

## Proposition J Restoration Anti-corruption Act – 2.27.17

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**Editor's Note:**

*Prior to the effectiveness of Ord. 71-00, adopted 4/28/2000, a many of the sections in this Chapter were codified as Administrative Code Secs. 16.501 et seq. Refer to the historical notes after each section for a detailed analysis of the legislative history after the transfer of the material to this Code.*

**SEC. 1.100. PURPOSE AND INTENT.**

(a) Immense~~Huge~~ sums of money often are necessary to finance American election campaigns. Inherent to the high cost of election campaigning is the problem of improper influence, real or perceived~~potential~~, exercised by campaign contributors over elected officials.

In addition, this fundraising distracts public officials seeking reelection from focusing upon important public matters, encourages contributions which may have a corrupting influence, gives incumbents an unfair fundraising advantage over potential challengers, and provides contributors with greater access to public officials than other members of the public. These developments undermine the integrity of the governmental process and the competitiveness of campaigns. The amount of money raised by many candidates and committees supporting or opposing candidates also erodes public confidence in local officials by creating the appearance that elected officials may be unduly influenced by contributors who support their campaigns or oppose their opponents' campaigns.

The people of the City and County of San Francisco find that the use or disposition of public assets is often tainted by the appearance or reality of conflicts of interest or other ethical problems for public officials entrusted with their management and control. Such assets, including publicly controlled real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials. The people find that public decisions to sell or lease property, to confer cable, trashing hauling, and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with expectation or subsequent receipt of benefits from those with financial interests in the public decisions. The people further find that the sources of such potentially corruptive influence include not only anticipated campaign contributions but gifts and honoraria, future employment offers, and other things of value for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective buyers, lessees and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.

(b) It is the purpose and intent of the People of the City and County of San Francisco in enacting this Chapter to:

(1) Place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections and to provide full and fair enforcement of all the provisions in this Chapter;

(2) Ensure that all individuals and interest groups in our city have a fair opportunity to participate in elective and governmental processes;

(3) Create an incentive to limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes beyond the amount necessary to communicate reasonably with voters;

(4) Reduce the advantage of incumbents and thus encourage competition for elective office;

(5) Allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents' community;

(6) Ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns;

(7) Within constitutional parameters, limit contributions to candidates and committees, including committees that make independent expenditures, to eliminate or reduce the appearance or reality that large contributors may exert undue influence over elected officials;

(8) Assist voters in making informed electoral decisions and ensure compliance with campaign contribution limits through the required filing of campaign statements detailing the sources of campaign contributions and how those contributions have been expended;

(9) Make it easier for the public, the media and those enforcing election campaign finance law ~~this Ordinance~~ election officials to efficiently review and compare campaign statements by requiring committees that meet certain financial thresholds to file copies of their campaign statements on designated electronic media;

(10) Help restore public trust in governmental and electoral institutions; and

(11) Within constitutional parameters, help ensure the integrity of the election process by prohibiting campaign advertisements that contain false endorsements of current and former public officials, candidates, political clubs, and organizations, as: sSuch false endorsements undermine the integrity of the electoral process by misleading and confusing voters about the actual support for or opposition to candidates or ballot measures, and it can beis too burdensome for individual voters, inundated with campaign messages, to verify the accuracy of such claims, and for persons whose positions arecorrections to misrepresented positions can occur too late to curbeorrect the election influence of the misrepresentations close in time to the election; and

(12) Reduce the corruptive influence of emoluments, gifts, promised employment, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises and the disposition of public funds by prohibiting such payments and things to officials and their personal interests by any potential or actual substantial beneficiary of such public decisions for a reasonable period.

(c) This Chapter is enacted in accordance with the terms of Sections 5 and 7 of Article XI of the Constitution of the State of California and Section 1.101 of the Charter of the City and County of San Francisco.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09, File. No. 090989, App. 11/20/2009)

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## **SEC. 1.104. DEFINITIONS.**

Whenever in this Chapter the following words or phrases are used, they shall mean:

"Advertisement" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 *et seq.* and its enabling regulations, provided that the advertisement supports or opposes one or more City measures or candidates for City elective office.

"Candidate" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, *et seq.*, but shall include only candidates for City elective office.

"Candidate committee" shall mean a committee controlled by a candidate, and primarily formed to support that candidate's election for City elective office.

"Charitable organization" shall mean an entity exempt from taxation pursuant to Title 26, Section 501 of the United States Code.

"City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District. The Board of Supervisors consists of eleven separate City elective offices, the San Francisco Community College District consists of seven separate City elective offices, and the Board of Education of the San Francisco Unified School District consists of seven separate City elective offices.

"Code" shall mean the San Francisco Campaign and Governmental Conduct Code.

"Committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, *et seq.*

"Contribution" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, *et seq.*; provided, however, that "contribution" shall include loans of any kind or nature.

"Controlled committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, *et seq.*

"Distributed" and "distribution" shall mean any act that permits a communication to be viewed, read or heard.

"Election" shall mean any general, or special municipal election held in the City and County of San Francisco for City elective office or for a local measure, regardless of whether the election is conducted by district or Citywide.

"Electioneering communication" shall mean any communication, including but not limited to any broadcast, cable, satellite, radio, electronic, or telephone communication, and any mailing, flyer, door hanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:

(a) refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election; and

(b) is distributed within 90 days prior to an election for the City elective office sought by the candidate or a recall election regarding the City elective officer to 500 or more individuals who are registered to vote or eligible to register to vote in the election or recall election. There shall be a rebuttable presumption that any broadcast, cable, satellite, or radio communication and any sign, billboard or printed advertisement is distributed to 500 or more individuals who are eligible to vote for or against the candidate clearly identified in the communication.

(c) The term "electioneering communication" shall not include:

(1) communications that constitute independent expenditures under this Chapter or expenditures by a candidate committee for the candidate's election;

(2) communications made by a slate mailer organization if such communications are required to be disclosed under the California Political Reform Act, California Government Code Section 81000, *et seq.*;

(3) communications paid for by the City or any other local, State or Federal government agency;

(4) non-recorded communications between two or more individuals in direct conversation unless such communications are made by telephone and at least one of the individuals is compensated for the purposes of making the telephone communication;

(5) communications that appear on bumper stickers, pins, stickers, hat bands, badges, ribbons and other similar memorabilia;

(6) news stories, commentaries or editorials distributed through any newspaper, radio station, television station, or other recognized news medium unless such news medium is owned or controlled by any political party, political committee or candidate;

(7) member communications;

(8) communications that occur during a candidate debate or forum;

(9) communications made solely to promote a candidate debate or forum made by or on behalf of the person sponsoring the debate or forum, provided that such communications do not otherwise discuss the positions or experience of a candidate for City elective office or a City elective officer who is the subject of a recall election; and

(10) invitations sent by an entity exempt from taxation pursuant to Title 26, Section 501(c)(3) of the United States Code for its own fundraising event.

"Enforcement authority" shall mean the District Attorney for criminal enforcement, the City Attorney for civil enforcement, and the Ethics Commission for administrative enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

"Ethics Commission" shall mean the San Francisco Ethics Commission.

"Executive Director" shall mean the Executive Director of the Ethics Commission, or the Executive Director's designee.

"General purpose committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 *et seq.*

"Independent expenditure" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 *et seq.* An expenditure is not considered independent and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf or for whose benefit the expenditure is made, if the expenditure is made at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit, the expenditure is made.

"Individual Expenditure Ceiling" shall mean the expenditure ceiling established for each individual candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under this Chapter.

"Itemized disclosure statement" shall mean a form promulgated by the Ethics Commission that provides a detailed description of the separate costs associated with a communication, including but not limited to photography, design, production, printing, distribution, and postage.

"Mass mailing" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 *et seq.*, provided that the mass mailing advocates for or against one or more candidates for City elective office.

"Matching contribution" shall mean a contribution up to \$500, made by an individual, other than the candidate, who is a resident of San Francisco. Matching contributions shall not include loans, contributions received more than 18 months before the date of the election, qualifying contributions or contributions made by the candidate's spouse, registered domestic partner or dependent child. Matching contributions must also comply with all requirements of this Chapter. Matching contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

"Measure" shall mean any City, San Francisco Unified School District or San Francisco Community College District referendum, recall or ballot proposition, whether or not it qualifies for the ballot.

"Member communication" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 *et seq.* and its enabling regulations, provided that the communication advocates for or against one or more City measures or candidates for City elective office.

"Person" shall mean any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.

"Prohibited fundraising" shall mean any of the following:

- (a) Requesting that another person make a contribution, award, ~~or payment,~~ or offer;
- (b) Inviting a person to a fundraising event;
- (c) Supplying names to be used for invitations to a fundraising event;
- (d) Permitting one's name or signature to appear on a solicitation for contributions or payments or an invitation to a fundraising event;
- (e) Permitting one's official title to be used on a solicitation for contributions or an invitation to a fundraising event;



- (f) Providing the use of one's home or business for a fundraising event;
- (g) Paying for at least 20 percent of the costs of a fundraising event;
- (h) Hiring another person to conduct a fundraising event;
- (i) Delivering a contribution, or payment, award, or offer, other than one's own, either by mail or in person to an elected City officer, a candidate for elected City office, their controlled committee, or a source directed by the officer or candidate;
- (j) Acting as an agent or intermediary in connection with the making of a contribution, payment, award, or offer; or
- (k) Serving on the finance committee of a campaign or recipient committee.

"Qualified campaign expenditure" for candidates shall mean all of the following:

- (a) Any expenditure made by a candidate, or by a committee controlled by the candidate, for the purpose of influencing or attempting to influence the actions of the voters for the election of the candidate to City elective office.
- (b) A nonmonetary contribution provided to the candidate, officeholder or committee controlled by the candidate.
- (c) The total cost actually paid or incurred by the candidate or controlled committee of the candidate for a slate mailing or other campaign literature produced or authorized by more than one candidate.
- (d) Expenses incurred, but for which payment has not yet been made.
- (e) Expenses associated with complying with applicable laws, including but not limited to the California Political Reform Act, California Government Code Section 81000, et seq., and the provisions of this Chapter.
- (f) "Qualified campaign expenditure" shall not include filing fees, expenses incurred in connection with an administrative or judicial proceeding, payments for administrative, civil or criminal fines, including late filing fees, costs incurred after the election that do not directly affect the outcome of the election, including but not limited to utility bills, expenses associated with an audit, and expenses related to preparing post-election campaign finance disclosure reports as required by the California Political Reform Act, California Government Code Section 81000, et seq., and the provisions of this Chapter, or for inaugural activities or officeholder expenses.

"Qualifying contribution" shall mean a contribution of not less than \$10 and not more than \$100 that is made by an individual who is a resident of San Francisco and that complies with all requirements of this Chapter. Qualifying contributions shall not include loans, contributions received more than 18 months before the date of the election or contributions made by the candidate or the candidate's spouse, registered domestic partner or dependent child. Qualifying contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

"Recorded telephone message" shall mean a recorded audio message that expressly supports or opposes a candidate for City elective office that is distributed by telephone.

"Refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election" shall mean any communication that contains the candidate's or officer's name, nickname or image or makes any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the incumbent."

"Surplus funds" shall mean funds remaining in a candidate's campaign account at the time the candidate leaves City elective office, or at the end of the post-election reporting period following the defeat of the candidate for City elective office, whichever occurs last, and funds remaining in the campaign account of a committee primarily formed to support or oppose a measure at the end of the post-election reporting period following the election at which the measure appeared on the ballot.

"Total Opposition Spending" shall mean the sum of any expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications or member communications in opposition to a specific candidate for Mayor or the Board of Supervisors.

"Total Supportive Funds" shall mean the sum of all contributions received by a candidate committee supporting a candidate for Mayor or the Board of Supervisors, other than any funds in the candidate's Campaign Contingency Account exceeding the candidate committee's Trust Account Limit, plus the expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications or member communications in support of that same candidate.

"Trust Account Limit" shall mean the amount of funds in the Campaign Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under this Chapter such that the expenditure of this amount would cause the candidate to reach, but not exceed, the candidate's Individual Expenditure Ceiling. The Trust Account Limit shall be reduced as the candidate spends money and shall be increased when his or her Individual Expenditure Ceiling increases.

"Unexpended public funds" shall mean all funds remaining in the candidate committee's account on the 30th day after the candidate controlling the committee is either elected or not elected to office, regardless of the source of the funds, but shall not exceed the amount of public funds provided to the candidate. Funds raised after this date are not unexpended funds.

"Voter" shall mean an individual registered to vote in San Francisco.

"Withdrawal" or "withdraw" shall mean, prior to an election, ending one's candidacy or failing to qualify for an office for which a candidate has solicited or accepted contributions.

"Written instrument" shall mean a check, credit card receipt, or record of electronic transfer of funds.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 187-01, File No. 010779, App. 8/31/2001; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09, File No. 090989, App. 11/20/2009; Ord. 102-15, File No. 150294, App. 6/25/2015, Eff. 7/25/2015)

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**SEC. 1.122. SOLICITATION, OR ACCEPTANCE, OR DELIVERY OF CAMPAIGN CONTRIBUTIONS – LIMITATIONS.**

(a) **DECLARATION OF INTENT REQUIRED.** No candidate or candidate committee shall solicit or accept, or cause to be solicited or accepted, any contribution unless and until the candidate has filed a declaration of intention to become a candidate for a specific City elective office with the Department of Elections on a form prescribed by the Director of Elections.

No person shall file a declaration of intention to become a candidate for more than one City elective office.

(b) **USE OF CAMPAIGN FUNDS.**

(1) **GENERAL.** Except as otherwise provided in this Chapter, funds in a candidate committee's campaign account may be used only on behalf of the candidacy for the office specified in the candidate's declaration of intention filed under Subsection (a) or for expenses associated with holding that office, provided that such expenditures are reasonably related to a legislative, governmental, or political purpose. Contributions solicited or accepted under this Section for one candidate shall not be expended for the candidacy of any other candidate for local, state or federal office, in support of or opposition to any measure or in support of or opposition to any state ballot proposition, or for donations to a charitable organization. Nothing in this section shall prohibit a candidate committee for a candidate in a ranked choice election from expending funds to support the ranking of another candidate if the primary purpose of the expenditure is to further the candidate's own campaign.

(2) **WITHDRAWAL FROM CANDIDACY.** If a candidate has withdrawn his or her candidacy, campaign funds held by that candidate's committee's Campaign Contribution Trust Account shall be:

- (A) returned on a "last in, first out" basis to those persons who have made said contributions;
- (B) donated to the City and County of San Francisco;
- (C) donated to a charitable organization;
- (D) used to pay outstanding campaign debts or accrued expenses;
- (E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or
- (F) used for other permissible purposes established by the Ethics Commission by regulation.

(3) **SURPLUS FUNDS.** Surplus funds held by a candidate or committee shall be:

- (A) returned on a "last in, first out" basis to those persons who have made said contributions;
- (B) donated to a charitable organization;
- (C) donated to the City and County of San Francisco;
- (D) used to pay outstanding campaign debts or accrued expenses;
- (E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or
- (F) used for other permissible purposes established by the Ethics Commission by regulation.

(c) **TRANSFER OF FUNDS.** Subject to the restrictions set forth in Subsection (b), at any time, funds held in a candidate committee's Campaign Contribution Trust Account may be

transferred to any legally constituted committee established by the candidate under the California Political Reform Act, California Government Code section 81000 et seq, if both committees were formed for the same office. Contributions transferred under this subsection shall be attributed to specific contributors using a "first in, first out" or "last in, first out" accounting method. A candidate committee may not receive transfers from other controlled committees unless they are formed for the same office.

(d) MEMBERS OF CITY BOARDS AND COMMISSIONS AND DEPARTMENT HEADS. Other than an individual holding City elective office, a member of a board or commission who is required by Article III, Chapter 1 of this Code to file a statement of economic interest, the chief executive officer under any such board or commission, the head of each City department, the Controller, and the City Administrator shall not do either of the following:

(A) Solicit, direct, or receive a contribution from a person who has or, in the preceding 12 months had, a matter involving City action pending before the board or commission member or general manager, or chief administrative officer;

(B) Engage in prohibited fundraising on behalf of an elected City officer, a candidate for elected City office, or a controlled committee of such an officer or candidate. This prohibition does not apply to members of City boards or commissions or general managers, or chief administrative officers who are engaging in fundraising on behalf of their own candidacies for elected office.

(C) Any individual who violates Subsection (d) shall be subject to disciplinary action and may be the subject of an Ethics Commission letter recommending suspension or removal in the same manner as provided by Section 3.1-102.5 of the Campaign and Governmental Conduct Code.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09, File. No. 090989, App. 11/20/2009)

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## **SEC. 1.126. LIMITS ON CONTRIBUTIONS, OTHER PAYMENTS LIMITS, AND FUNDRAISING – BIDDERS, CONTRACTORS DOING BUSINESS WITH THE CITY AND OTHER PERSONS SEEKING OR RECEIVING PUBLIC BENEFITS.**

(a) **Definitions.** For purposes of this Section, the following words and phrases shall mean:

(1) "Person who seeks or receives contracts with" includes (A) any party or prospective party to a contract public benefit, as well as any member of that party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, president, vice-president, executive director, deputy director, any person with an ownership interest of more than 20 percent in the party, any subcontractor or sub-beneficiary listed in a bid, or contract, or other document proposing or comprising the public benefit, and any committee, as defined by this Chapter that is sponsored or controlled by the party, provided that the provisions

of Section 1.114 of this Chapter governing aggregation of affiliated entity contributions shall apply only to the party or prospective party to the contract, (B) any person with a financial interest in a public benefit, as well any member of that person's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, president, vice-president, executive director, or deputy director, and (C) any lobbyist, consultant, attorney, architect, permit expediter, or other professional as prescribed by Ethics Commission regulation representing any of the above with regard to (1) seeking or receiving the public benefit or (2) the financial interest in the public benefit, unless the representation only consists of services that can only be provided by a licensed professional such as an attorney or architect.

(2) "Contract" means any agreement or contract, including any amendment or modification to an agreement or contract, with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District for:

- (A) the rendition of personal services,
- (B) the furnishing of any material, supplies or equipment,
- (C) the sale or lease of any land or building, or
- (D) a grant, loan or loan guarantee,
- (E) community benefits agreements made in connection with land use decisions or project approvals, or
- ~~(D)~~(F) any other thing or matter except an agreement with a recognized collective bargaining organization over the terms and conditions of employment or a personal employment contract.

(3) "Board on which an individual serves" means the board to which the officer was elected and any other board on which the elected officer serves.

(4) "Financial interest" means: except as used under "Participant," an ownership interest of at least 10% or \$1,000,000 in the business, property, project, or other thing that is the subject or recipient of the public benefit.

(5) "Individual holding a city elective office" and "candidate for the office held by such individual" shall include the spouse and immediate family members of such individual or candidate, as defined by California Government Code section 82029.

(6) "Land use matter" shall mean any application for a permit or variance under the San Francisco Building or Planning Codes, any application for a determination or review required by the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), or any development agreement, not including an ordinance or resolution unless it applies

only to or provides an exception for a single project or property and not including the primary residence of a person who seeks or receives or their family member.

(7) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a public benefit and who has a financial interest in the decision, as described in California Government Code sections 87100 et seq. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person a public official, testifies in person before the official or a body on which the official sits, or otherwise acts to influence officials.

(8) "Party" means any person who files an application for, or is the subject of, a proceeding involving a public benefit.

(9) "Personal or campaign advantage" means:

(A) a contribution,

(B) a payment to a slate mailer organization,

(C) a gift as that term is defined by Section 3.216 of the Campaign & Governmental Conduct Code,

(D) a payment made to an agency for use of agency officials as defined by California Code of Regulations Section 18944,

(E) a behested payment, as described by California Government Code Section 82015(b)(2)(B)(iii), of any amount,

(F) any other payment to a nonprofit or business entity,

(G) a contract that is not widely available to the public, including employment,

(H) a contractual option,

(I) an offer to purchase stock or other investment that is not widely available to the general public,

(J) any other personal pecuniary interest, emolument, or other thing of value that is not widely available to the general public, other than compensation from the City and County of San Francisco, or

(K) prohibited fundraising for any of the above, A - J.

(10) "Public benefit" means any of the following entered into with or provided by the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District:

(A) a contract,

(A)(B) if the project or thing has a value or construction cost of \$1,000,000 or more, a (i) land use matter or (ii) other land use decision including a variance or other zoning change, special or conditional use permit, subdivision, adoption of, amendment to, or exception to a master, specific, or general plan, adoption of, amendment to, or exception to a development agreement or disposition and development agreement, or any land use resolution or ordinance pertaining to real property,

(C) a business, professional, and trade licenses and permits or other entitlements for use where discretion is exercised in the granting of the permit or license,

(D) for underwriting services for sales of revenue or general obligation bonds, (i) selection for a pre-qualified list, (ii) selection to contract, or (iii) membership in the syndicate providing underwriting services on the scale of the revenue or general obligation bonds,

(E) a tax, penalty, or fee exception, abatement, reduction, waiver or benefit not generally applicable or regularly available to similarly situated individuals,

(F) a tax savings resulting from a change in the law,

(G) any (i) franchise as defined by Administrative Code Section 11.1(p) or (ii) franchise or award to conduct any business activity in a large portion of or throughout the City and County in which no other competitor potentially is available to provide similar services, or

(B)(H) cash or any other specific thing of net value to the recipient, including an investment or a non-contractual grant but excluding employment with the City and County.

(11) "Threshold amount" means:

(A) For Section 1.126(a)(10)(A) or (C), \$50,000;

(B) For (10)(B), \$0, except \$50,000 if the public benefit concerns any decision that is not a land use matter;

(C) For (10)(D), \$0;

(D) For (10)(E), \$5,000;

(E) For (10)(F), \$50,000 in projected savings during the next 12 months;

(F) For (10)(G), \$50,000 in projected gross business activity during the next 12 months;

(A)(G) For (10)(H), \$10,000.

**(b) Prohibition on Personal or Campaign Advantage Contribution.** No person who seeks or receives a public benefit who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District,

(1) Shall provide or arrange, directly or through intermediaries, make any personal or campaign advantage contribution to:

(A) An individual holding a City elective office if (i) the public benefit contract must be approved by such individual, the board on which that individual serves, an appointee or subordinate of that individual, or a state agency the on whose board or commission, including of a state agency, on which an appointee of that individual serves or (ii) the individual is the Mayor

or member of the Board of Supervisors, if the public benefit is a land use matter that must approved by Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Department of Building Inspection, Office of Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission or Planning Department;

(B) A candidate for the office held by such individual; or

(C) Any committee controlled by such individual or candidate;

(D) Any slate mailer organization that has produced in the past six months or intends to produce in the next six months a mailer featuring such individual or candidate, if such production is at the behest of the individual or candidate;

(E) Such individual or candidate's agency if he or she is the executive or a board member, unless the public benefit and personal or campaign advantage at issue are the same contract;

(H) Any person, if made at the behest of such individual or candidate;

(I) Any organization run at least in part by such individual, candidate, or their an appointee or subordinate; or

(B)(J) Any business that such individual or candidate or owns 20% or more of.

(2) Whenever the public benefit agreement or contract has a total anticipated or actual value of the threshold amount \$50,000.00 or more, or a combination or series of such public benefit agreements or contracts approved by that same individual or board have a value of the threshold amount \$50,000.00 or more in a fiscal year of the City and County

(3) At any time from the commencement of negotiations, solicitation, or filing or submission, whichever is earlier, for such public benefit contract until.

(A) The termination of negotiations, solicitation, or submission for such public benefit contract, if no decision for the public benefit will be made; or

(B) TwelveSix months have elapsed from the date the public benefit contract is approved or not approved, with the twelve month period restarting if any City and County authority subsequently considers appeal, overruling, or reconsideration of the decision.

(c) **Prohibition on Receipt of Personal or Campaign advantage Contribution.** No individual holding City elective office or committee controlled by such an individual shall solicit or accept any personal or campaign advantage contribution prohibited by subsection (b) at any time from the formal submission or solicitation of the proposed public benefit contract to or by



the individual until the termination of negotiations, solicitation, or submission for the public benefit contract, if no decision for the public benefit will be made, or twelve~~six~~ months have elapsed from the date the public benefit contract is approved or not approved. For the purpose of this subsection, a proposed public benefit contract that is provided via passage of a resolution or ordinance is formally submitted to the Board of Supervisors at the time of the introduction of a resolution or ordinance to approve the public benefit contract.

(d) **Forfeiture of Contribution.** In addition to any other penalty, each committee that receives a contribution prohibited by subsection (c) shall pay promptly the amount received or deposited to the City and County of San Francisco and deliver the payment to the Ethics Commission for deposit in the General Fund of the City and County; provided that the Commission may provide for the waiver or reduction of the forfeiture.

(e) **Notification.**

(1) **Prospective Parties to Public Benefits Contracts.** Any prospective party to a public benefit contract with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District shall inform each person described in Subsection (a)(1) of the prohibition in Subsection (b) by the commencement of negotiations for such public benefit contract.

(2) **Individuals Who Hold City Elective Office.** Every individual who holds a City elective office shall, within five business days of the approval of a contract by the officer, a board on which the officer sits, an appointee or subordinate of the officer, or a board or commission, including of a state agency, on which an appointee of the officer sits, notify the Ethics Commission, on an electronic form adopted by the Commission, of each contract approved by the individual, the board on which the individual serves, their appointee or subordinate, or the board or commission of a state agency on which an appointee of the officer sits. An individual who holds a City elective office need not file the form required by this subsection if the Clerk or Secretary of a Board on which the individual serves or a Board or commission of a State agency on which an appointee of the officer serves has filed the form on behalf of the board. The form may consist of submission into a City and County online contract database. The City and County of San Francisco shall provide integration of its campaign finance and contract databases, with robust online transparency.

(3) **Persons With Financial Interests in Land Use Matters.** Any person with a financial interest in a land use matter before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Department of Building Inspection, Office of Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission or Planning Department, within 10 days of filing or submitting or receiving written notice of the filing or submission of a land use matter, shall file with the Ethics Commission a report including the following information:

(A) the board or commission considering the land use matter;

(B) the location of the property that is the subject of the land use matter;

(C) if applicable, the file number for the land use matter;

(D) the action requested of the board, commission, or office considering the land use matter, as well as the legal basis for that action;

(E) the person's financial interest if any, in the project or property that is the subject of the land use matter; and

(F) if applicable, the names of the individuals who serve as the person's chairperson, chief executive officer, chief financial officer, and chief operating officer or as a member of the person's board of directors.

(4) **Reporting and Database Regulations.** By regulation, the Ethics Commission may prescribe requirements, similar to those in Subsections (e)(2) or (e)(3), for (A) notification of other approved public benefits by individuals holding City elective office, boards on which such individuals serve, appointees or subordinates of such individuals, or boards or commissions, including a-state agencies, on which appointees of such individuals serve and (B) other database integrations that provide transparency regarding the intersection between personal and campaign advantages and public benefits.

(5) **Disclosure of the Law.** The City and County shall provide any person applying or competing for a public benefit with written notice of the provisions in this Section. Such notice shall be incorporated into requests for proposal, bid invitations, or other existing informational disclosure documents to persons engaged in prospective business with, from, or through the City and County.

(f) **Disqualification.** Prior to rendering any decision in a proceeding involving a public benefit not widely available to the general public pending before an elected official, each official who received a personal or campaign advantage within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No elected official shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a public benefit pending not widely available the general public before the a public official of the City and County, if the official has willfully or knowingly received a personal or campaign advantage in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent, if the official knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in California Government Code sections 87100 et seq.

(g) **Debarment.**

(1) In addition to any other penalties or remedies established by this Chapter, a person who is found to have violated or to have aided or abetted a violation of this Section shall not be eligible to receive or seek a public benefit unless otherwise required by California or federal law

or the Ethics Commission, as a body, determines that mitigating circumstances exist concerning such violation. Debarment also applies to an entity that has the same or similar management, ownership, or principal employees as the debarred person and is organized after the proceeding that results in the person's debarment has been initiated.

(2) The Ethics Commission, as a body, shall determine whether mitigating circumstances apply whenever a violation of this Section is determined to have occurred. If the Ethics Commission determines that mitigating circumstances do not exist, the person found to be in violation shall be debarred for the following periods of time after the Ethics Commission's determination:

- (A) One year for the first violation;
- (B) Two years for the second violation;
- (C) Three years for the third violation;
- (D) Four years for the fourth and subsequent violations.

(3) The Ethics Commission may adopt regulations regarding mitigating circumstances, including what constitutes mitigating circumstances and any other information determined to be necessary.

(4) The Ethics Commission staff shall notify all agencies, departments, board and offices of a determination of debarment within ten business days of the determination. The Ethics Commission's determination regarding debarment is final as to all offices, debarments, boards, and agencies and may not be waived.

(5) If an awarding authority has an existing contract with a person who is identified in a debarment notice from the Ethics Commission staff, the awarding authority shall determine in writing and, if the awarding authority is a City board, commission or City Council, at a public meeting whether it is the best interests of the City to terminate the contract. An awarding authority shall not determine whether a violation of this Article or any other City law regarding campaign financing, lobbying, or governmental ethics has occurred.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 228-06, File No. 060501, App. 9/14/2006; Proposition H, 6/3/2008)

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## **SEC. 1.168. ENFORCEMENT; ADVICE.**

(a) ENFORCEMENT – GENERAL PROVISIONS. Any person who believes that a violation of this Chapter has occurred may file a complaint with the Ethics Commission, City Attorney or District Attorney. The Ethics Commission shall investigate such complaints pursuant to Charter Section C3.699-13 and its implementing regulations. The City Attorney and District Attorney

shall investigate, and shall have such investigative powers as are necessary for the performance of their duties under this Chapter.

(b) **ENFORCEMENT – CIVIL ACTIONS.** The City Attorney, or any resident voter, may bring a civil action to enjoin violations of or compel compliance with the provisions of this Chapter or to enforce civil penalties as prescribed by Section 1.170(b). A resident may bring an action to enforce civil penalties only if the violation (1) relates to a candidate or committee that has raised or spent \$100,000 or more in a year where the violations consists of either improperly reporting \$50,000 or more or receiving \$10,000 or more over the limits, (2) relates to independent expenditures, electioneering communications, or member communications of \$10,000 or more in value per affected candidate, (3) relates to a prohibited payment or fundraising of \$50,000 or more to a single committee or person, (4) is of Section 1.126 and occurred more than 12 months after the effective date of an amendment to 1.126, or (5) is of 1.128 or 1.140.

No voter may commence an action under this Subsection without first providing written notice to the City Attorney of intent to commence an action. The notice shall include a statement of the grounds for believing a cause of action exists. The voter shall deliver the notice to the City Attorney at least 60 days in advance of filing an action. No voter may commence an action under this Subsection if the Ethics Commission has issued a finding of probable cause that the defendant violated the provisions of this Chapter, or if the City Attorney or District Attorney has commenced a civil or criminal action against the defendant, or if another voter has filed a civil action against the defendant under this Subsection.

A Court may award reasonable attorney's fees and costs to any resident voter who obtains injunctive relief or prevails in a civil action under this Subsection. If the Court finds that an action brought by a voter under this Subsection is frivolous, the Court may award the defendant reasonable attorney's fees and costs.

If a resident obtains an award of civil penalties, the voter shall receive 50 percent of the amount. The remaining 50 percent shall be deposited into the City and County's General Fund. In an action brought by the City Attorney or the Ethics Commission, the entire amount shall be paid to the City and County's General Fund.

(c) **STATUTE OF LIMITATIONS.**

(1) **Criminal.** Prosecution for violation of this Chapter must be commenced within four years after the date on which the violation occurred.

(2) **Civil.** No civil action alleging a violation in connection with a campaign statement required under this Chapter shall be filed more than four years after an audit could begin, or more than one year after the Executive Director submits to the Commission any report of any audit conducted of the alleged violator, whichever period is less. Any other civil action alleging a violation of any provision of this Chapter shall be filed no more than four years after the date on which the violation occurred.

(3) **Administrative.** No administrative action alleging a violation of this Chapter and brought under Charter Section C3.699-13 shall be commenced more than four years after the date on which the violation occurred. The date on which the Commission forwards a complaint or information in its possession regarding an alleged violation to the District Attorney and City Attorney as required by Charter Section C3.699-13 shall constitute the commencement of the administrative action.

(4) **Collection of Fines and Penalties.** A civil action brought to collect fines or penalties imposed under this Chapter shall be commenced within four years after the date on which the

monetary penalty or fine was imposed. For purposes of this Section, a fine or penalty is imposed when a court or administrative agency has issued a final decision in an enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter. The Executive Director does not make a final decision regarding the amount of a late fine or penalty imposed under this Chapter until the Executive Director has made a determination to accept or not accept any request to waive a late fine or penalty where such waiver is expressly authorized by statute, ordinance, or regulation.

(d) **ADVICE.** Any person may request advice from the Ethics Commission or City Attorney with respect to any provision of this Chapter. The Ethics Commission shall provide advice pursuant to Charter Section C3.699-12. The City Attorney shall within 14 days of the receipt of said written request provide the advice in writing or advise the person who made the request that no opinion will be issued. The City Attorney shall send a copy of said request to the District Attorney upon its receipt. The City Attorney shall within nine days from the date of the receipt of said written request send a copy of his or her proposed opinion to the District Attorney. The District Attorney shall within four days inform the City Attorney whether he or she agrees with said advice, or state the basis for his or her disagreement with the proposed advice.

No person other than the City Attorney who acts in good faith on the advice of the City Attorney shall be subject to criminal or civil penalties for so acting; provided that, the material facts are stated in the request for advice and the acts complained of were committed in reliance on the advice.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered and amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 234-09, File. No. 090989, App. 11/20/2009)

## **SEC. 1.170. PENALTIES.**

(a) **CRIMINAL.** Any person who knowingly or willfully violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a period of not more than six months or by both such fine and imprisonment; provided, however, that any willful or knowing failure to report contributions, other receipts, or expenditures done with intent to mislead or deceive or any willful or knowing violation of the provisions of Section 1.114 or 1.126 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation or three times the amount not reported or the amount provided or received in excess of the amount allowable pursuant to Section 1.114 or 1.126 of this Chapter, or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

(b) **CIVIL.** Any person who intentionally or negligently violates any of the provisions of this Chapter shall be liable in a civil action brought by the civil prosecutor for an amount up to \$5,000 for each violation or three times the amount not reported or the amount contributed or received in excess of the amount allowable pursuant to Section 1.114 or three times the amount provided or received in excess of the amount allowable pursuant to Section 1.126 or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

(c) **ADMINISTRATIVE.** Any person who intentionally or negligently violates any of the provisions of this Chapter shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for any penalties authorized therein.

(d) **LATE FILING FEES**

(1) **Fees for Late Paper Filings.** In addition to any other penalty, any person who files a paper copy of any statement or report after the deadline imposed by this Chapter shall be liable in the amount of ten dollars (\$10) per day after the deadline until the statement is filed.

(2) In addition to any other penalty, any person who files an electronic copy of a statement or report after the deadline imposed by this Chapter shall be liable in the amount of twenty-five dollars (\$25) per day after the deadline until the electronic copy or report is filed.

(3) **Limitation on Liability.** Liability imposed by Subsection (d)(1) shall not exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater. Liability imposed by Subsection (d)(2) shall not exceed the cumulative amount stated in the late statement or report, or two hundred fifty dollars (\$250), whichever is greater.

(4) **Reduction or Waiver.** The Ethics Commission may reduce or waive a fee imposed by this subsection if the Commission determines that the late filing was not willful and that enforcement will not further the purposes of this Chapter.

(e) **MISUSE OF PUBLIC FUNDS.** Any person who willfully or knowingly uses public funds, paid pursuant to this Chapter, for any purpose other than the purposes authorized by this Chapter shall be subject to the penalties provided in this Section.

(f) **PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS COMMISSION; WITHHOLDING OF INFORMATION.** Any person who knowingly or willfully furnishes false or fraudulent evidence, documents, or information to the Ethics Commission under this Chapter, or misrepresents any material fact, or conceals any evidence, documents, or information, or fails to furnish to the Ethics Commission any records, documents, or other information required to be provided under this Chapter shall be subject to the penalties provided in this Section.

(g) **PERSONAL LIABILITY.** Candidates and treasurers are responsible for complying with this Chapter and may be held personally liable for violations by their committees. Nothing in this Chapter shall operate to limit the candidate's liability for, nor the candidate's ability to pay, any fines or other payments imposed pursuant to administrative or judicial proceedings.

(h) **JOINT AND SEVERAL LIABILITY.** If two or more persons are responsible for any violation of this Chapter, they shall be jointly and severally liable.

(i) **EFFECT OF VIOLATION-ON-CANDIDACY.**

(1) If a candidate is convicted, in a court of law, of a violation of this Chapter at any time prior to his or her election, his or her candidacy shall be terminated immediately and he or she shall be no longer eligible for election, unless the court at the time of sentencing specifically determines that this provision shall not be applicable. No person convicted of a misdemeanor under this Chapter after his or her election shall be a candidate for any other City elective office for a period of five years following the date of the conviction unless the court shall at the time of sentencing specifically determine that this provision shall not be applicable.

(2) If a candidate for the Board of Supervisors certified as eligible for public financing is found by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten percent or more at any time prior to his or her election, such violation shall constitute official misconduct. The Mayor may suspend any member of the Board of Supervisors for such a violation, and seek removal of the candidate from office following the procedures set forth in Charter Section 15.105(a).

(3) A person convicted of a misdemeanor under this Chapter may not act as a lobbyist, as

defined by Article II, or as a City contractor for four years following the date of the conviction, unless the court specifically determines at the time of sentencing that this provision should not be applied.

(43) A plea of *nolo contendere*, in a court of law, shall be deemed a conviction for purposes of this Section.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered and amended by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09, File No. 090989, App. 11/20/2009; Ord. 64-12, File No. 111082, App. 4/20/2012, Eff. 5/20/2012)