

## LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code – Increasing the Individual Expenditure Ceiling, capping the amount of public matching funds in mayoral races, and increasing the maximum amount of public funding in supervisorial races.]

**Ordinance amending sections 1.140, 1.143, 1.144 of the Campaign and Governmental Conduct Code, to increase the amount of the Individual Expenditure Ceiling, cap the amount of public matching funds in mayoral races, and increase the maximum amount of public funding in supervisorial races.**

### Existing Law

Section 1.140(b) and (c) provides that two of the conditions for a supervisorial candidate to receive public matching funds are that his or her candidate committee has received \$5,000 in qualifying contributions and be opposed by another candidate who has received or spent \$5,000. An additional condition in Section 1.140(b) is that the participating candidate agrees to an Individual Expenditure Ceiling of \$143,000. Section 1.143 provides for the adjustment of the Individual Expenditure Ceiling. Section 1.144 sets forth the amounts of public matching funds paid to mayoral and supervisorial candidates. Subsections 1.144(c)(1) and (d)(1) set a base public matching amount of \$900,000 for each eligible mayoral candidate and \$89,000 for each eligible supervisorial candidate. Subsections 1.144(c)(2)(D) and (d)(2)(D) allow for additional public matching funding if the Ethics Commission raises the Individual Expenditure Ceiling.

### Amendment to Current Law

The proposed amendment to Section 1.140 would increase the qualifying amounts from \$5,000 to \$7,500. The proposed amendment would also increase the Individual Expenditure Ceiling for supervisorial candidates to \$245,000. The proposed amendment to section 1.144 caps the amount of public funding for mayoral candidates at \$900,000 per candidate and caps the public funding for supervisorial candidates at an increased amount of \$150,000 per candidate. The amendment eliminates any additional public matching funds if the Individual Expenditure Ceiling is raised. Subsections of the section 1.144 related to additional public funding beyond the \$900,000 and \$150,000 are deleted.

### Background Information

The proposal amends the Campaign & Governmental Conduct Code (the "Campaign Finance Reform Ordinance" or "CFRO"). The Campaign Finance Reform Ordinance, which was originally approved by the voters, expressly authorizes amendment by the Board of Supervisors only if:

- 1) the amendment furthers the purposes of the CFRO;

- 2) the amendment is submitted to the Ethics Commission and recommended by its members by a four-fifths vote;
- 3) the legislation is made available for public review for 30 days; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

See S.F. Campaign and Governmental Conduct Code Sec. 1.103.

1 [Campaign and Governmental Conduct Code – Increasing the individual expenditure ceiling  
2 capping the amount of public matching funds in mayoral races, and increasing the maximum  
3 amount of public funding in supervisorial races.]

4 **Ordinance amending sections 1.140, 1.143, 1.144 of the Campaign and Governmental**  
5 **Conduct Code, to increase the amount of the individual expenditure ceiling, cap the**  
6 **amount of public matching funds in mayoral races, and increase the maximum amount**  
7 **of public funding in supervisorial races.**

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

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

13 Section 1. The San Francisco Campaign & Governmental Conduct Code is hereby  
14 amended by amending Sections 1.140, 1.143, and 1.144 to read as follows:

15 **SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.**

16 (a) REQUIREMENTS FOR ALL CANDIDATES. To be eligible to receive public  
17 financing of campaign expenses under this Chapter, a candidate must:

18 (1) Have filed a statement indicating that he or she intends to participate in  
19 the public financing program under Section 1.142 of this Chapter.

20 (2) Agree to the following conditions:

21 (A) The candidate bears the burden of providing that each contribution  
22 the candidate relies upon to establish eligibility is a qualifying contribution;

23 (B) The candidate bears the burden of proving that expenditures made  
24 with public funds provided under this Chapter comply with Section 1.148 of this  
25 Chapter;

1 (C) The candidate will not make any payments to a contractor or  
2 vendor in return for the contractor or vendor making a campaign contribution to  
3 the candidate or make more than a total of 50 payments, other than the return of  
4 a contribution, to contractors or vendor that have made contributions to the  
5 candidate;

6 (D) Notwithstanding Sections 1.114 and 1.116, the candidate shall not  
7 loan or donate, in total, more than \$5,000 of his or her own money to the  
8 campaign;

9 (E) The candidate shall not accept any loans to his or her campaign  
10 with the exception of a candidate's loan to his or her own campaign as permitted  
11 by this Section; and

12 (F) The candidate shall agree to participate in at least three debates  
13 with the candidate's opponents.

14 (3) Have paid any outstanding late fines or penalties, owed to the City by the  
15 candidate or any of the candidate's previous campaign committees, which were  
16 imposed for violations of this Code or the campaign finance provisions of the California  
17 Political Reform Act (Government Code Sections 84100-85704), provided that the  
18 Ethics Commission had notified the candidate of such fines or penalties by the time of  
19 certification.

20 (4) Have filed any outstanding forms, owed to the City by the candidate or any  
21 of the candidate's previous campaign committees, which were required to be filed  
22 pursuant to this Code or the campaign finance provisions of the Political Reform Act  
23 (Government Code Sections 84100-85704), provided that the Ethics Commission had  
24 notified the candidate of such outstanding forms by the time of certification.  
25

1           (5) Have no finding by a court or by the Ethics Commission after a hearing on  
2 the merits, within the prior five years, that the candidate knowingly, willfully, or  
3 intentionally violated any Section of this Code or the campaign finance provisions of  
4 this California Political Reform Act (Government Code Sections 84100-85704). For  
5 purposes of this Section, a plea of nolo contendere constitutes a finding by a court of a  
6 willful violation.

7           (b) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR THE BOARD OF  
8 SUPERVISORS. To be eligible to receive public financing of campaign expenses under this  
9 Chapter, a candidate for the Board of Supervisors must:

10           (1) Be seeking election to the Board of Supervisors and be eligible to hold the  
11 office sought;

12           (2) Have a candidate committee that has received at least ~~\$5,000~~ \$7,500 in  
13 qualifying contributions from at least 75 contributors before the 70th day before the  
14 election;

15           (3) Be opposed by another candidate who has either established eligibility to  
16 receive public financing, or whose candidate committee has received contributions or  
17 made expenditures which in the aggregate equal or exceed ~~\$5,000~~ \$7,500; and

18           (4) Agree that his or her candidate committee will not make qualified  
19 campaign expenditures that total more than the candidate's Individual Expenditure  
20 Ceiling of ~~\$143,000~~ \$245,000, or as adjusted under Section 1.143 of this Chapter.

21           (c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be  
22 eligible to receive public financing of campaign expenses under this Chapter, a candidate for  
23 Mayor must:

1           (1) Be seeking election to the office of Mayor and be eligible to hold the office  
2 sought;

3           (2) Have a candidate committee that has received at least \$25,000 in  
4 qualifying contributions from at least 250 contributors by the 70th day before the  
5 election.

6           (3) Be opposed by another candidate who has either established eligibility to  
7 receive public financing, or whose candidate committee has received contributions or  
8 made expenditures that in the aggregate equal or exceed \$50,000; and

9           (4) Agree that his or her candidate committee will not make qualified  
10 campaign expenditures that total more than the candidate's Individual Expenditure  
11 Ceiling of \$1,475,000, or as adjusted under Section 1.143 of this Chapter.

12  
13 (d) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS. The Ethics  
14 Commission is authorized to adjust:

15           (1) The figures in Subsections (b)(4) and (c)(4) to reflect changes in the  
16 California Consumer Price Index, provided that such adjustments shall be rounded off  
17 to the nearest \$1,000 for candidates for the Board of Supervisors and the nearest  
18 \$5,000 for candidates for Mayor;

19           (2) The figure in Subsection (a)(2)(D) of this Section to reflect changes in the  
20 California Consumer Price Index, provided that such adjustments shall be rounded off  
21 to the nearest \$1,000;

22           (3) The figures in Subsections (b)(2) and (b)(3) of this Section to reflect  
23 changes in the California Consumer Price Index, provided that such adjustments shall  
24 be rounded off to the nearest \$500;

1 (4) The figures in Subsections (c)(2) and (c)(3) of this Section to reflect  
2 changes in the California Consumer Price Index, provided that such adjustments shall  
3 be rounded off to the nearest \$5,000; and

4 (5) The maximum amount of a contribution that constitutes a qualifying  
5 contribution pursuant to Section 1.104 to reflect changes in the California Consumer  
6 Price Index, provided that such adjustments shall be rounded off to the nearest \$10.

7 **SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.**

8  
9 This Section shall apply only if the Ethics Commission has certified that at least one  
10 candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this  
11 Chapter.

12 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a  
13 candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against  
14 that candidate and the highest level of the Total Supportive Funds of any other candidate for  
15 Mayor if such amount is greater than \$1,475,000, provided that the Executive Director may  
16 adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

17 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a  
18 candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition  
19 Spending against that candidate and the highest level of the Total Supportive Funds of any  
20 other candidate for the same office on the Board of Supervisors if such amount is greater than  
21 ~~\$143,000~~ \$245,000, provided the Executive Director may adjust a candidate's Individual  
22 Expenditure Ceiling only in increments of \$10,000.

1 (c) No later than the second business day after a statement is filed pursuant to  
2 Section 1.152 (a)(3) or (b)(3) of this Chapter, the Executive Director shall determine whether  
3 the communication supports or opposes one or more candidates.

4  
5 Factors the Executive Director shall use to determine whether the communication  
6 supports or opposes one or more candidates include the following:

- 7
- 8 (1) whether the communication clearly identifies one or more candidates;
  - 9 (2) the timing of the communication;
  - 10 (3) the voters targeted by the communication;
  - 11 (4) whether the communication identifies any candidate's position on a public  
12 policy issue and urges the reader or viewer to take action, including calling the  
13 candidate to support or oppose the candidate's position;
  - 14 (5) whether the position of one or more candidates on a public policy issue  
15 has been raised as distinguishing these candidates from others in the campaign, either  
16 in the communication itself or in other public communications;
  - 17 (6) whether the communication is part of an ongoing series of substantially  
18 similar advocacy communications by the organization on the same issue; and
  - 19 (7) any other factors the Executive Director deems relevant

20 (d) Within one business day of the date that the Executive Director makes a  
21 determination under Subsection (c), either the candidate(s) identified in the communication or  
22 any candidate seeking the same City elective office as the candidate identified in the  
23 communication may object to the Executive Director's determination. The Executive Director  
24 shall respond to any objection within one business day of receiving the objection.



1 (e) Within one business day of the Executive Director's response, either the  
2 candidate(s) identified in the communication or any candidate seeking the same City elective  
3 office as the candidate identified in the communication may submit to the Executive Director a  
4 request that the Ethics Commission review the Executive Director's determination. Within one  
5 business day of receiving the request, the Executive Director shall notify each Commissioner  
6 of the candidate's request.

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8 If within one business day of the Executive Director's notice, two or more members of  
9 the Commission inform the Executive Director that they would like to review the determination,  
10 the Executive Director shall schedule a meeting of the Commission on a date that occurs  
11 within one week of the Commissioners' requests. If three members of the Commission vote to  
12 overrule the Executive Director's determination, the Commission shall make a final  
13 determination based on the factors set forth above.

14 (f) If no candidate objects to the Executive Director's determination, if no candidate  
15 requests review by the Commission of the Executive Director's determination, if a request is  
16 made and two or more members of the Commission do not request to review the  
17 determination, or within one week of two members of the Commission requesting to review  
18 the Executive Director's determination, at least three members of the Commission do not vote  
19 to overrule the Executive Director's determination, the Executive Director's determination shall  
20 become final.

21  
22 The Executive Director shall determine whether to adjust the Individual Expenditure  
23 Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to either  
24 Subsection (a) or (b) of this Section within one business day of a final determination.

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1     **SEC. 1.144. DISBURSEMENT OF PUBLIC FUNDS.**

2           (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate is eligible to  
3 receive public financing under this Chapter, the Executive Director shall forward the  
4 certification to the Controller, and the Controller shall disburse payments to the candidate from  
5 the Election Campaign Fund in accordance with the certification and this Section.

6           (b) TIME OF PAYMENTS. The Controller shall not make any payments under this  
7 Chapter to any candidate more than nine months before the date of the election. Payments  
8 from the Controller shall be disbursed to eligible candidates within two business days of the  
9 Controller receiving notification from the Ethics Commission regarding the amount of the  
10 disbursement, except that within fifteen calendar days before the election, such payments  
11 shall be made within one business day.

12           (c) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.

13                 (1) *Until the Per Candidate Available Disbursement Limit has been determined,*  
14 *e*Candidates for Mayor whom the Ethics Commission has certified as eligible to receive  
15 public financing for their election campaigns will have access to up to *a maximum per*  
16 *candidate of* \$900,000 in funds from the Election Campaign Fund on a first come, first  
17 served basis according to the formula set forth in Subsection (c)(~~32~~) of this Section.

18                 ~~(2) Once the Per Candidate Available Disbursement Limit has been determined,~~  
19 ~~candidates for Mayor whom the Ethics Commission has certified as eligible to receive public~~  
20 ~~financing for their election campaigns shall have access to funds from the Election Campaign~~  
21 ~~Fund as follows:~~

22                         ~~(A) If the Executive Director determines that the Per Candidate Available~~  
23 ~~Disbursement Limit is greater than \$900,000, each participating candidate shall have~~

1 *access to the amount of the Per Candidate Available Disbursement Limit, subject to the*  
2 *limitations set forth under Subsection (c)(3)(D) and (c)(3)(E) of this Section.*

3 *(B) If the Executive Director determines the Per Candidate Available*  
4 *Disbursement Limit is less than or equal to \$900,000, participating candidates shall*  
5 *have access to funds from the Election Campaign Fund on a first come, first served*  
6 *basis up to a maximum per candidate of \$900,000.*

7 ~~(32)~~ A candidate for Mayor who is certified as eligible to receive public financing  
8 under this Chapter shall receive payments for eligible matching contributions according  
9 to the following formula:

10 (A) Upon qualification the candidate shall receive a one-time payment of  
11 \$50,000 from the Election Campaign Fund.

12 (B) After the initial payment under Subsection (c)~~(32)~~(A), for the first  
13 \$100,000 in matching contributions raised by the candidate, the candidate shall  
14 receive four dollars from the Election Campaign Fund for each dollar raised.

15 (C) After the payments under Subsection (c)~~(32)~~(B), for the next  
16 \$450,000 in matching contributions raised by the candidate, the candidate shall  
17 receive one dollar from the Election Campaign Fund for each dollar raised.

18 (D) The maximum amount of public funds a mayoral candidate may  
19 receive is \$900,000., *unless the candidate's Individual Expenditure Ceiling is adjusted*  
20 *according to the rules set forth under Section 1.143.*

21 *(E) If the Per Candidate Available Disbursement Limit has been determined to*  
22 *be an amount greater than \$900,000, a candidate who has already received at least*  
23 *\$900,000 in disbursements from the City shall continue to be eligible to receive public*  
24 *funds from the City at the rate of one dollar for each dollar of a matching contribution*  
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1                    *raised up to the Per Candidate Available Disbursement Limit, provided that no funds*  
2                    *shall be disbursed if disbursement of the funds would result in the candidate exceeding*  
3                    *his or her Trust Account Limit.*

4                    (d) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR THE BOARD  
5 OF SUPERVISORS.

6                    (1) *Until the Per Candidate Available Disbursement Limit has been determined,*  
7 eCandidates for the Board of Supervisors whom the Ethics Commission has certified as  
8 eligible to receive public financing for their election campaigns will have access to up to  
9 a maximum per candidate of \$89,000 \$150,000 in funds from the Election Campaign Fund  
10 on a first come, first served basis according to the formula set forth in Subsection  
11 (d)(~~3~~2) of this Section.

12                    ~~(2) Once the Per Candidate Available Disbursement Limit has been determined,~~  
13 ~~candidates for the Board of Supervisors whom the Ethics Commission has certified as eligible~~  
14 ~~to receive public financing for their election campaigns shall have access to funds from the~~  
15 ~~Election Campaign Fund as follows:~~

16                    ~~(A) If the Executive Director determines that the Per Candidate Available~~  
17 ~~Disbursement Limit is greater than \$89,000, each participating candidate shall have~~  
18 ~~access to the amount of the Per Candidate Available Disbursement Limit, subject to the~~  
19 ~~limitations set forth under Subsection (d)(3)(D) and (d)(3)(E) of this Section.~~

20                    ~~(B) If the Executive Director determines the Per Candidate Available~~  
21 ~~Disbursement Limit is less than or equal to \$89,000, participating candidates shall have~~  
22 ~~access to funds from the Election Campaign Fund on a first come, first served basis up~~  
23 ~~to a maximum per candidate of \$89,000.~~

1           ~~(32)~~ A candidate for the Board of Supervisors who is certified as eligible to  
2 receive public financing under this Chapter shall receive payments for eligible matching  
3 contributions according to the following formula:

4           (A) Upon qualification the candidate shall receive a one-time payment of  
5 ~~\$10,000~~ \$20,000 from the Election Campaign Fund.

6           (B) After the initial payment under Subsection ~~(d)(32)~~(A), for the first  
7 ~~\$10,000~~ \$15,000 in matching contributions raised by the candidate, the candidate  
8 shall receive four dollars from the Election Campaign Fund for each dollar  
9 raised.

10          (C) After the payments under Subsection ~~(d)(32)~~(B), for the next ~~\$39,000~~  
11 \$70,000 in matching contributions raised by the candidate, the candidate shall  
12 receive one dollar from the Election Campaign Fund for each dollar raised.

13          (D) The maximum amount of public funds a candidate for the Board of  
14 Supervisors may receive is ~~\$89,000-\$150,000.~~ *, unless the candidate's Individual*  
15 *Expenditure Ceiling is adjusted according to the rules set forth under Section 1.143.*

16          ~~(E) If the Per Candidate Available Disbursement Limit has been determined to~~  
17 ~~be an amount greater than \$89,000, a candidate who has already received at least~~  
18 ~~\$89,000 in disbursements from the City shall continue to be eligible to receive public~~  
19 ~~funds from the City at the rate of one dollar for each dollar of a matching contribution~~  
20 ~~raised up to the Per Candidate Disbursement Limit, provided that no funds shall be~~  
21 ~~disbursed if disbursement of the funds would result in the candidate exceeding his or her~~  
22 ~~Trust Account Limit.~~

23          ~~(e) PER CANDIDATE AVAILABLE DISBURSEMENT LIMIT. On the 59th day before the~~  
24 ~~election, the Executive Director shall divide the total amount of non-administrative funds in the~~  
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1 ~~Election Campaign Fund by the number of qualified candidates. This number shall be deemed the Per~~  
2 ~~Candidate Available Disbursement Limit. For the purposes of this section, the total amount of non-~~  
3 ~~administrative funds in the Election Campaign Fund shall be the total amount of funds that existed in~~  
4 ~~the Fund nine months before the date of election plus any funds deposited into the Fund between that~~  
5 ~~date and the 59th day before the election minus any funds necessary to cover the administrative costs~~  
6 ~~associated with implementing the public financing program for the next election.~~  
7 ~~If there are candidates who have submitted a Declaration of Qualification but whose eligibility has not~~  
8 ~~been determined as of the 59th day before the election, the Executive Director shall assume that they~~  
9 ~~are qualified for the purposes of determining the Per Candidate Available Disbursement Limit. The Per~~  
10 ~~Candidate Available Disbursement Limit shall be revised upward according to the formula above if~~  
11 ~~and when it is determined that the candidate or candidates in question did not qualify to receive public~~  
12 ~~financing.~~  
13 ~~Immediately upon calculating the Per Candidate Available Disbursement Limit, the Executive Director~~  
14 ~~shall inform the Controller of the initial determination of the Per Candidate Available Disbursement~~  
15 ~~Limit. Thereafter, the Executive Director shall immediately inform the Controller of any subsequent~~  
16 ~~changes in the Per Candidate Available Disbursement Limit due to a determination that a candidate~~  
17 ~~has not qualified to receive public financing.~~

18 (fe) SUBMISSION OF CLAIMS FOR PUBLIC FUNDS. The Ethics Commission shall  
19 determine the information needed to submit a claim for payment of public funds. The  
20 Executive Director shall certify each request for payment of public funds within four business  
21 days of the request, except that within 14 calendar days before the election, when the  
22 certification of a request for public funds shall be made within two business days of the  
23 request. No candidate may submit a claim for public funds if the candidate has any such  
24 claims pending with the Ethics Commission. For candidates for Mayor, any submission of a  
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1 claim for public funds must include a minimum of \$5,000 of matching contributions; provided  
2 that in the 14 calendar days preceding an election, a claim must include a minimum of \$1,000  
3 of matching contributions. For candidates for the Board of Supervisors, any submission of a  
4 claim for public funds must include a minimum of \$1,000 of matching contributions; provided  
5 that in the 14 calendar days preceding an election, a claim must include a minimum of \$200 of  
6 matching contributions. All claims for public funds must be submitted no later than 5:00 p.m.  
7 on the 30th day following the date of the election.

8 (~~g~~) DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT. A candidate must  
9 deposit all payments received from the Election Campaign Fund in his or her candidate  
10 committee's Campaign Contribution Trust Account.

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12 APPROVED AS TO FORM:  
13 BARBARA J. PARKER, Oakland City Attorney  
Acting as Special City Attorney, City and County of San Francisco

14 By: \_\_\_\_\_  
15 MARK MORODOMI  
Deputy City Attorney

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