

Revised Proposition J: Research to date and next steps

APRIL 24, 2014 | SAN FRANCISCO ETHICS COMMISSION | REGULAR
MEETING | AGENDA ITEM – 4

PRESENTATION BY KYLE KUNDERT – SENIOR POLICY ANALYST

Proposition J (“Prop J”) in California

The Oaks Project (2000-01)

- A project to get initiatives on the ballot in California cities.
- Project goals:
 - Reduce conflicts of interest
 - Limit the corrupting influence of gifts, contributions, etc...
 - Limit public funds being expended via partiality or bias

San Francisco Experience

- Passed in 2001.
- Later overwritten by Prop E in 2003 (current CFRO section 1.126).

Experience in Other Cities

- Public officials raised concerns.
- City of Vista filed suit to keep Initiative off ballot.
- Five cities pass law in some form.
 - Cities of Vista and San Francisco would later overwrite the law with other ‘Conflict’ laws.

Revised Prop J as Currently Drafted

Broadens the scope of officials covered and “public benefits” encompassed.

- Closes loopholes in the original Proposition.
- Generally prohibits officials from receiving “personal of campaign advantage.”

Bans fundraising by certain high-ranking public officials.

- Board members, Commissioners, Dept. Heads.

Adds additional enforcement mechanisms.

- Debarment, citizen suit, expanded prohibition period.

Adds an intra-candidate transfer ban.

Requires development of database to track public benefit recipients.

Legal Context and Considerations

CONSTITUTIONAL ISSUES:

- First Amendment
 - Definition of corruption narrowed by courts (i.e., what can we limit and when?)
- Concerns raised by other jurisdictions
 - *City of Vista v. Drake*
 - *SEIU v. Fair Political Practices*
- Eighth Amendment
 - Civil penalties for “citizen suit”

DUE PROCESS – ADMINISTRATIVE PROCEDURES:

- Expansive definition of “Entitlements”
 - Refinement and clarification may be necessary
- Debarment
 - Clarifying department authority and process

Harmonizing Approaches: Revised Prop J within CFRO Review

CONSIDERATIONS:

- Legal Constraints
- Administrative Responsibilities
- Implementation:
 - Duties, Costs, and Timeframe
- Redundant or Contradictory Provisions
- Political Reform Act Conformity

POLICY DEVELOPMENT STRATEGY:

- Work with interested parties to create a strong, effective, and enforceable provision that fits within the larger goal of revising CFRO.
- Hold Interested persons meeting to gauge public thoughts and concerns with the project.
- Draft and make available for review memorandums outlining the concerns, goals and project plan for public review.
- Research and draft a strategy for implementation.

Important Items and Dates

INTERESTED PERSONS MEETING AND NEXT STEPS

- Interested Persons:
 - 25 Van Ness, Rm 610 on May 9 at 5:30 p.m.
 - 25 Van Ness, Rm 70 May 11 at 12:00 p.m.
- Timeline
 - Circulate Proposal Draft – Thursday, April 27
 - Analyze and Present Public Comments for May 22, 2017 Commission Meeting
 - Final Revisions – June TBD
- ❖ Public Comment can be provided in person or in writing before June 12, 2017 (ethics.commission@sfgov.org)

COMMISSION GUIDANCE

Questions and concerns for staff to address at the Interested Persons meeting?