

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Campaign Finance Amendments]

Ordinance amending the Campaign and Governmental Conduct Code to 1) require candidates to attest, under penalty of perjury, to the lack of any coordination with other committees; 2) require that the Voter Information Pamphlet note which candidates have agreed to voluntary spending limits; 3) clarify supplemental reporting for the public financing program; 4) require written disclaimers to appear in 14-point font; 5) require that disclaimers be included at the beginning of audio and video advertisements; 6) require that disclaimers include the top four donors to committees, if the donors have contributed \$20,000 or more; and 7) prior to each municipal election, require the Ethics Commission to distribute a pamphlet to San Francisco voters regarding third-party spending.

Existing Law

1. Independent Expenditures

Consistent with state law, the City's Campaign Finance Reform Ordinance ("CFRO"), Article I, Chapter 1 of the Campaign and Governmental Conduct Code, specifies that if an expenditure is made at the behest of a candidate, the expenditure constitutes a contribution to the candidate it benefits. CFRO § 1.115. Local law does not require candidates to make any explicit representations or statements regarding this potential "coordination" with committees making expenditures on their behalf.

2. Voluntary Expenditure Ceilings

Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District ("School Board") or the Governing Board of the San Francisco Community College District ("City College Board") may accept voluntary spending limits, also known as "voluntary expenditure ceilings." CFRO § 1.128(a). The voluntary spending limit for candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, and Treasurer is \$243,000. CFRO § 1.130(a). The voluntary spending limit for candidates for the School Board and City College Board is \$104,000. CFRO § 1.130(b). The Ethics Commission may "lift" these voluntary expenditures ceilings in specified circumstances. See CFRO § 1.134.

Candidates for the Board of Supervisors and Mayor cannot currently accept these voluntary spending limits. But these candidates are eligible to participate in the City's separate public financing program.

3. Disclaimers for Election-Related Communications (e.g., “Paid for by ...”)

State and local law currently requires persons distributing certain election-related communications to include basic information about their funding. Existing law:

- a. requires 12-point type for all disclaimers on mass mailers and smaller print advertisements;
- b. requires independent expenditure and ballot measure committees to report their two top funders who have contributed at least \$20,000; and
- c. allows disclaimers required for audio and video advertisements to be included at either the beginning or the end of those advertisements.

CFRO §§ 1.161, 1.162; 2 C.C.R. § 18450.4(b)(3).

4. Public Information Regarding Third-Party Spending

Existing law does not require the Ethics Commission to distribute any pamphlets or publications regarding third-party spending in local elections. But the Ethics Commission does provide extensive information regarding third-party spending for each election on its website.

Amendments to Current Law

1. Independent Expenditures

The proposed ordinance would require candidates to file statements with the Ethics Commission attesting, under penalty of perjury, that their candidate committees have not failed to report any expenditure made by another committee that would constitute a contribution to their candidate committees. In other words, candidates would be required to attest that they have not engaged in any “coordination” with committees making independent expenditures.

2. Voluntary Expenditure Ceilings

The proposed ordinance would require the Director of Elections to include a notation in the Voter Information Pamphlet for each candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, School Board, and City College Board indicating whether the candidate has accepted the applicable voluntary expenditure ceiling. The proposal would also require the Director of Elections, in consultation with the Executive Director of the Ethics Commission, to also include a notation in the Voter Information Pamphlet explaining that candidates for the Board of Supervisors and Mayor are not eligible to accept voluntary expenditure ceilings.

3. Disclaimers for Election-Related Communications (e.g., “Paid for by ...”)

The proposed would amend CFRO Sections 1.161 and 1.162 to require:

- a. 14-point type for disclaimers on mass mailers and smaller print advertisements;
- b. independent expenditure and ballot measure committees to report their four top funders who have contributed at least \$20,000; and
- c. disclaimers to be included at the beginning of audio and video advertisements.

4. Public Information Regarding Third-Party Spending

The proposed ordinance would require the Director of Elections to include in the Voter Information Pamphlet a reference to the Ethics Commission webpages regarding third-party spending. The proposal would also require the Ethics Commission, prior to each municipal election, to mail to each registered San Francisco voter a pamphlet regarding the independent expenditures made in support of or opposition to candidates or ballot measures appearing on the ballot.

Background Information

Under Campaign and Governmental Conduct Code section 1.103, the Board of Supervisors may amend the campaign finance provisions of the Code if:

- (a) The amendment furthers the purposes of this Chapter;
- (b) The Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- (c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and
- (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

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