations implementing this
10 section, including regulations exempting voluntary gifts that are nominal in value such as gifts
11 that are given by vendors to clients or customers in the normal course of business.

12 (c) Gifts from Subordinates. No officer or employee shall solicit or accept any ~~gratuity in~~
13 ~~money or other valuable thing~~ gift or loan, either directly or indirectly, from any subordinate or
14 employee under his or her supervision or from any candidate or applicant for a position as a
15 subordinate or employee ~~or subordinate~~ under his or her supervision. ~~him or her.~~ The Ethics
16 Commission shall issue regulations implementing this Section, including regulations
17 exempting voluntary gifts that are given or received for special occasions or under other
18 circumstances in which gifts are traditionally given or exchanged.

19 (d) Gifts of Travel.

20 (1) Gifts to Elected Officers. In addition to the gift limits and reporting requirements
21 imposed by the Political Reform Act and this Code, no elected officer may accept a gift of
22 transportation, lodging, or subsistence for any out-of-state trip paid for in part by an individual
23 or entity other than the City and County of San Francisco, another governmental body, or a
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1 bona fide educational institution, defined in Section 203 of the Revenue and Taxation Code,
2 unless the officer has first disclosed on a form filed with the Ethics Commission:

3 (A) the name of the individual or entity and the total amount that will be paid by the
4 individual or entity to fund the trip, including but not limited to the amount directly related to the
5 cost of the elected officer's transportation, lodging, and subsistence;

6 (B) the name, occupation and employer of any contributor who has contributed more
7 than \$500 to the individual or entity funding the trip and whose contributions were used in
8 whole or in part to fund the trip;

9 (C) a description of the purpose of the trip and the itinerary; and

10 (D) the name of any individual accompanying the official on the trip who is:

11 (i) a City employee required to file a Statement of Economic Interests,

12 (ii) a lobbyist or campaign consultant registered with the Ethics Commission,

13 (iii) an employee of or individual who has any ownership interest in a lobbyist or
14 campaign consultant registered with the Ethics Commission, or

15 (iv) the individual funding the trip, or an employee or officer of the entity funding the trip.
16 that will pay for the gift of transportation, lodging, or subsistence.

17 ~~(2) Gifts to the City. In addition to any other reporting requirements imposed by the Political~~
18 ~~Reform Act or local law, an elected officer shall file a form with the Ethics Commission disclosing the~~
19 ~~information required under subsections (d)(1)(A) - (D) of this Section before accepting a gift of~~
20 ~~transportation, lodging, or subsistence for any out of state trip paid for by the City in whole or in part~~
21 ~~with funds donated from an entity other than another governmental body or a bona fide educational~~
22 ~~institution, as defined in Section 203 of the Revenue and Taxation Code.~~

23 (32) Reimbursement of Gifts of Travel. In addition to any other reporting requirements
24 imposed by the Political Reform Act or local law, an elected officer who reimburses an
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1 individual or entity for a gift of transportation, lodging or subsistence related to out-of-state
2 travel ~~in order to~~ and thereby avoids having received or accepted the gift shall file a form with
3 the Ethics Commission within 30 days of such reimbursement disclosing:

4 (A) the name of the individual or entity that originally paid for the transportation, lodging
5 or subsistence;

6 (B) the amount paid by the individual or entity for the elected officer's transportation,
7 lodging or subsistence;

8 (C) the amount reimbursed by the elected officer to the individual or entity and the
9 process used to determine ~~the fair market value of~~ that amount; and

10 (D) a description of the purpose of the trip and the itinerary.

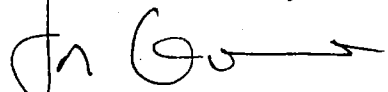
11 (43) Format. The Ethics Commission shall provide forms for the disclosure required by
12 this subsection and shall make the completed forms available on its website.

13 (54) Definition. For the purpose of this subsection, the term "elected officer" means the
14 Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Public Defender,
15 Treasurer, Assessor and Sheriff.

16 (e) Additional Restrictions. Nothing in this Section shall prohibit a City department,
17 agency, board or commission from imposing additional gift restrictions on its officers or
18 employees.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By:



23 JON GIVNER
24 Deputy City Attorney
25

LEGISLATIVE DIGEST

[Government Ethics Ordinance - Gift Restrictions.]

Ordinance amending Campaign and Governmental Conduct Code section 3.216 to: (1) prohibit loans from restricted sources and subordinates; and (2) modify the reporting requirements for elected officials receiving gifts of travel.

Existing Law

Under current law, no employee or officer may accept gifts from restricted sources, with some exceptions for gifts of nominal value. A restricted source is a person who has lobbied the officer or employee in the previous 12 months, or who contracts with or is seeking to contract with the officer or employee's department.

Separately, City elective officers must file public disclosures with the Ethics Commission whenever they receive a gift of free or discounted travel from any entity – whether the payment is (a) received directly by the officer as a gift, (b) received by the City as a gift and subsequently distributed to the officer, or (c) received by the officer and subsequently reimbursed by the officer.

Amendments to Current Law

This legislation would extend the restricted source rule to prohibit employees and officers from receiving *loans* from restricted sources.

The legislation would also extend the travel reporting requirement to situations where the City elective officer receives a gift of travel from an *individual* rather than an entity.

The legislation would also modify the language of the City's gift rules to correspond more closely with applicable State laws. Under recently adopted State regulations, when the City receives a gift of free or discounted travel, the City cannot distribute that gift to an elected officer for the officer's personal use. Because of that change in State law, the proposed legislation would delete references to travel payments received by the City as gifts and subsequently distributed to elected officers.

Background Information

The proposal amends Article III, Chapter 2 of the Campaign & Governmental Conduct Code (the "Government Ethics Ordinance" or "GEO"). The GEO, which was originally approved by the voters, expressly authorizes amendment by the Board of Supervisors only if:

FILE NO.

- 1) the amendment furthers the purposes of the GEO;
- 2) the amendment is approved by the members of the Ethics Commission by a four-fifths vote;
- 3) the legislation is made available for public review for at least 30 days before consideration by any committee of the Board of Supervisors ; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

See S.F. Campaign and Governmental Conduct Code § 3.204.

At its March 8, 2010 meeting, the Ethics Commission adopted all the provisions of the proposed legislation by at least a four-fifths vote.

Fw: File No. 110335
John St.Croix
to:
Angela Calvillo
04/12/2011 12:54 PM
Cc:
Linda Wong, Mabel Ng
Show Details

Angela -

The Ethics Commission has received the Rules Committee's referral regarding File 110335, an ordinance amending San Francisco Campaign and Governmental Conduct Code section 3.216 to bar loans from restricted sources and subordinates and to modify the reporting requirements for elected officials receiving gifts of travel. At its meeting on March 8, 2010, the Ethics Commission, by a 5-0 vote, approved proposed legislation that is now File 110335.

I'd be pleased to work with Rules and the Board in enacting this legislation.

jsc

John St. Croix
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San Francisco, CA 94102-6053