

LEGISLATIVE DIGEST

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

Motion ordering submitted to the voters an Ordinance amending the Campaign and Governmental Conduct Code to prohibit City elected officials from establishing candidate-controlled general purpose committees, at an election to be held on November 8, 2016.

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.

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