

FILE NO.

SAN FRANCISCO
FILED

MOTION NO.

2016 JUL 29 AM 8:48

[Initiative Ordinance - Campaign and Governmental Conduct Code - Restricting Gifts and Contributions from Lobbyists]

Motion ordering submitted to the voters, at an election to be held November 8, 2016, an ordinance amending the Campaign and Governmental Conduct Code to restrict gifts and campaign contributions from lobbyists.

MOVED, That pursuant to Charter Section 15.102, the Ethics Commission hereby submits the following ordinance to the voters of the City and County of San Francisco, at an election to be held on November 8, 2016.

Ordinance amending the Campaign and Governmental Conduct Code to restrict gifts and campaign contributions from lobbyists.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~strikethrough italics Times New Roman 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. Article II, Chapter 1 of the Campaign and Governmental Conduct Code is hereby amended by revising Sections 2.100, 2.103, 2.105, 2.110, and 2.115, to read as follows:

SEC. 2.100. FINDINGS.

(a) The Board of Supervisors finds that public disclosure of the identity and extent of efforts of lobbyists to influence decision-making regarding local legislative and administrative matters is essential to protect public confidence in the responsiveness and representative

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1 nature of government officials and institutions. It is the purpose and intent of the Board of
2 Supervisors to impose reasonable registration and disclosure requirements to reveal
3 information about lobbyists' efforts to influence decision-making regarding local legislative and
4 administrative matters.

5 (b) To increase public confidence in the fairness and responsiveness of governmental decision
6 making, it is the further purpose and intent of the people of the City and County of San Francisco to
7 restrict gifts, campaign contributions, and bundled campaign contributions from lobbyists to City
8 officers so that governmental decisions are not, and do not appear to be, influenced by the giving of
9 personal benefits to City officers by lobbyists, or by lobbyists' financial support of City officers'
10 political interests.

11 ~~(b)~~(c) Corruption and the appearance of corruption in the form of campaign consultants
12 exploiting their influence with City officials on behalf of private interests may erode public
13 confidence in the fairness and impartiality of City governmental decisions. The City and
14 County of San Francisco has a compelling interest in preventing corruption or the appearance
15 of corruption which could result in such erosion of public confidence. Prohibitions on
16 campaign consultants lobbying current and former clients will protect public confidence in the
17 electoral and governmental processes. It is the purpose and intent of the people of the City
18 and County of San Francisco in enacting this Chapter to prohibit campaign consultants from
19 exploiting or appearing to exploit their influence with City officials on behalf of private
20 interests.

21 **SEC. 2.103. AMENDMENT OR REPEAL.**

22 With respect to any provisions of this Chapter regarding regulation of expenditure
23 lobbyists, registration requirements, amendment of registration information and monthly disclosures,
24 or restrictions on gifts, campaign contributions, or bundled campaign contributions from lobbyists.
25

1 approved by the voters, the Board of Supervisors may amend those provisions if all of the
2 following conditions are met:

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

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

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

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

11 **SEC. 2.105. DEFINITIONS.**

12 Whenever used in this Chapter 1, the following words and phrases shall be defined as
13 provided in this Section 2.105:

14 * * * *

15 "Agency" shall mean a unit of City government that submits its own budget to the Mayor and
16 Board of Supervisors pursuant to Article IX of the City Charter.

17 * * * *

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

19 * * * *

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

22 "Contact lobbyist" means any individual who (1) makes five or more contacts in a
23 calendar month with officers of the City and County on behalf of the individual's employer; or
24 (2) makes one or more contacts in a calendar month with an officer of the City and County on
25 behalf of any person who pays or who becomes obligated to pay the individual or the

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1 individual's employer for lobbyist services. An individual is not a contact lobbyist if that
2 individual is lobbying on behalf of a business of which the individual owns a 20% or greater
3 share.

4 "Contribution" shall have the same meaning as set forth in the California Political Reform Act,
5 California Government Code Section 81000, et seq.

6 "Controlled committee" shall have the same meaning as set forth in Section 1.104 of this Code,
7 but shall not include any state committees.

8 "Dependent child" shall mean a child or stepchild of a public official, who is under 18 years
9 old and whom the official is entitled to claim as a dependent on his or her federal tax return.

10 * * * *

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

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

5 "Gift of travel" shall mean payment, advance, or reimbursement for travel, including
6 transportation, lodging, and food and refreshment connected with the travel.

7 "Lobbyist" means a contact lobbyist or expenditure lobbyist.

8 * * * *

9 "Public event" shall mean an event or gathering that any member of the public may attend, has
10 been publicly announced and publicized in advance, and for which there is no admission cost or fee.

11 * * * *

12 "State committee" shall mean a committee formed to support or oppose candidates for state
13 office or state ballot measures.

14 * * * *

15 **SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF**
16 **REGISTRATION.**

17 (a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the
18 Ethics Commission and comply with the disclosure requirements imposed by this Chapter 1.
19 Such registration shall occur no later than five business days of qualifying as a lobbyist.
20 Contact lobbyists shall register prior to making any additional contacts with an officer of the
21 City and County of San Francisco and expenditure lobbyists shall register prior to making any
22 additional payments to influence local legislative or administrative action.

23 (b) **REGISTRATION.**

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

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1 (A) The name, business address, e-mail address, and business
2 telephone number of the lobbyist;

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

5 (C) The name, business address, and business telephone number of the
6 lobbyist's employer, firm or business affiliation; *and*

7 (D) Each agency that the contact lobbyist has attempted, will attempt, or may
8 attempt to influence on behalf of any client; and

9 ~~(D)~~(E) Any other information required by the Ethics Commission through
10 regulation, consistent with the purposes and provisions of this Chapter.

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

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

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

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

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

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

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

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

(D) Each agency that the expenditure lobbyist has made, will make, or may make payments to influence; and

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

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

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

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

(B) The name of each officer of the City and County of San Francisco with whom the lobbyist made a contact during the reporting period.

(C) The date on which each contact was made.

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

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1 (E) The client on whose behalf each contact was made.

2 (F) The amount of economic consideration received or expected by the
3 lobbyist or the lobbyist's employer from each client during the reporting period.

4 (G) All activity expenses incurred by the lobbyist during the reporting
5 period, including the following information:

6 (i) The date and amount of each activity expense;

7 (ii) The full name and official position, if any, of the beneficiary of
8 each activity expense, a description of the benefit, and the amount of the benefit;

9 (iii) The full name of the payee of each activity expense if other
10 than the beneficiary;

11 (iv) Whenever a lobbyist is required to report a salary of an
12 individual pursuant to this subsection (c)(1), the lobbyist need only disclose whether the total
13 salary payments made to the individual during the reporting period was less than or equal to
14 \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or
15 equal to \$10,000, or greater than \$10,000.

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

24 The following information regarding each campaign contribution shall be
25 submitted to the Ethics Commission:

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- 1 (i) The amount of the contribution;
- 2 (ii) The name of the contributor;
- 3 (iii) The date on which the contribution was made;
- 4 (iv) The contributor's occupation;
- 5 (v) The contributor's employer, or if self-employed, the name of
- 6 the contributor's business; and
- 7 (vi) The committee to which the contribution was made.

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

11 ~~(J) Any amendments to the lobbyist's registration information required by~~
12 ~~Subsection (b).~~

13 ~~(K)(J)~~ Any other information required by the Ethics Commission through
14 regulation consistent with the purposes and provisions of this Chapter.

15 (2) **Expenditure lobbyists.** Each expenditure lobbyist shall report to the Ethics
16 Commission the following information:

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

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

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

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

10 The following information regarding each campaign contribution shall be
11 submitted to the Ethics Commission:

- 12 (i) The amount of the contribution;
13 (ii) The name of the contributor;
14 (iii) The date on which the contribution was made;
15 (iv) The contributor's occupation;
16 (v) The contributor's employer, or if self-employed, the name of
17 the contributor's business; and
18 (vi) The committee to which the contribution was made.

19 ~~(E) Any amendments to the lobbyist's registration information required by~~
20 ~~Subsection (b).~~

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

23 (d) DUTY TO UPDATE INFORMATION. Lobbyists shall amend any information submitted
24 to the Ethics Commission through registration and monthly disclosures within five days of the changed
25 circumstances that require correction or updating of such information.

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(d)(e) REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS. The

Ethics Commission is authorized to establish procedures to permit the registration and filing of contact lobbyist disclosures by a business, firm, or organization on behalf of the individual contact lobbyists employed by those businesses, firms, or organizations.

(e)(f) FEES; TERMINATION OF REGISTRATION.

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

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

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

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

SEC. 2.115. LIMITS AND PROHIBITIONS.

(a) GIFT LIMIT PROHIBITION.

(1) No lobbyist shall make any gifts, including any gift of travel, to an officer of the City and County, or to a parent, spouse, domestic partner registered under state law, or dependent child of an officer of the City and County that have a fair market value of more than \$25, except for those gifts that would qualify for one of the exemptions under Section 3.216(b) of this Code and its implementing regulations. No lobbyist shall make any payment to a third-party for the purpose of paying for a gift or any part of a gift, including any gift of travel, to an officer of the City and County.

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1 or to a parent, spouse, domestic partner registered under state law, or dependent child of an officer of
2 the City and County.

3 (2) No officer of the City and County may accept or solicit any gift, including any gift of
4 travel, from any lobbyist for the officer's personal benefit or for the personal benefit of the officer's
5 parent, spouse, domestic partner registered under state law, or dependent child. No officer of the City
6 and County may accept or solicit any gift, including any gift of travel, from a third-party if the officer
7 knows or has reason to know that the third-party is providing the gift or gift of travel on behalf of a
8 lobbyist.

9 (3) Exception for gifts of food or refreshment provided by 501(c)(3) nonprofit
10 organizations. Notwithstanding the prohibitions set forth in subsections (1) and (2), lobbyists may offer
11 gifts of food or refreshment worth \$25 or less per occasion, and officers of the City and County may
12 accept such gifts, if the lobbyist is a 501(c)(3) nonprofit organization, the gift of food or refreshment is
13 offered in connection with a public event held by the 501(c)(3) nonprofit organization, and the same
14 gift of food or refreshment is made available to all attendees of the public event.

15 (4) Aggregation of gifts. For purposes of the gift limits imposed by subsections (1)-(3),
16 gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may
17 hereafter be amended.

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

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

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

4 **(e) CAMPAIGN CONTRIBUTIONS - PROHIBITIONS.**

5 (1) No lobbyist shall make any contribution to a City elective officer or candidate for
6 City elective office, including the City elective officer's or candidate's controlled committees, if that
7 lobbyist (A) is registered to lobby the agency of the City elective officer or the agency for which the
8 candidate is seeking election or (B) has been registered to lobby that agency in the previous 90 days.

9 (2) If a lobbyist has failed to disclose which agencies the lobbyist attempts to influence,
10 as required by Section 2.110(b), the lobbyist may not make a contribution to any City elective officer or
11 candidate for City elective office, or any City elective officer's or candidate's controlled committees.

12 **(f) BUNDLING OF CAMPAIGN CONTRIBUTIONS - PROHIBITIONS.**

13 (1) No lobbyist shall deliver or transmit, or deliver or transmit through a third party,
14 any contribution made by another person to any City elective officer or candidate for City elective
15 office, or any City elective officer's or candidate's controlled committees, if that lobbyist (A) is
16 registered to lobby the agency for which the candidate is seeking election or the agency of the City
17 elective officer or (B) has been registered to lobby that agency in the previous 90 days.

18 (2) If a lobbyist has failed to disclose which agencies the lobbyist attempts to influence,
19 as required by Section 2.110(b), the lobbyist may not deliver or transmit, or deliver or transmit through
20 a third party, any contribution made by another person to any City elective officer or candidate for City
21 elective office, or any City elective officer's or candidate's controlled committees.

22 **(g) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.** For purposes of the
23 contribution limits imposed by subsections (e) and (f), the contributions of an entity whose
24 contributions are directed and controlled by any lobbyist shall be aggregated with contributions made
25 by that lobbyist as set forth in Section 1.114(c).

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1 **(h) REGULATIONS. The Ethics Commission may adopt regulations implementing this**
2 **Section 2.115, but such regulations may not establish any exceptions from the limits and prohibitions**
3 **set forth therein.**

4
5 Section 2. Scope of Ordinance. In enacting this ordinance, the People of the City and
6 County of San Francisco intend to amend only those words, phrases, paragraphs,
7 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other
8 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions
9 or deletions, in accordance with the "Note" that appears under the official title of the
10 ordinance.

11
12 Section 3. Appropriation. There is hereby appropriated \$115,000 from the General
13 Reserve to fund administrative and enforcement costs required to implement this ordinance,
14 which shall be appropriated and made available 30 days after the Board of Supervisors
15 declares the results of the November 8, 2016 election. Any portion of this appropriation that
16 remains unspent at the end of Fiscal Year 2016-17 shall be carried forward and spent in
17 subsequent years for the same purpose. Additionally, it shall be City policy in all fiscal years
18 following depletion of this original appropriation that the Board of Supervisors shall annually
19 appropriate \$5,000 for this purpose, to be adjusted annually to reflect changes in the
20 California Consumer Price Index and rounded off to the nearest \$100.

21
22 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
23 of this ordinance, or any application thereof to any person or circumstance, is held to be
24 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
25 shall not affect the validity of the remaining portions or applications of the ordinance. The

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

Section 5. Effective and Operative Dates. This ordinance shall become effective 10 days after the Board of Supervisors declares the results of the November 8, 2016 election. Except as provided in Section 3, this ordinance shall become operative on January 1, 2018.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:


ANDREW SHEN
Deputy City Attorney

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