



# San Francisco Ethics Commission

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Date: October 6, 2025

To: Members of the Ethics Commission

From: Michael Canning, Policy & Legislative Affairs Manager

Re: AGENDA ITEM 06 – Discussion & Possible Action Regarding Behested Payment Waiver Legislation

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## Summary and Action Requested

This memo provides background information on the City's behested payment prohibition and analysis of legislation that would make changes to the waiver provision of this rule. Staff recommends the Commission discuss the proposed legislative amendments and vote to approve the legislation that has been referred from the Board of Supervisors. The referred legislation, with minor Staff amendments, is included as [Attachment 1](#) and the Legislative Digest for this ordinance is provided as [Attachment 2](#).

## Background

### *Behested Payment Prohibition*

On January 23, 2022, a new behested payments law took effect in San Francisco following its unanimous adoption by the Board of Supervisors on December 24, 2021 ([Ord. 232-21](#)). Behested payments are payments made at the behest of a government official to a third party, made principally for a legislative, governmental, or charitable purpose.

The ordinance was adopted by the Board in the wake of public policy concerns raised by U.S. Department of Justice criminal corruption charges against multiple City officers, employees, and contractors. Among the charges were allegations of numerous instances in which individuals seeking favorable outcomes from City government provided things of value to City officials, or made payments to third parties at the officials' behest, in an attempt to influence the actions of those officials.

The Board's action followed the first phase of a comprehensive, multi-phased review by the Ethics Commission of the City's ethics laws to ensure that the types of conduct alleged in the criminal complaints are appropriately prohibited and deterred by City law. When that policy review identified weaknesses in the laws, the Commission sought to address those weaknesses by identifying ways to strengthen the laws. The first phase of the Commission's project addressed provisions regarding [behested payments](#).

The [behested payments legislation enacted by the Board in December 2021](#) built on the Commission's recommendations to address demonstrated shortcomings and help prevent future acts of corruption, like those alleged in the federal corruption investigations. The legislation was also spurred by the [Controller's September 24, 2020 report](#), which also recommended that behested payments be the subject of a new ethics law in light of the then recent corruption allegations.

The December 2021 legislation prohibited City officers and employees who are required to file the Form 700 Statement of Economic Interests from soliciting behested payments from *interested parties*, which included those who have official business before the official's department or who have otherwise sought to influence the official. This prohibition against soliciting payments from interested parties is in addition to the State requirement that requires elected officials report behested payments from any single source, if the payments total \$5,000 or more in a calendar year. This prohibition replaced an earlier reporting requirement that existed for City officials regarding certain behested payments.

### *Subsequent Revisions*

Following the implementation of the City's new behested payment prohibition, voters approved [Proposition E in June of 2022](#). Proposition E changed the City's behested payment rules by 1) preventing members of the Board of Supervisors from seeking behested payments from contractors if the Board had approved their contracts, and 2) changing the legislative amendment process to require proposed amendments be approved by both a majority vote of the Ethics Commission and a two-thirds vote of the Board of Supervisors.

Later in 2022, the Ethics Commission and the Board of Supervisors approved additional legislation that narrowed aspects of the prohibition and created new exceptions ([Ord. 204-22](#)). This ordinance also created a waiver provision, which allows the Board of Supervisors to grant waivers to the prohibition that allow City officials to solicit payments from interested parties in certain situations.

### *Waiver Process*

At the request of a City department, the Board of Supervisors may currently waive the City's prohibition against soliciting behested payments from interested parties. This is done by the Board voting to approve a resolution that:

- Summarizes the purpose of the solicitation(s),
- Identifies the type of interested parties or specific interested parties, if the identity is known, who would be solicited,
- States why the department believes the parties are interested parties, and
- Finds that the waiver would not create an appearance of impropriety and would be in the public interest.

Waivers granted apply prospectively for six months and cannot be approved retroactively. Waivers are also [posted online by the Clerk of the Board](#) within 30 days of approval. The Code also explicitly prohibits the Board of Supervisors from waiving the behested payment prohibition for itself.

## Proposed Legislation and Findings

On September 16, President Mandelman introduced an ordinance ([File #250947](#)) that would amend the waiver provision of the City's behested payment prohibition to allow the Board of Supervisors to issue waivers for officers and employees of the Board of Supervisors. The proposed ordinance would also add a requirement that waiver resolutions "identify the City employees and officers to whom the waiver will apply." This draft ordinance has been included as [Attachment 1](#). This ordinance requires majority approval by the Ethics Commission and two-thirds vote from the Board of Supervisors to be enacted.

To support the Commission's consideration of this ordinance, the following sections provide additional background on the creation of the waiver provision, review waivers that have been approved by the Board of Supervisors since the waiver provision was created, and consider the implications of the changes proposed in the ordinance.

### *Additional Background on Behested Payment Waiver Provision*

During the Commission's August 2022 meeting, the Commission voted (3-2) to approve [Ordinance 204-22](#), which created the waiver provision of the City's behested payment rule. When considering the creation of a waiver provision, Staff recommended three changes be made to the waiver language prior to the Commission's approval. The three recommendations were that:

- 1) Interested parties should be identified in the resolution, prior to the solicitations being made,
- 2) Additional language should be added to more explicitly state that waivers cannot be issued retroactively, and
- 3) That the Board of Supervisors be required to publicly disclose all waivers on DataSF within 30 days of their approval.

Of the above, the second two recommendations were adopted and remain in the code. A compromise was crafted regarding the first recommendation, as there were concerns about having to publicly name people who would potentially be solicited, before they were being asked to make donations. Instead of requiring the specific interested parties to be identified in the resolution, the resolution must identify "the type of interested parties or the specific interested parties, when the identity is known" that may be solicited, along with a statement as to why the department believes them to be interested parties.

### *Review of Past Behested Payment Waivers*

Since the new behested payment rules went into effect in 2022, there have been a total of 18 waiver resolutions approved by the Board of Supervisors. Of these 18 waiver resolutions, 16 waived the rules for City officials in multiple departments. In total, the rules were waived for City officials across 11 departments. The department included in the most waiver resolutions was the Office of the Mayor, which was included in 16 waiver resolutions. While the waivers are only valid for a six-month period and do not have a mechanism in the code to be extended, there is nothing in the code that prevents the Board from passing a new waiver resolution that is similar to a past resolution, which can effectively serve to 'reauthorize' the waiver. Of the 18 total waivers, five were essentially reauthorizations of previously approved waivers.

The City departments that received behested payment waivers for City officials within their departments are provided below in **Table 1**.

**Table 1: Total Count of Behested Payment Waivers by City Department**

<i>City Department</i>	<i>Number of Approved Behested Payment Waivers</i>
Office of the Mayor	16
Department of Homelessness and Supportive Housing	4
Recreation and Parks	4
Office of Economic and Workforce Development	3
Office of the City Administrator	2
Fire Department	2
Department of Technology	1
Department of Public Health	1
Office of the Assessor-Recorder	1
San Francisco International Airport	1
Office of the City Attorney	1

A review of these waivers found that their descriptions tend to be fairly general and often do not list specific entities or individuals as interested parties, although reauthorization waivers often included higher levels of specificity regarding interested parties. Additionally, varying levels of detail were provided regarding the departments covered by the waivers and any specific City officers or employees covered. Most often, an entire City department would be listed, or language would be provided designating members of a particular department and its staff, divisions, or other entities within the department would be listed.

#### *Analysis of Proposed Waiver Provision Changes*

The primary change that this ordinance would make is to allow the Board of Supervisors to waive the City's behested payment rules for officers and employees within the Board of Supervisors. When the waiver provision was first created, the risk of potential overuse or abuse of such waivers was thought to be mitigated by the nature of the Board resolutions. Specifically, by the fact that such waivers would require agreement from a majority of members of the Board and be considered and voted on publicly. The fact that the waivers are only effective for a maximum of six months was also considered to be a helpful tool for preventing such waivers from undermining the behested payment prohibition. The proposed ordinance would not change these aspects of the waiver provision.

The proposed ordinance would also not affect the Commission's identified priorities from when the waiver provision was created: requiring waiver requests to attempt to identify interested parties, prohibiting retroactive application, and ensuring waivers are posted to DataSF within 30 days of approval. In 2022, the prohibition on the Board not being able to grant waivers for itself, did not originate from the Ethics Commission, rather it was language added by the Board itself.

Given the limited nature of this change, specifically that such waivers will still require consensus from a majority of Board members and that the consideration of such waivers will remain a public process, Staff do not anticipate allowing the Board to approve waivers for itself as significantly undermining the City's behested payment rule. Additionally, this change would allow members of the Board to engage in limited solicitations from interested parties, when doing so would not create an appearance of impropriety and be in the public interest, as City officials from other departments can already do if granted a waiver.

Additionally, the new language in the ordinance that requires waiver resolutions to "identify the City employees and officers to whom the waiver will apply" will strengthen the behested payments rule by removing some ambiguity from waivers and better clarifying to whom future waivers apply.

#### *Additional Change to Chapter Title*

The draft of the ordinance provided in [Attachment 1](#) includes an additional change from Ethics Commission staff, which would change the title of Chapter 6 of the Campaign & Governmental Conduct from "Behested Payment Reporting" to "Behested Payments." The current title refers to the earlier version of the chapter, which prior to 2022 was focused on a behested payment reporting requirement. This reporting requirement has since been replaced by the current prohibition on soliciting behested payments from interested parties. This change will update the title to reflect that no reporting requirement currently exists in the chapter.

### **Recommended Action**

Staff recommends the Commission review the attached ordinance, listen to a presentation from President Mandelman's Office regarding this ordinance during the Commission's October meeting, and if the Commission does not identify any concerns with the proposed ordinance, vote to approve.

#### *Attachments*

**Attachment 1:** [Behested Payments Waivers Ordinance – File No. 250947](#)

**Attachment 2:** [Legislative Digest for File No. 250947](#)

# ATTACHMENT 1

[Campaign and Governmental Conduct Code - Behested Payments]

**Ordinance amending the Campaign and Governmental Conduct Code to permit the Board of Supervisors to waive by resolution the requirements of the behested payment ordinance for the Board itself.**

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~strikethrough Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Chapter 6 of the Campaign and Governmental Conduct Code is hereby amended by revising the Chapter title and Section 3.620, to read as follows:

**CHAPTER 6: BEHESTED PAYMENTS~~S-REPORTING~~**

**SEC. 3.620. PROHIBITING ELECTED OFFICIALS, DEPARTMENT HEADS, COMMISSIONERS, AND DESIGNATED EMPLOYEES FROM SOLICITING BEHESTED PAYMENTS FROM INTERESTED PARTIES.**

\* \* \* \*

(f) **EXCEPTION – WAIVER.** ~~Upon request by a City department, t~~The Board of Supervisors may waive the requirements of this Section 3.620 by resolution, ~~but may not waive it for itself.~~ A proposed resolution that seeks a waiver shall identify the City employees and officers to whom the waiver will apply. summarize the purpose of the solicitation(s), ~~and shall~~

1 identify the type of interested parties or the specific interested parties, when the identity is  
2 known, to whom the solicitation(s) would be directed, and include a statement as to why the  
3 ~~department parties that would be solicited believes the parties~~ are interested parties. The  
4 resolution must include a finding that the waiver would not create an appearance of  
5 impropriety and would be in the public interest. Waivers granted under this subsection (f)  
6 shall apply prospectively for six months, unless the approving resolution specifies a shorter  
7 duration, and shall have no effect as to past solicitations and may not be approved  
8 retroactively after the solicitations have occurred. Within 30 days of the enactment of such a  
9 resolution, the Clerk of the Board shall publish information regarding the resolution to a  
10 dataset of all approved waiver resolutions on DataSF.

11  
12 Section 2. Prerequisites for Enactment; Super-Majority Vote Requirement. The  
13 enactment of Section 1 of this ordinance is subject to provisions of the Campaign and  
14 Governmental Conduct Code that require the amendments to be approved by a majority vote  
15 of the Ethics Commission, and approved by a supermajority vote of at least eight members of  
16 the Board of Supervisors.

17  
18 Section 3. Effective Date. This ordinance shall become effective 30 days after  
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
21 of Supervisors overrides the Mayor's veto of the ordinance.

22  
23 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal



Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: /s/ Kathleen Vermazen Radez  
KATHLEEN VERMAZEN RADEZ  
Deputy City Attorney

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# ATTACHMENT 2

## **LEGISLATIVE DIGEST**

[Campaign and Governmental Conduct Code - Behested Payments]

**Ordinance amending the Campaign and Governmental Conduct Code to permit the Board of Supervisors to waive by resolution the requirements of the behested payment ordinance for the Board itself.**

### **Existing Law**

Local law prohibits elected officials, department heads, commissioners, and designated employees from soliciting behested payments from “interested parties,” as defined in the Campaign and Governmental Conduct Code. Current law permits the Board of Supervisors to waive the rule by resolution upon request by a City department, but prohibits the Board of Supervisors from waiving the rule for itself. A proposed resolution must summarize the purpose of the solicitation(s), identify the type of interested parties or the specific interested parties, when the identity is known, to whom the solicitation(s) would be directed, and state why the department believes the parties are interested parties.

### **Amendments to Current Law**

The amendments will allow the Board of Supervisors to waive the behested payments prohibition for itself, and will modify the required elements of any waiver resolution to require that the proposed resolution identify the City employees and officers to whom the waiver will apply and state why the parties that would be solicited are interested parties.

This ordinance also amends the chapter title to reflect prior amendments to the chapter, which replaced the former reporting requirement with the current rules governing the solicitation of behested payments by local officials.

### **Background Information**

The proposed amendments to the Campaign and Governmental Conduct Code must be approved by a majority vote of the Ethics Commission, and approved by a supermajority vote of at least eight members of the Board of Supervisors.

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