

1 [Initiative Ordinance - Campaign and Governmental Conduct Code - Expenditure Lobbyists]

2  
3 **Motion ordering submitted to the voters an ordinance amending the Campaign and**  
4 **Governmental Conduct Code to require expenditure lobbyists to register with the**  
5 **Ethics Commission and file monthly disclosures regarding their activities, at an**  
6 **election to be held on November 3, 2015.**

7  
8 MOVED, That pursuant to Charter section 15.102, the Ethics Commission hereby  
9 submits the following ordinance to the voters of the City and County of San Francisco, at an  
10 election to be held on November 3, 2015.

11  
12 **Ordinance amending the Campaign and Governmental Conduct Code to require**  
13 **expenditure lobbyists to register with the Ethics Commission and file monthly**  
14 **disclosures regarding their activities.**

15 NOTE: **Unchanged Code text and uncodified text** are in plain font.  
16 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
17 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
18 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or  
19 parts of tables.

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

21 Section 1. Findings.

22 (a) The City and County of San Francisco ("City") has a long-standing, compelling  
23 interest in furthering public disclosure of the identity of lobbyists and of their efforts to  
24 influence decision-making regarding local legislative and administrative matters. The City has  
25

1 required this disclosure to protect public confidence in the responsiveness and representative  
2 nature of government officials and institutions.

3 (b) For many years, the City has required lobbyists who directly contact City officials,  
4 referred to here as “contact lobbyists,” to register with the Ethics Commission and disclose  
5 their lobbying activities. But in addition to contact lobbyists, individuals, businesses, non-profit  
6 organizations, labor unions, and trade associations attempt to indirectly influence City officials  
7 by urging others to directly lobby those officials. These indirect lobbyists, referred to in this  
8 measure as “expenditure lobbyists,” make payments in an attempt to encourage others to  
9 directly lobby City officials by urging them to attend legislative hearings to speak on their  
10 behalf, by providing them with transportation to public meetings, by using advertising outlets  
11 to ask others to call or contact City officials’ offices to make their arguments, or by making  
12 donations in exchange for their direct lobbying efforts. Given these efforts, it is often difficult  
13 for City officials to know whether the individuals directly approaching them are truly voicing  
14 their own opinions or are doing so at the behest of expenditure lobbyists.

15 (c) For these reasons, and consistent with the City’s past efforts to further the goals of  
16 open government and transparency in decision-making, the voters enact this ordinance to  
17 impose registration and disclosure requirements on expenditure lobbyists. This approach is  
18 not unique to San Francisco. Several other California jurisdictions, including Los Angeles,  
19 Sacramento, San Diego, San Jose, and the State of California, have enacted similar  
20 expenditure lobbyist regulations.

21 (d) This ordinance imposes reasonable, narrowly tailored registration and disclosure  
22 requirements on expenditure lobbyists, obligating them to reveal information about their efforts  
23 to influence decision-making. Since expenditure lobbyists and direct, contact lobbyists both  
24 attempt to influence the City’s legislative process, this ordinance imposes the same sorts of  
25 registration and disclosure requirements on both types of lobbyists.

1  
2 Section 2. Article II, Chapter 1 of the Campaign and Governmental Conduct Code is  
3 hereby amended by adding Section 2.103 and revising Sections 2.105, 2.106, 2.110, 2.115,  
4 2.116, and 2.130, to read as follows:

5 **SEC. 2.103. AMENDMENT OR REPEAL.**

6 With respect to any provisions of this Chapter regarding regulation of expenditure lobbyists  
7 approved by the voters, the Board of Supervisors may amend those provisions if all of the following  
8 conditions are met:

9 (a) The amendment furthers the purposes of this Chapter;

10 (b) The Ethics Commission approves the proposed amendment in advance by at least a four-  
11 fifths vote of all its members;

12 (c) The proposed amendment is available for public review at least 30 days before the  
13 amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors;  
14 and

15 (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of  
16 all its members.

17  
18 **SEC. 2.105. DEFINITIONS.**

19 Whenever used in this Chapter 1, the following words and phrases shall ~~have the~~  
20 ~~definitions~~ be defined as provided in this Section 2.105:

21 "Activity expenses" means any expense incurred or payment made by a lobbyist or a  
22 lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's client at  
23 the behest of the lobbyist, which benefits in whole or in part any: officer of the City and  
24 County; candidate for City and County office; aide to a member of the Board of Supervisors;  
25 or member of the immediate family or the registered domestic partner of an officer, candidate,

1 or aide to a member of the Board of Supervisors. An expense or payment is not an "activity  
2 expense" unless it is incurred or made within three months of a contact with the officer,  
3 candidate, or Supervisor's aide who benefits from the expense or payment, or whose  
4 immediate family member or registered domestic partner benefits from the expense or  
5 payment. "Activity expenses" include honoraria, consulting fees, salaries, and any other thing  
6 of value totaling more than \$25 in value in a consecutive three-month period, but do not  
7 include political contributions.

8 "Candidate" shall have the same meaning as set forth in Section 1.104 of this Code.

9 "Client" means the person for whom lobbyist services are performed by a lobbyist.

10 "Contact lobbyist" means any individual who (1) makes five or more contacts in a calendar  
11 month with officers of the City and County on behalf of the individual's employer; or (2) makes one or  
12 more contacts in a calendar month with an officer of the City and County on behalf of any person who  
13 pays or who becomes obligated to pay the individual or the individual's employer for lobbyist services.  
14 An individual is not a contact lobbyist if that individual is lobbying on behalf of a business of which the  
15 individual owns a 20% or greater share.

16 "Economic consideration" means any payments, fees, reimbursement for expenses,  
17 gifts, or anything else of value, provided that "economic consideration" does not include  
18 salary, wages or benefits furnished by a federal, state or local government agency.

19 "Employee" means any person who receives, reasonably expects to receive, or whose  
20 employer is obligated to provide, an Internal Revenue Service Form W-2 wage and tax  
21 statement.

22 "Employer" means any person who provides an Internal Revenue Service Form W-2  
23 wage and tax statement to an employee who performs lobbyist services on behalf of that  
24 person.

25

1           "Expenditure lobbyist" means any person, other than any government entity, or officer or  
2 employee of a government entity acting in an official capacity, who, directly or indirectly, makes  
3 payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other persons to  
4 communicate directly with an officer of the City and County in order to influence local legislative or  
5 administrative action. Examples of the types of activities the payment for which can count toward the  
6 \$2,500 threshold referred to in the previous sentence include but are not limited to public relations,  
7 media relations, advertising, public outreach, research, investigation, reports, analyses, and studies to  
8 the extent those activities are used to further efforts to solicit, request or urge other persons to  
9 communicate directly with an officer of the City and County. The following types of payments shall not  
10 be considered for the purpose of determining whether a person is an expenditure lobbyist: payments  
11 made to a registered contact lobbyist or the registered contact lobbyist's employer for lobbyist  
12 services; payments made to an organization for membership dues; payments made by an organization  
13 to distribute communications to its members; payments made by a news media organization to develop  
14 and distribute its publications; and payments made by a client to a representative to appear in an  
15 adjudicatory proceeding before a City agency or department.

16           "Gift" shall be defined as set forth in the Political Reform Act, Government Code  
17 Section 81000 et seq., and the regulations adopted thereunder.

18           "Lobbyist" means a contact lobbyist or expenditure lobbyist. ~~any individual who (1) makes~~  
19 ~~five or more contacts in a calendar month with officers of the City and County on behalf of the~~  
20 ~~individual's employer; or (2) makes one or more contacts in a calendar month with an officer of the~~  
21 ~~City and County on behalf of any person who pays or who becomes obligated to pay the individual or~~  
22 ~~the individual's employer for lobbyist services. An individual is not a lobbyist if that individual is~~  
23 ~~lobbying on behalf of a business of which the individual owns a 20% or greater share.~~

1 "Lobbyist services" means services rendered for the purpose of influencing local  
2 legislative or administrative action, including but not limited to contacts with officers of the City  
3 and County of San Francisco.

4 "Local legislative or administrative action" includes, but is not limited to, the drafting,  
5 introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial  
6 by any officer of the City and County of any resolution, motion, appeal, application, petition,  
7 nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or  
8 contract.

9 "Measure" shall have the same meaning as set forth in Section 1.104 of this Code.

10 "Officer of the City and County" means any officer identified in Section 3.203 of this  
11 Code, as well as any official body composed of such officers. In addition, for purposes of this  
12 Chapter, "officer of the City and County" includes (1) members of the Board of Education,  
13 Community College Board, First Five Commission, Law Library Board of Trustees, Local  
14 Agency Formation Commission, Health Authority Board, Housing Authority Commission,  
15 Parking Authority, Relocation Appeals Board, Successor Agency to the former  
16 Redevelopment Agency of the City and County of San Francisco, Oversight Board of the  
17 Successor Agency, Successor Agency Commission, Transportation Authority, Workforce  
18 Investment San Francisco Board as well as any official body composed of such officers, and  
19 any person appointed as the chief executive officer under any such board or commission; (2)  
20 the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau  
21 Chief of the Department of Public Works' Bureau of Street Use and Mapping.

22 "Person" means an individual, partnership, corporation, association, firm, labor union or  
23 other organization or entity, however organized.

24 "Public hearing" means any open, noticed proceeding.

25 **SEC. 2.106. LOBBYING CONTACTS.**

1 (a) Whenever used in this Chapter 1, "contact" means any communication, oral or  
2 written, including communication made through an agent, associate or employee, for the  
3 purpose of influencing local legislative or administrative action, except as provided in  
4 Subsections (b) and (c).

5 (b) The following activities are not "contacts" within the meaning of this Chapter 1.

6 (1) A representative of a news media organization gathering news and  
7 information or disseminating the same to the public, even if the organization, in the ordinary  
8 course of business, publishes news items, editorials or other commentary, or paid  
9 advertisements, that urge action upon local legislative or administrative matters;

10 (2) A person providing oral or written testimony that becomes part of the record  
11 of a public hearing; provided, however, that if the person making the appearance or providing  
12 testimony has already qualified as a contact lobbyist under this Chapter and is appearing or  
13 testifying on behalf of a client, the contact lobbyist's testimony shall identify the client on whose  
14 behalf the contact lobbyist is appearing or testifying;

15 (3) A person performing a duty or service that can be performed only by an  
16 architect or a professional engineer licensed to practice in the State of California;

17 (4) A person making a speech or producing any publication or other material  
18 that is distributed and made available to the public, through radio, television, cable television,  
19 or other medium of mass communication;

20 (5) A person providing written information in response to an oral or written  
21 request made by an officer of the City and County, provided that the written information is a  
22 public record available for public review;

23 (6) A person providing oral or written information pursuant to a subpoena, or  
24 otherwise compelled by law or regulation;

25

1 (7) A person submitting a written petition for local legislative or administrative  
2 action, provided that the petition is a public record available for public review;

3 (8) A person making an oral or written request for a meeting, or any other  
4 similar administrative request, if the request does not include an attempt to influence local  
5 legislative or administrative action;

6 (9) A person appearing before an officer of the City and County pursuant to any  
7 procedure established by law or regulation for levying an assessment against real property for  
8 the construction or maintenance of an improvement;

9 (10) A person providing purely technical data, analysis, or expertise in the  
10 presence of a *registered contact* lobbyist;

11 (11) A person distributing to any officer of the City and County any regularly  
12 published newsletter or other periodical which is not primarily directed at influencing local  
13 legislative or administrative action;

14 (12) A person disseminating information or material on behalf of an organization  
15 or entity to all or a significant segment of the organization's or entity's employees or members;

16 (13) A person appearing as a party or a representative of a party in an  
17 administrative adjudicatory proceeding before a City agency or department;

18 (14) A person communicating, on behalf of a labor union representing City  
19 employees, regarding the establishment, amendment, or interpretation of a collective  
20 bargaining agreement or memorandum of understanding with the City, or communicating  
21 about a management decision regarding the working conditions of employees represented by  
22 a collective bargaining agreement or a memorandum of understanding with the City;

23 (15) A party or prospective party to a contract providing oral or written  
24 information in response to a request for proposals, request for qualifications, or other similar  
25 request, provided that the information is directed to the department or official specifically



1 designated in the request to receive such information; negotiating the terms of the contract  
2 with the City after being selected to enter into the contract; or communicating in connection  
3 with the administration of an existing contract between the party and the City. For the  
4 purposes of this *Subsection (b)(15)*:

5 (A) A "party or prospective party" includes that party's officers or  
6 employees; a subcontractor listed in the contract, bid, or proposal; or that subcontractor's  
7 officers or employees. A "party or prospective party" does not include any other agent or  
8 associate, including any outside consultant or independent contractor.

9 (B) Communication "in connection with the administration of an existing  
10 contract" includes, but is not limited to, communication regarding: insurance and bonding;  
11 contract performance and/or default; requests for in-scope change orders; legislative  
12 mandates imposed on contractors by the City and County; payments and invoicing; personnel  
13 changes; prevailing wage verification; liquidated damages and other penalties for breach of  
14 contract; audits; assignments; and subcontracting. Communication "in connection with the  
15 administration of an existing contract" does not include communication regarding new  
16 contracts, or out-of-scope change orders.

17 (16) An officer or employee of a nonprofit organization or an organization  
18 fiscally sponsored by such a nonprofit organization communicating on behalf of their  
19 organization. For purposes of this subsection only, "nonprofit organization" means either an  
20 organization with tax exempt status under 26 United States Code Section 501(c)(3), or an  
21 organization with tax exempt status under 26 United States Code Section 501(c)(4) whose  
22 most recent federal tax filing included an IRS Form 990-N or an IRS Form 990-EZ, or an  
23 organization whose next federal tax filing is reasonably likely to include an IRS Form 990-N or  
24 an IRS Form 990-EZ.

1 (c) The following activities are not "contacts" for the purpose of determining whether a  
2 person qualifies as a contact lobbyist, but are "contacts" for purpose of disclosures required by  
3 this Chapter I:

4 (1) A person providing oral information to an officer of the City and County in  
5 response to an oral or written request made by that officer;

6 (2) A person making an oral or written request for the status of an action; and

7 (3) A person participating in a public interested persons meeting, workshop, or  
8 other forum convened by a City agency or department for the purpose of soliciting public  
9 input.

10 **SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF**  
11 **REGISTRATION.**

12 (a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the  
13 Ethics Commission and comply with the disclosure requirements imposed by this Chapter I.  
14 Such registration shall occur no later than five business days of qualifying as a lobbyist, ~~but~~  
15 ~~the~~ Contact lobbyists shall register prior to making any additional contacts with an officer of the  
16 City and County of San Francisco and expenditure lobbyists shall register prior to making any  
17 additional payments to influence local legislative or administrative action.

18 (b) **REGISTRATION.**

19 (1) Contact lobbyists. At the time of initial registration each contact lobbyist shall  
20 report to the Ethics Commission the following information:

21 (~~A~~) The name, business address, e-mail address, and business  
22 telephone number of the lobbyist;

23 (~~B~~) The name, business address, and business telephone number of  
24 each client for whom the lobbyist is performing lobbyist services;

25

1                   (3C) The name, business address, and business telephone number of  
2 the lobbyist's employer, firm or business affiliation; and

3                   (4D) Any other information required by the Ethics Commission through  
4 regulation, consistent with the purposes and provisions of this Chapter.

5                   (2) Expenditure lobbyists. At the time of initial registration each expenditure lobbyist  
6 shall report to the Ethics Commission the following information:

7                   (A) The name, mailing address, e-mail address, and telephone number of the  
8 lobbyist;

9                   (B) Expenditure lobbyists that are entities shall provide:

10                   (i) a description of their nature and purpose(s);

11                   (ii) if the expenditure lobbyist is a corporation, the names of the  
12 corporation's chief executive officer, chief financial officer, and secretary, any officer who authorized  
13 payments to influence local legislative and administrative action, and any person who owns more than  
14 20 percent of the corporation;

15                   (iii) if the expenditure lobbyist is a partnership, the name of each partner  
16 if the entity has fewer than 10, or the name of the partner with the greatest ownership interest if the  
17 entity has 10 or more partners;

18                   (iv) for any other type of business entity, the name of each person with  
19 an ownership interest if the entity has fewer than 10 owners, or the name of the person with the greatest  
20 ownership interest in the entity, if the entity has 10 or more owners;

21                   (C) Expenditure lobbyists that are individuals shall provide a description of  
22 their business activities; and

23                   (D) Any other information required by the Ethics Commission through  
24 regulation, consistent with the purposes and provisions of this Chapter.

25

1 (c) **LOBBYIST DISCLOSURES.** For each calendar month, each lobbyist shall submit  
2 the following information no later than the fifteenth calendar day following the end of the  
3 month:

4 (1) Contact lobbyists. Each contact lobbyist shall report to the Ethics Commission the  
5 following information:

6 (~~1~~A) The name, business address and business telephone number of  
7 each person from whom the lobbyist or the lobbyist's employer received or expected to  
8 receive economic consideration to influence local legislative or administrative action during  
9 the reporting period;

10 (~~2~~B) The name of each officer of the City and County of San Francisco  
11 with whom the lobbyist made a contact during the reporting period;

12 (~~3~~C) The date on which each contact was made;

13 (~~4~~D) The local legislative or administrative action that the lobbyist sought  
14 to influence, including, if any, the title and file number of any resolution, motion, appeal,  
15 application, petition, nomination, ordinance, amendment, approval, referral, permit, license,  
16 entitlement, or contract, and the outcome sought by the client;

17 (~~5~~E) The client on whose behalf each contact was made;

18 (~~6~~F) The amount of economic consideration received or expected by the  
19 lobbyist or the lobbyist's employer from each client during the reporting period;

20 (~~7~~G) All activity expenses incurred by the lobbyist during the reporting  
21 period, including the following information:

22 (~~A~~i) The date and amount of each activity expense;

23 (~~B~~ii) The full name and official position, if any, of the beneficiary of  
24 each activity expense, a description of the benefit, and the amount of the benefit;

25

1                                    (Eiii) The full name of the payee of each activity expense if other  
2 than the beneficiary;

3                                    (Div) Whenever a lobbyist is required to report a salary of an  
4 individual pursuant to this Subsection (c)(1), the lobbyist need only disclose whether the total  
5 salary payments made to the individual during the reporting period was less than or equal to  
6 \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or  
7 equal to \$10,000, or greater than \$10,000.

8                                    (8H) All political campaign contributions of \$100 or more made or  
9 delivered by the lobbyist or the lobbyist's employer, or made by a client at the behest of the  
10 lobbyist or the lobbyist's employer during the reporting period to an officer of the City and  
11 County, a candidate for such office, a committee controlled by such officer or candidate, or a  
12 committee primarily formed to support or oppose such officer or candidate, or any committee  
13 primarily formed to support or oppose a ballot measure to be voted on only in San Francisco.  
14 This report shall include such political campaign contributions arranged by the lobbyist, or for  
15 which the lobbyist acted as an agent or intermediary.

16                                    The following information regarding each political campaign contribution  
17 shall be submitted to the Ethics Commission:

18                                    ( Ai) The amount of the contribution;

19                                    ( Bii) The name of the contributor;

20                                    ( Ciii) The date on which the contribution was made;

21                                    ( Div) The contributor's occupation;

22                                    ( Ev) The contributor's employer, or if self-employed, the name of  
23 the contributor's business; and

24                                    ( Fvi) The committee to which the contribution was made.  
25

1                   (~~J~~) For each contact at which a person providing purely technical data,  
2 analysis, or expertise was present, as described in Section 2.106(b)(10), the name, address,  
3 employer and area of expertise of the person providing the data, analysis or expertise.

4                   (~~L~~) Any amendments to the lobbyist's registration information required  
5 by Subsection (b).

6                   (~~K~~) Any other information required by the Ethics Commission through  
7 regulation, consistent with the purposes and provisions of this Chapter.

8                   (2) Expenditure lobbyists. Each expenditure lobbyist shall report to the Ethics  
9 Commission the following information:

10                   (A) The local legislative or administrative action that the lobbyist sought to  
11 influence, including, if any, the title and file number of any resolution, motion, appeal, application,  
12 petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or  
13 contract.

14                   (B) The total amount of payments made during the reporting period to influence  
15 local legislative or administrative action.

16                   (C) Each payment of \$1,000 or more made during the reporting period,  
17 including the date of payment, the name and address of each person receiving the payment, a  
18 description of the payment, and a description of the consideration for which the payment was made.

19                   (D) All campaign contributions of \$100 or more made or delivered by the  
20 lobbyist or made at the behest of the lobbyist during the reporting period to an officer of the City and  
21 County, a candidate for such office, a committee controlled by such officer or candidate, or a  
22 committee primarily formed to support or oppose such officer or candidate, or any committee primarily  
23 formed to support or oppose a measure to be voted on only in San Francisco. This report shall include  
24 such campaign contributions arranged by the lobbyist, or for which the lobbyist acted as an agent or  
25 intermediary.

1                                    The following information regarding each campaign contribution shall be  
2 submitted to the Ethics Commission:

3                                    (i) The amount of the contribution;

4                                    (ii) The name of the contributor;

5                                    (iii) The date on which the contribution was made;

6                                    (iv) The contributor's occupation;

7                                    (v) The contributor's employer, or if self-employed, the name of the  
8 contributor's business; and

9                                    (vi) The committee to which the contribution was made.

10                                   (E) Any amendments to the lobbyist's registration information required by  
11 Subsection (b).

12                                   (F) Any other information required by the Ethics Commission through  
13 regulation, consistent with the purposes and provisions of this Chapter 1.

14                                   **(d) REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS.** The  
15 Ethics Commission is authorized to establish procedures to permit the registration and filing of  
16 contact lobbyist disclosures by a business, firm, or organization on behalf of the individual  
17 contact lobbyists employed by those businesses, firms, or organizations.

18                                   **(e) FEES; TERMINATION OF REGISTRATION.**

19                                   (1) At the time of registration each lobbyist shall pay a fee of \$500. On or  
20 before every subsequent February 1, each registered lobbyist shall pay an additional fee of  
21 \$500.

22                                   (2) Failure to pay the annual fee by February 1 shall constitute a termination of  
23 a lobbyist's registration with the Ethics Commission. The Ethics Commission is also  
24 authorized to establish additional processes for the termination of a lobbyist's registration.  
25

1 (3) The Ethics Commission shall waive all registration fees for any full-time  
2 employee of a tax-exempt organization presenting proof of the organization's tax-exempt  
3 status under 26 U.S.C. Section 501(c)(3) or 501(c)(4).

4 (4) The Ethics Commission shall deposit all fees collected pursuant to this  
5 Section in the General Fund of the City and County of San Francisco.

6 **SEC. 2.115. PROHIBITIONS.**

7 (a) GIFT LIMIT. No lobbyist shall make gifts to an officer of the City and County that  
8 have a fair market value of more than \$25, except for those gifts that would qualify for one of  
9 the exemptions under Section 3.216(b) of this Code and its implementing regulations.

10 (b) FUTURE EMPLOYMENT. No lobbyist shall cause or influence the introduction or  
11 initiation of any local legislative or administrative action for the purpose of thereafter being  
12 employed or retained to secure its granting, denial, confirmation, rejection, passage or defeat.

13 (c) FICTITIOUS PERSONS. No contact lobbyist shall contact any officer of the City  
14 and County in the name of any fictitious person or in the name of any real person, except with  
15 the consent of such real person.

16 (d) EVASION OF OBLIGATIONS. No lobbyist shall attempt to evade the obligations  
17 imposed by this Chapter through indirect efforts or through the use of agents, associates or  
18 employees.

19 **SEC. 2.116. LOBBYIST TRAINING.**

20 (a) Each contact lobbyist must complete a lobbyist training session offered by the  
21 Ethics Commission within one year of the lobbyist's initial registration. Thereafter, contact  
22 lobbyists shall attend additional training sessions as required by the Executive Director, at his  
23 or her discretion.

24 (b) The Ethics Commission shall make lobbyist training sessions available on its  
25 website.



1 (c) On or before the deadline for completing any required lobbyist training session,  
2 each contact lobbyist must file a signed declaration with the Ethics Commission stating, under  
3 penalty of perjury, that the lobbyist has completed the required training session.

4 **SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.**

5 It shall be unlawful knowingly to pay any contact lobbyist to contact any officer of the  
6 City and County of San Francisco, if said contact lobbyist is required to register under this  
7 Chapter and has not done so by the deadlines imposed in this Chapter.

8  
9 Section 3. Scope of Ordinance. In enacting this ordinance, the voters intend to amend  
10 only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation  
11 marks, charts, diagrams, or any other constituent parts of the Municipal Code that are  
12 explicitly shown in this ordinance as additions or deletions, in accordance with the "Note" that  
13 appears under the official title of the ordinance.

14  
15 Section 4. Appropriation. There is hereby appropriated \$560,000 from the General  
16 Reserve to fund administrative and enforcement costs required to implement this ordinance.  
17 Any portion of this appropriation that remains unspent at the end of Fiscal Year 2015-16 shall  
18 be carried forward and spent in subsequent years for the same purpose. Additionally, it shall  
19 be City policy in all fiscal years following depletion of this original appropriation that the Board  
20 of Supervisors shall annually appropriate \$15,000 for this purpose.

21  
22 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word  
23 of this ordinance, or any application thereof to any person or circumstance, is held to be  
24 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
25 shall not affect the validity of the remaining portions or applications of the ordinance. The

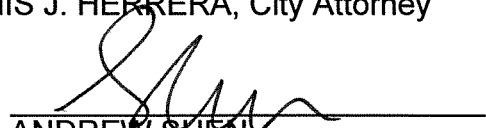
1 voters hereby declare that they would have passed this ordinance and each and every  
2 section, subsection, sentence, clause, phrase, and word not declared invalid or  
3 unconstitutional without regard to whether any other portion of this ordinance or application  
4 thereof would be subsequently declared invalid or unconstitutional.

5  
6 Section 6. Effective and Operative Dates. This ordinance shall become effective 10  
7 days after the Board of Supervisors declares the results of the November 3, 2015 election.  
8 This ordinance shall become operative on February 1, 2016.

9  
10 APPROVED AS TO FORM:

11 DENNIS J. HERRERA, City Attorney

12  
13 By:

  
14 ANDREW SHEN  
Deputy City Attorney

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## LEGISLATIVE DIGEST

[Initiative Ordinance - Campaign and Governmental Conduct Code - Expenditure Lobbyists]

**Ordinance amending the Campaign and Governmental Conduct Code to require expenditure lobbyists to register with the Ethics Commission and file monthly disclosures regarding their activities.**

### Existing Law

San Francisco does not currently regulate expenditure lobbying, i.e., making payments to urge others to directly lobby City officers.

### Amendments to Current Law

The Ethics Commission (the “Commission”) seeks to regulate the activities of expenditure lobbyists. In this proposal, an expenditure lobbyist is defined as:

any person, other than any government entity, or officer or employee of a government entity acting in an official capacity, who, directly or indirectly, makes payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other persons to communicate directly with an officer of the City and County in order to influence local legislative or administrative action.

Section 2.105. For the purpose of determining whether a person has met the \$2,500 threshold, the following types of payments would not be considered:

- payments made to a registered contact lobbyist or the registered contact lobbyist’s employer for lobbyist services;
- payments made to an organization for membership dues;
- payments made by an organization to distribute communications to its members;
- payments made by a news media organization to develop and distribute its publications; and
- payments made by a client to a representative to appear before an adjudicatory proceeding before a City agency or department.

*Id.* Otherwise, the proposal does not incorporate the exceptions that currently exist for contact lobbying. See Section 2.106. Thus, for example, there are no exceptions for the following:

- labor unions representing City employees;

- prospective City contractors bidding on a City contract, or negotiating a contract with a City agency; and
- non-profit organizations.

In general, a person who qualifies as an expenditure lobbyist is subject to the same regulatory scheme as an individual lobbyist who directly lobbies a City officer (referred to as a “contact lobbyist”). Specifically, an expenditure lobbyist would be required to register with the Ethics Commission, pay a \$500 registration fee, and file monthly disclosures regarding their lobbying activities. Section 2.110.

The measure also provides that it can be later amended by the Commission and the Board of Supervisors. Consistent with similar provisions found in the Campaign Finance Reform Ordinance and the Government Ethics Ordinance, an amendment may be made if:

- the amendment furthers the purposes of this Chapter;
- the Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- 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
- the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

Lastly, the measure would appropriate \$560,000 to the Commission for its administration and enforcement of this proposal in Fiscal Year 2015-16. Of this amount, the Commission plans to use approximately \$500,000 to expand its electronic filing system to accommodate expenditure lobbyist registration and reporting, and \$60,000 for staff time to establish and start up this new program. It also requests that the City continue to fund this program with an ongoing, annual appropriation of \$15,000.

### Background Information

The Ethics Commission may place ordinances “relating to conflicts of interest, campaign finance, lobbying, campaign consultants or governmental ethics” on the ballot by a four-fifths vote. S.F. Charter § 15.102.

Other jurisdictions that have similarly regulated expenditure lobbying, or similar activities, include Los Angeles, Sacramento, San Diego, San Jose, and the State of California. See Los Angeles Mun. Code § 48.02 (defining “major filer”); Sacramento Mun. Code § 2.15.050; San Diego Mun. Code section 27.4002; San Jose Mun. Code § 12.12.180; and Cal. Gov. Code §§ 86115-18 (provisions addressing “\$5,000 filers”).

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## Draft Voter Information Pamphlet Language

The San Francisco Ethics Commission voted unanimously to ask voters to close a loophole in the currently existing disclosure requirements for those who pay lobbyist seeking to influence City Hall decisions. Present law requires disclosure only in cases where payment is made to lobbyist who make contact directly with city officials in an attempt to influence decisions by them. This ballot measure would require that anyone who expends funds to directly or indirectly influence City Hall decisions must register and disclose the payments made. This ballot measure restores the requirement of public disclosure of spending by “expenditure lobbyists” that existed in San Francisco, until it was removed by the Board of Supervisors in 2010 and will make San Francisco’s disclosure requirements consistent with the open government standards of the State of California as well as those of Sacramento, San Jose, San Diego and Los Angeles. The measure will eliminate the double standard that keeps this indirect spending secret from the public.

This ordinance imposes reasonable, narrowly tailored registration and disclosure requirements on expenditure lobbyists. Since expenditure lobbyists and direct contact lobbyists both attempt to influence City decisions, this ordinance imposes similar registration and disclosure requirements on both types of lobbyists.

Decisions by city officials involve billions of dollars -- contracts, development permits, franchises, tax policies, housing policies, fees, land use variances and more. Individuals and entities who will benefit financially by these decisions expend enormous amounts of money to try to influence these decisions. This ballot measure requires that these individuals or entities register and disclose to the public *all* of the funds that they are expending seeking to obtain a favorable decision.

In recent years and partly as a result of U.S. Supreme Court decisions like *Citizens United*, substantial growth in this indirect lobbying is taking place. For example, individuals or entities that would benefit from City Hall decisions are making payments to fund online petition efforts, to pay for Internet lobbying, to pay to identify and induce targeted audiences to pressure city officials to make decisions in their favor... Expenditure lobbyists also pay others to speak at legislative and administrative hearings, political rallies and demonstrations, pay to transport speakers or participants, sometimes in mass, to hearings and rallies, and use paid advertising to urge others to contact elected and appointed officials. It is important that the public be made aware of the source of the funding of these indirect efforts to persuade city officials to make decisions which favor the economic interests of those making the payments. This ballot measure will assure that this information is made available for public scrutiny.

The Ethics Commission held public hearings before voting to put this measure directly on the ballot. Testimony in favor came from former Ethics Commissioners, former Civil Grand Jury members, and leaders in good government and open government. The San Francisco Civil Grand Jury formally recommended that Ethics close this loophole.

We urge your support for this ballot measure which will provide greater transparency as to the source and amounts of funding being spent by those who would gain economically from decisions being made by City Hall.