



San Francisco Ethics Commission

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Date: January 5, 2026

To: Members of the Ethics Commission

From: Michael Canning, Policy & Legislative Affairs Manager
Ryan Abusaa, Senior Policy Research Specialist

Re: AGENDA ITEM 05 – Discussion and Possible Action Regarding Behested Payment Waiver Legislation

Summary and Action Requested

This memo provides additional information on the City's behested payment prohibition and analysis of amended legislation that would make changes to the waiver provision of this rule. Staff recommend the Commission discuss the proposed legislative amendment and vote to approve the legislation. The legislation, which has been amended since this item was last discussed by the Commission in November, is included as [Attachment 1](#) and the Legislative Digest for the amended ordinance is provided as [Attachment 2](#).

This item was discussed at the Commission's October and November meetings and continued during both meetings to allow for additional discussion and research. This memo responds to questions and concerns raised by members of the Commission and members of the public, provides additional background information, and presents a recently added amendment.

Additional Background and Findings

To support the Commission's consideration of this ordinance, the following sections provide additional background on the behested payment prohibition, current behested payment waiver practices, and a review of comparable rules in other jurisdictions.

Additional History of the Behested Payment Prohibition

Expanding on the [background provided in the previous memoranda](#), the initial legislation to prohibit certain behested payments was presented by Ethics Commission staff in a 2020 project memo. The two proposed rules would prohibit City officers and employees from soliciting behested payments from interested parties, and from entities that pay them income. The rules aimed to create basic guardrails on fundraising activities that prohibit the most problematic conduct while preserving the ability of officers and employees to engage in most fundraising activities. During its November 2020 meeting, the

Commission voted unanimously to adopt only the first recommendation prohibiting City officers and employees from soliciting behested payments from interested parties.

[A similar report was published by the Controller's office](#), which recommended prohibiting non-elected department heads and employees from soliciting donations from those they regulate or do business with, unless specifically authorized by the Board of Supervisors. Given the reliance of some City functions on philanthropy, exceptions would need to be narrowly approved by the Board of Supervisors to permit fundraising by specific employees for specific public purposes. Authorized fundraising should be publicly reported using existing procedures that apply to elected officials but do not currently apply to other city officers or employees, such as filing the state-mandated Form 803.

The [behested payments legislation enacted by the Board of Supervisors in 2021](#) incorporated these recommendations by expanding the definition of "interested parties," generally prohibiting elected officials, department heads, commissioners, and designated employees from soliciting behested payments from interested parties – although the prohibition would not apply to solicitations made through public appeals. The legislation also removed a previous behested payment reporting provision for elected officials and commissioners, as what was previously required to be reported would now be prohibited, making the disclosure obsolete.

In 2022, Proposition E was placed on the ballot by Supervisors Chan, Mar, Peskin, Preston, and Walton. It sought to amend the behested payment law to prevent members of the Board of Supervisors from seeking behested payments from contractors who received Board approval of their contracts. Later that same year, an ordinance was passed through the Board of Supervisors and Ethics Commission that narrowed aspects of the existing prohibition, created new exceptions, and created the waiver provision that allows the Board of Supervisors to grant waivers that allow City officials to solicit payments from interested parties in certain situations.

Current Practices from the Board of Supervisors

For behested payment waivers received since the beginning of 2025, there has been a practice of identifying any City employees and officers who would be authorized to solicit payments – a practice that would be codified under the proposed ordinance. Additionally, since October of 2025 there has been new language inserted into behested payment waiver resolutions requiring a report back to the Board of Supervisors after the expiration of a waiver. This specific provision states that:

“...the parties receiving this waiver have agreed to report to the Board of Supervisors donations to the City and any third party that were solicited under this waiver; such reports will identify the donor, the amount of the donation, the party that received the donation, and the interested relationship the donor has with the department that solicited the donation; the department or office will submit the reports to the Board within 60 days of the expiration of the 6-month period authorized by this waiver...”.

Comparable Programs in Other Jurisdictions

Staff's original and supplemental research found that while jurisdictions outside of California do not directly refer to "behested payments" in their laws, there are similar restrictions on government officials soliciting donations from interested parties. The regulatory framework for solicitations often includes reporting requirements, limits on donation amounts, or outright bans on certain donors or third-party recipients.

No other jurisdictions appear to have waiver mechanisms as part of their ethics laws, potentially a byproduct of their prohibited donor groups being relatively narrow. Although New York City's program does not have waivers, their restriction is narrower and each City officer or agency is required to file a public report with the NYC Conflict of Interest Board regularly disclosing the identity of each not-for-profit organization for which they sought private contributions.

Proposed Amendment

The original version of the ordinance ([File #250947](#)) that was previously considered by the Ethics Commission amended the City's behested payment prohibition to allow the Board of Supervisors to issue waivers for its officers and employees. The original version of the ordinance also added a requirement that waiver resolutions "identify the City employees and officers to whom the waiver will apply."

Based on concerns and questions received from members of the Ethics Commission and members of the public, Staff have proposed an amendment to the original ordinance, which is supported by President Mandelman and captured in the draft ordinance that is included as [Attachment 1](#). This amended version makes the same changes as the initial version but adds a requirement that waiver recipients must report back information to the Board of Supervisors regarding how they used the waiver they received.

Drawing from current practices, Staff propose an amendment to require that any party who receives a waiver must provide a report to the Board of Supervisors within 60 days of the expiration of the waiver. The report must include an accounting of any donations to the City or third party that were solicited under the scope of the approved waiver, and shall identify the donor(s), the amount of the donation(s) made, the party that received the donation, and the interested relationship between the donor and the party who solicited the donation. The proposed legislation would codify this requirement so that the Board would no longer have to manually add it to each waiver resolution, instead it would apply to all behested payment waivers going forward.

This requirement is particularly valuable for payments solicited by officers and employees who are not elected, as they are not required to file the state-mandated Form 803, which elected officials must file when soliciting behested payments greater than \$5,000. This new report to the Board would also cover payments solicited by elected officials that may be too small to be reported on the Form 803.

This amendment is intended to address a concern heard by Staff that the current waiver process lacks transparency. This concern was clearly articulated in form emails received by the Commission since November, which expressed a concern that if the ordinance was approved, the Board of Supervisors

would be able to grant waivers for themselves “with the public never knowing which interested parties were solicited or who actually made behests under those waivers.” A copy of this email is included as [Attachment 3](#). Between December 8 and January 2, the Commission has received 133 copies of this email.

Staff discussed this amendment with advocacy groups, Board of Supervisors staff, and the Office of the Mayor, who were all supportive of requiring this additional report back requirement. Discussions with the Office of the Mayor were particularly beneficial, as this is the department most actively requesting and utilizing behested payment waivers. While the advocacy groups support requiring additional reporting, most are likely to still oppose this ordinance as they oppose allowing the Board to grant waivers to itself, even with the additional reporting provision.

Staff also considered and discussed potentially amending the ordinance to require waiver resolutions to identify the intended recipients of the payments as part of the resolution. However, staff heard from the Board and the Mayor’s Office that recipients are not always fully known when waivers are being approved, as new recipients can be identified throughout the solicitation process. Given this, there was a request not to add this requirement to the front-end of the request process, so that waiver recipients can maintain flexibility in where funds are ultimately directed. Instead, the identity of those receiving the payments would be captured in the report filed after the waiver has expired.

As presented in past memoranda, concerns about the Board of Supervisors being able to approve its own waivers are largely mitigated by the fact all waiver approvals would require a majority vote of the Board of Supervisors and the taking of public action to approve it. The public nature of these waivers and the required agreement among members of the Board of Supervisors serves as a check against the approval of inappropriate waivers that could allow for the sorts of problematic solicitations and payments this rule was created to prevent.

As with the original version of the ordinance, the amended version also does not undermine 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. The current amended version builds on these priorities by requiring the report to the Board which would publicly identify the specific interested parties solicited under the waiver.

The addition of the new reporting requirement adds an even greater level of transparency to the waiver process, ensuring the public will have a complete view of how these waivers are being used, who is using them, and who ultimately benefits from any payments made under the waivers. This added transparency improves the waiver process overall and is intended to mitigate concerns associated with the Board being able to grant waivers for itself.

Recommended Action

Staff recommend the Commission review the attached ordinance, listen to an additional presentation from President Mandelman’s Office regarding the proposed ordinance, and vote to approve.

The ordinance requires majority approval by the Ethics Commission and two-thirds vote from the Board of Supervisors to be enacted. If the Ethics Commission approves, the legislation will return to the Board of Supervisors for consideration and approval. In the event there are further substantive amendments from the Board of Supervisors, the legislation would again be referred to the Ethics Commission for additional approval.

Attachments

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

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

Attachment 3: [Example of Form Letter from Public on File No. 250947](#)

ATTACHMENT 1

1 [Campaign and Governmental Conduct Code - Behested Payments]

2

3 **Ordinance amending the Campaign and Governmental Conduct Code to permit the**

4 **Board of Supervisors to waive by resolution the requirements of the behested payment**

5 **ordinance for the Board itself and to require any party that receives a waiver to report**

6 **certain information to the Board of Supervisors no later than 60 days after expiration of**

7 **the waiver.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.

9 **Additions to Codes** are in *single-underline italics Times New Roman font*.

10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

11 **Board amendment additions** are in double-underlined Arial font.

12 **Board amendment deletions** are in *strikethrough Arial font*.

13 **Asterisks (* * * *)** indicate the omission of unchanged Code

14 subsections or parts of tables.

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

16 Section 1. Chapter 6 of the Campaign and Governmental Conduct Code is hereby

17 amended by revising the Chapter title and Section 3.620, to read as follows:

18 **CHAPTER 6: BEHESTED PAYMENTS ~~REPORTING~~**

19 * * * *

20 **SEC. 3.620. PROHIBITING ELECTED OFFICIALS, DEPARTMENT HEADS,**

21 **COMMISSIONERS, AND DESIGNATED EMPLOYEES FROM SOLICITING BEHESTED**

22 **PAYMENTS FROM INTERESTED PARTIES.**

23 * * * *

24 (f) **EXCEPTION – WAIVER.** *Upon request by a City department, the Board of*

25 Supervisors may waive the requirements of this Section 3.620 by resolution, *but may not waive*

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

13 (g) REPORTING. Any party that receives a waiver under subsection (f) must provide
14 a written report to the Board of Supervisors within 60 days of the expiration of the waiver of
15 any donations to the City or any third party that were solicited under that waiver. Such report
16 shall identify the donor, the amount of the donation made, the party that received the
17 donation, and the interested relationship between the donor and the department of the
18 employee or officer who solicited the donation.

19
20 Section 2. Prerequisites for Enactment; Super-Majority Vote Requirement. The
21 enactment of Section 1 of this ordinance is subject to provisions of the Campaign and
22 Governmental Conduct Code that require the amendments to be approved by a majority vote
23 of the Ethics Commission, and approved by a supermajority vote of at least eight members of
24 the Board of Supervisors.

25

1 Section 3. Effective Date. This ordinance shall become effective ~~30 days at 12:00~~
2 ~~a.m. on the 31st day~~ after enactment. Enactment occurs when the Mayor signs the
3 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
4 ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the
5 ordinance.

6

7 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11 additions, and Board amendment deletions in accordance with the "Note" that appears under
12 the official title of the ordinance.

13

14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

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

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 and to require any party that receives a waiver to report certain information to the Board of Supervisors no later than 60 days after expiration of the waiver.

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. It will also require any party that receives a waiver to provide a written report to the Board of Supervisors within 60 days of the expiration of the waiver of any donations to the City or any third party that were solicited under that waiver. Such report shall identify the donor, the amount of the donation made, the party that received the donation, and the interested relationship between the donor and the department that solicited the donation.

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

This most recent amendment to the ordinance adds the reporting requirement.

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.

ATTACHMENT 3

Attachment 3: Example of Form Letter from Public on File No. 250947

San Francisco Ethics Commission,

In 2021, the Ethics Commission led the way in establishing restrictions that bar city officials from soliciting behested payments from interested parties. The following year, voters overwhelmingly extended this safeguard to the Board of Supervisors by approving Proposition E with 69.4% support.

As the official ballot argument for Prop E warned: "In 2020, the City Controller produced a Public Integrity Review of pay-to-play politics in San Francisco, and found that so-called 'behested payments' presented a high risk of corruption... When behested payments occur, regular San Franciscans stand to lose."

The proposed amendments in File No. 250947 would effectively nullify Prop E by allowing Supervisors to grant waivers for themselves whenever they choose — with the public never knowing which interested parties were solicited or who actually made behests under those waivers.

Passing it would be a stunning reversal of your own leadership in establishing protections against potentially corruptive behested payments and a betrayal of the voters' will. Please reject it.

Sincerely,