



12

**OFFICE OF THE
CITY ATTORNEY**

WILLIAM L. OWEN
INTERIM CITY ATTORNEY

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

WILLIAM P. CARNAZZO
ASSISTANT CITY ATTORNEY

SAMUEL L. JACKSON
SENIOR DEPUTY CITY ATTORNEY

**CITY OF SACRAMENTO
CALIFORNIA**

February 9, 1994

921 TENTH STREET
SUITE 700
SACRAMENTO, CA
95814-2717

PH 916-264-5346
FAX 916-264-7455

DEPUTY CITY ATTORNEYS
RICHARD F. ANTOINE
RICHARD E. ARCHIBALD
DIANE B. BALTER
CATHERINE H. BROWN
SHANA S. FABER
JOSEPH McINERNEY
KELLIE A. McNAIR
TAMARA MILLIGAN-HARMON
JOE ROBINSON

**Law and Legislation Committee
Sacramento, California**

SUBJECT: CAMPAIGN REFORM ORDINANCE

Honorable Members in Session:

LOCATION AND COUNCIL DISTRICT: Citywide.

RECOMMENDATION

The Law and Legislation Committee may provide direction and make recommendations as appropriate as to the following: (1) whether to restore the right of political action committees to give greater amounts to City elective candidates (\$1,500.00 for candidates for Council positions, and \$3,000.00 for candidates for the mayoral position); (2) whether to recommend an increase in the off-election-year limits from \$10,000.00 for Council candidates and \$20,000.00 for mayoral candidates to \$25,000.00 and \$50,000.00, respectively; (3) whether to add language to further clarify that a candidate may collect up to the cumulative limits in each off-election year; (4) whether to adopt a provision regulating the transfer of funds by candidates from one controlled account to another controlled account; (5) whether to modify the requirement for candidates giving notice of the City ordinance when soliciting campaign contributions.

CONTACT PERSON: Richard E. Archibald, Deputy City Attorney, 264-5346

FOR COMMITTEE MEETING OF: February 15, 1994.

BACKGROUND

On November 19, 1993, the City Council considered a report back on the campaign reform ordinance and several proposed amendments to the ordinance. The proposed amendments presented

Law and Legislation Committee
Re: **Campaign Reform Ordinance**
February 9, 1994
Page 2

for consideration were (1) to restore the right of political action committees to give greater amounts for City elective candidates (\$1,500.00 for candidates for Council positions, and \$3,000.00 for candidates for the mayoral position) as was permitted under the City's previous campaign reform ordinance; and (2) to increase the off-election year limits from \$10,000.00 for Council candidates (including incumbents) and \$20,000.00 for mayoral candidates (including incumbents) to \$25,000.00 and \$50,000.00, respectively. The Council referred the matter to the Law and Legislation Committee.

At the November 19, 1993 meeting, a request was made for this office to prepare an additional proposed amendment to address the issue of transfer of funds by a candidate from one controlled account to another controlled account. A provision regulating transfers has been drafted and is included for consideration by the Committee. Certain other minor amendments addressing concerns of the Council expressed at the November 19th meeting are presented for consideration by the Committee.

The Law and Legislation Committee may provide direction and make recommendations as appropriate as to the following: (1) whether to restore the right of political action committees to give greater amounts to City elective candidates (\$1,500.00 for candidates for Council positions, and \$3,000.00 for candidates for the mayoral position); (2) whether to recommend an increase in the off-election-year limits from \$10,000.00 for Council candidates and \$20,000.00 for mayoral candidates to \$25,000.00 and \$50,000.00, respectively; (3) whether to add language to further clarify that a candidate may collect up to the cumulative limits in each off-election year; (4) whether to adopt a provision regulating the transfer of funds by candidates from one controlled account to another controlled account; (5) whether to modify the requirement for candidates giving notice of the City ordinance when soliciting campaign contributions.

SUMMARY

A copy of the November 19, 1993 staff report to Council is attached as Attachment 1. The proposed amendments presented for consideration at the November 19th meeting were primarily two-fold: (1) to restore the right of political action committees to give greater amounts for City elective candidates (\$1,500.00 for candidates for Council positions, and \$3,000.00 for candidates for the mayoral position) as was permitted under the City's previous campaign reform ordinance; and (2) to increase the off-election year limits from \$10,000.00 for Council candidates (including incumbents) and \$20,000.00 for mayoral candidates (including incumbents) to \$25,000.00 and \$50,000.00, respectively. Several additional minor amendments were also before the Council on November 19th. The proposed amendments are highlighted in Attachment 1.

A request was made at the November 19th Council meeting for this office to prepare for consideration a provision to regulate the transfer of funds by a candidate from one controlled account to another controlled account. Such a provision has been prepared and is discussed below. This provision would allow a candidate to transfer funds from one campaign account to another campaign

account established for a subsequent election for City elective office, provided the contribution limits of the ordinance are complied with. A similar provision is contained in the regulations adopted by the Fair Political Practices Commission to implement the special election contribution limits of the Political Reform Act; the draft proposal would require a candidate to allocate an account for funds transferred from one account to another in the same manner as he or she would if involved in a special election subject to the FPPC regulations. Prohibiting transfers is an alternative approach, and is discussed below.

DISCUSSION

The current campaign reform ordinance consists of two basic limitations: (1) limits on the amounts that individual contributors may give to a candidate for City elective office in each election; and (2) limits on the amount that a candidate (including incumbent) may collect in contributions in each of the off-election years. The proposed amendments would affect each of these limitations. Following is a brief discussion of the current limits and the proposed amendments.

Individual Contribution Limits

The current ordinance establishes limits on the amounts that contributors may give to candidates for Council positions and the mayoral position. A "person" may give \$500.00 to a candidate for a City Council position for each election, and \$750.00 to a candidate for the mayoral position for each election. The current ordinance does not distinguish between individuals, corporations, partnerships, associations, and other organizations; each is considered a "person" for purposes of the contribution limits.

The proposed amendment would restore separate, and higher, contribution limits for contributions by "political action committees" similar to the limits that existed under the City's prior campaign reform ordinance. The limits would be \$1,500.00 for contributions by political action committees to Council candidates, and \$3,000.00 for contributions by political action committees to mayoral candidates. The definition of "political action committee" is patterned substantially after the definition contained in the previous ordinance.

Cumulative Off-Election-Year Limits

The current ordinance contains cumulative off-election-year contribution limits which restrict the amounts that candidates, including incumbents, may gather during off-election years. The limits are \$10,000.00 for candidates for City Council positions and \$20,000.00 for candidates for the mayoral position. The amendments would increase the limits to \$25,000.00 for Council candidates and \$50,000.00 for mayoral candidates.

The ordinance is intended to allow for a candidate, including an incumbent, to collect the maximum amount in each of the off-election years. Several Council members expressed concern that

Law and Legislation Committee
Re: Campaign Reform Ordinance
February 9, 1994
Page 4

the language of the ordinance is not clear on this point. The pertinent language in the current ordinance is as follows:

No incumbent or candidate for the office of city council member, or a controlled committee of said incumbent or candidate, shall accept contributions totaling more than ten thousand dollars (\$10,000.00) in any single off-election year. City Code Section 62.04.220(b).

To the extent that further clarification is deemed necessary, clarifying language could be added. Possible language might include the following:

Ten thousand dollars (\$10,000.00) may be gathered in each off-election year.

Transfer Between a Candidate's Controlled Accounts

At the November 19th meeting, the issue of transfer of funds by candidates from one controlled account to another controlled account ("intra-candidate" transfers) was discussed. The current ordinance does not address the issue of intra-candidate transfers, and this office opined that such transfers should be considered permissible, except to the extent that the FPPC regulations restricting transfers in special elections are involved. This opinion was based on the federal court decision striking down various provisions of Proposition 73, including a prohibition on intra-candidate transfers. A request was made that a provision be drafted to regulate or restrict such transfers between controlled accounts.

There are three basic options available: (1) Allow transfers without restriction; (2) allow for transfers in some amount, e.g., an amount consistent with the contribution limits of the City's ordinance; or (3) prohibit transfers. Following is a discussion of the three options.

As indicated above, the district court issued a decision, affirmed by the Ninth Circuit Court of Appeal, striking down various provisions of Proposition 73, including a prohibition on transfer of funds by a candidate from one controlled account to another controlled account. In an apparent response to the decision striking down the prohibition on intra-candidate transfers, the Fair Political Practices Commission (FPPC) adopted a regulation restricting, but not prohibiting, the transfer of funds by a candidate from one controlled account to another controlled account in special, and special run-off, elections. A copy of the regulation, 2 Cal. Admin. Code Section 18535, is attached as Attachment 2. Under this regulation, funds may be transferred from one controlled account to another controlled account, provided they are first allocated to specific contributors to the first account; and provided that the amounts attributed to particular contributors and thereafter transferred to the new account do not, when combined with other contributions from the same contributors, conflict with the special election contribution limits. The FPPC regulation also prohibits the transfer of funds that constitute or include contributions received from any other candidate.

Following is a proposed amendment that would regulate transfer of funds between controlled accounts of a candidate in the same manner as in Section 18535:

- (c) **Transfer of Funds.** A candidate for City elective office may transfer funds from any other committee controlled by the candidate to the candidate's committee for election to City elective office, provided all of the following requirements are met:
- (1) the contributions transferred to the candidate's committee for election to a City elective office, when aggregated with all other contributions from, and transfers attributable to, the same contributor do not exceed the amount that the contributor could have contributed to the candidate, or the controlled committee of the candidate, pursuant to Section 62.04.220 above; and
 - (2) All contributions transferred to the second campaign contribution account are attributed to specific contributors to the campaign contribution account from which they are transferred. Contributions shall be allocated and attributed to individual contributors in the same manner as contributions would be allocated and attributed if transferred for a special election pursuant to Title 2, California Administrative Code Section 18535, and
 - (3) the contributions transferred to the second campaign contribution account shall not include contributions received from any other candidate.

As an alternative to the foregoing regulation restricting transfers by a candidate from one account to another controlled account, consideration may also be given to a prohibition on such transfers. It should be noted that the Proposition 73 prohibition on "intra-candidate" transfer of funds was struck down by the federal courts on the ground that it was an invalid expenditure limitation. However, a reasonable argument could be made that a prohibition on transfers is permissible, not as an expenditure limitation but rather as a restriction necessary to implement the City's contribution limitations. Absent either a prohibition or a restriction on transferring of funds from one account to another account, the contribution limitations could theoretically be circumvented by a contributor giving the maximum amount to the "old" account of a candidate on one day; thereafter giving the maximum amount to the candidate's second account on the next day; and by the candidate subsequently transferring funds from the old account to the new account. In discussing a separate

prohibition on "inter-candidate" transfer of funds (i.e., the transfer of funds from one candidate or controlled committee to another candidate or controlled committee), the district court noted that such a prohibition might be appropriate as a regulation implementing a valid contribution limitation, since such transfers might otherwise be used as an indirect method to circumvent the contribution limits. *SEIU v. FPPC* (1990) 747 F.Supp. 580, 593. The court characterized contributions as "fungible," and indicated that there was no way to trace particular transfers to particular contributors. *Id.* The court ultimately did not have to resolve the issue, since it found that the fiscal-year contribution limits of Proposition 73 were invalid.

In addition to addressing the issue of transfer of funds between controlled accounts of a candidate, you may also wish to consider the inclusion of language to address the issue of transfer of funds from one candidate or committee to another candidate or committee. As discussed above, one of the provisions of the Political Reform Act struck down by the federal courts prohibited the transfer of funds from one candidate or committee to another candidate ("inter-candidate" transfers). The courts based their decision on the absence of valid contribution limits to justify the prohibition on transfer of funds. The FPPC has taken the position that the prohibition on transfers between different candidates or committees is valid and in effect in those instances where there is a valid contribution limit scheme in effect, including one at the local level. To eliminate the possibility of confusion, you may wish to recommend the inclusion of language to spell out the Political Reform Act prohibition. Appropriate language will be drafted if the Committee so recommends.

Other Issues

It has also been suggested that consideration be given to certain additional amendments to clarify or streamline the current ordinance. One area of concern was the requirement under the current ordinance for candidates to give written notice to contributors when sending a written solicitation seeking funds.

The current ordinance requires that a candidate send a notice to contributors when sending a written solicitation for contributions. City Code Section 62.04.220(a)(5). The notice is rather detailed, and sets forth a summary of some of the key provisions of the ordinance. It was suggested that consideration be given to simplifying the notice. One approach would be to modify and shorten the notice to be similar to the notice contained in the County ordinance. The notice required under the current County ordinance is as follows:

WARNING

Chapter 2.115 of the Sacramento County Code regulates contributions to campaigns for county elective office. Before making a contribution to my campaign, please read Chapter 2.115, and in particular sections 2.115.255, 2.115.260, 2.115.300 and 2.115.310, to determine if your contribution complies with Chapter 2.115.

Law and Legislation Committee
Re: Campaign Reform Ordinance
February 9, 1994
Page 7

FINANCIAL CONSIDERATIONS

None.

POLICY CONSIDERATIONS

Whether to consider increasing off-election-year contribution limits and restoring the separate, and higher, contribution limits for political action committees; whether to restrict or prohibit the transfer of funds by a candidate for City elective office from one controlled account to another controlled account.

MBE/WBE

N/A.

Respectfully submitted,

WILLIAM L. OWEN, Interim City Attorney

By: Richard E. Archibald
RICHARD E. ARCHIBALD
Deputy City Attorney

RECOMMENDATION APPROVED:

David R. Martinez
DAVID R. MARTINEZ
Deputy City Manager



OFFICE OF THE
CITY ATTORNEY

SHARON SIEDORF CARDENAS
CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

November 9, 1993

921 TENTH STREET
SUITE 700
SACRAMENTO, CA
95814-2717

PH 916-264-5346
FAX 916-264-7455

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: CAMPAIGN REFORM ORDINANCE

LOCATION AND COUNCIL DISTRICT: City-wide.

RECOMMENDATION

The Council requested that the campaign reform ordinance be scheduled for further consideration and discussion. Additionally, a request has been made by Councilmember Pannell to amend the campaign reform ordinance to raise the off-election year limits from \$10,000.00 for Council candidates (including incumbents) and \$20,000.00 for mayoral candidates (including incumbents) to \$25,000.00 and \$50,000.00, respectively; and to restore the right of political action committees to give greater amounts to City elective candidates (\$1,500.00 for candidates for Council positions, and \$3,000.00 for candidates for the mayoral position) as was permitted under the previous campaign reform ordinance.

An ordinance to amend the campaign reform ordinance in the manner requested by Councilmember Pannell has been drafted and is attached for your review. The ordinance contains certain additional, minor technical amendments which this office believes are necessary to clarify the existing ordinance.

The Council should decide whether it wishes to consider the attached ordinance, and if so, should either refer the matter to the Law and Legislation Committee or pass the ordinance for publication and schedule a hearing on the ordinance for further consideration. The Council should provide further direction as appropriate.

CONTACT PERSON: Richard E. Archibald, Deputy City Attorney
(916) 264-5346

FOR COUNCIL MEETING OF: November 16, 1993.

EXHIBIT 1

City Council
Re: Campaign Reform Ordinance
November 9, 1993
Page 2

SUMMARY

The Council requested that the campaign reform ordinance be scheduled for further consideration and discussion. Additionally, a request has been made by Councilmember Pannell to amend the campaign reform ordinance to raise the off-election year limits from \$10,000.00 for Council candidates (including incumbents) and \$20,000.00 for mayoral candidates (including incumbents) to \$25,000.00 and \$50,000.00, respectively; and to restore the right of political action committees to give greater amounts to City elective candidates as was permitted under the previous campaign reform ordinance. Under the prior ordinance, political action committees were allowed to give \$1,500.00 to a candidate for a City Council position in each election, and \$3,000.00 to a candidate for the mayoral position in each election.

An ordinance to amend the campaign reform ordinance in the manner requested by Councilmember Pannell has been drafted and is attached for your review. The ordinance contains certain additional amendments which this office believes are necessary to clarify the existing ordinance. The Council should provide further direction as appropriate.

DISCUSSION

The current campaign reform ordinance was passed on October 27, 1992. The ordinance establishes contribution limits on the amounts that contributors may give to candidates for Council positions and the mayoral position. A "person" may give \$500.00 to a candidate for a City Council position for each election, and \$750.00 to a candidate for the mayoral position for each election. Under the current ordinance, no distinction is drawn between individuals, corporations, partnerships, associations and other organizations; each is considered a "person" for purposes of the contribution limits.

In addition to the individual contribution limits, the current ordinance contains cumulative off-election year contribution limitations which restrict the amounts that candidates, including incumbents, can gather during off-election years. The limits are \$10,000.00 for candidates for City Council positions, and \$20,000.00 for candidates for the mayoral position.

Councilmember Pannell has requested that the ordinance be amended (1) to increase the amounts that candidates, including incumbents, may gather during off-election years; and (2) to restore the separate, and higher, contribution limits for contributions by "political action committees" that existed under the prior City campaign reform ordinance. Under the previous ordinance, a "political action committee" was allowed to give \$1,500.00 to a Council candidate, and \$3,000.00 to a mayoral candidate, for each election. With regard to the off-election year limits, Councilmember Pannell has requested that the limits be increased to \$25,000.00 annually for Council candidates, including incumbents, and \$50,000.00 for mayoral candidates, including

City Council
Re: Campaign Reform Ordinance
November 9, 1993
Page 3

the incumbent. Councilmember Pannell advises that the additional funds are needed to meet officeholder expenses.

Attached is an ordinance which would amend the campaign reform ordinance as requested by Councilmember Pannell. The amendments establish contribution limits of \$1,500.00 for Council candidates and \$3,000.00 for mayoral candidates for contributions by political action committees; and establish off-election year limits of \$25,000.00 for Council candidates and \$50,000.00 for mayoral candidates. A definition for "political action committee" is set forth in the ordinance, and is patterned substantially after the definition of the previous campaign reform ordinance. That definition is set as follows:

Political action committee shall mean a committee, as that term is defined in Government Code Section 82013, which has been in existence for a period of not less than six (6) months and receives contributions from more than ten (10) persons; provided that a controlled committee of a candidate for elective office shall not be considered a political action committee for purposes of this article.

The higher contribution limits for political action committees for mayoral elections could potentially conflict with the contribution limits for special elections established by the Political Reform Act. The limits under the Political Reform Act are as follows: \$1,000.00 per special election or special run-off election for a "person" (defined to include individuals, corporations, partnerships, etc.); \$2,500.00 per special election or per special run-off election for a "political committee"; and \$5,000.00 per special election or per special run-off election for a "broad-based political committee" or for a "political party." Government Code Section 85305. The special election limits of the Political Reform Act should be considered valid and applicable to City of Sacramento special elections. To eliminate the possibility of conflict between the City limits and the Political Reform Act limits, language has been added to specify that the lower of the two limits is the applicable limit. See Section 62.04.220(a)(2)(b).

In addition to the foregoing amendments, the attached ordinance contains several additional changes designed to correct minor internal reference discrepancies. These changes are highlighted in the attached ordinance.

FINANCIAL CONSIDERATIONS

None.

City Council
Re: Campaign Reform Ordinance
November 9, 1993
Page 4

POLICY CONSIDERATIONS

Whether to consider increasing off-election-year contribution limits and establishing a separate, higher contribution limit for political action committees.

MBE/WBE

N/A.

Respectfully submitted,

SHARON SIEDORF CARDENAS
City Attorney

By: Richard Earl Archibald
RICHARD E. ARCHIBALD
Deputy City Attorney

RECOMMENDATION APPROVED:

for: William H. Edgar
WILLIAM H. EDGAR
City Manager

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTIONS 62.03.210(b) AND (i), 62.04.220, AND 62.04.223(b) AND (c) OF CHAPTER 62 OF THE SACRAMENTO CITY CODE RELATING TO THE CAMPAIGN CONTRIBUTION LIMITS CODE AND THE INDIVIDUAL CONTRIBUTION LIMITS AND AGGREGATE OFF-ELECTION-YEAR LIMITS ESTABLISHED THEREUNDER

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Paragraph (h) of Section 62.03.210 of Chapter 62 of the Sacramento City Code is hereby amended to read as follows:

- (h) Person shall mean an individual or any proprietorship, labor union, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, ~~political action committee, committee,~~ or any other entity or organization or group of persons, however organized.

SECTION 2.

Paragraph (i) of Section 62.03.210 of Chapter 62 of the Sacramento City Code is hereby added to read as follows:

- (i) Political action committee shall mean a committee, as that term is defined in Government Code Sec. 82013, which has been in existence for a period of not less than six (6) months and receives contributions from more than ten (10) persons; provided that a controlled committee of a candidate for elective office shall not be considered a political action committee for purposes of this article.

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

SECTION 3.

Section 62.04.220 of Chapter 62 of the Sacramento City Code is hereby amended to read as follows:

62.04.220 Contribution limitations.

Contributions to candidates for the office of city council member and for the office of the mayor shall be subject to the following limitations:

(a) Individual contribution limits.

(1) Council members

a) **Contributions by Persons:** No person shall make, and no candidate for the office of city council member, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee, to exceed five hundred dollars (\$500.00) for each of the following elections for the office of city council member: a primary election, a general election, a special election or recall election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city council from his or her personal funds.

b) **Contributions by Political Action Committees:** No political action committee shall make, and no candidate for the office of city council member, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that political action committee to the candidate, or to the candidate's controlled committee, to exceed fifteen hundred dollars (\$1500.00) for each of the following elections for the office of city council member: a primary election, general election, special election, or recall election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city council from his or her personal funds.

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

(2) Mayor

a) **Contributions by Persons:** No person shall make, and no candidate for the office of mayor, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee, to exceed seven hundred and fifty dollars (\$750.00) for each of the following elections for the office of mayor: a primary election, a general election, a special election or recall election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city council from his or her personal funds.

b) **Contributions by Political Action Committees:** No political action committee shall make, and no candidate for the office of mayor, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that political action committee to the candidate, or to the candidate's controlled committee, to exceed three thousand dollars (\$3000.00) for each of the following elections for the office of mayor: a primary election, general election, special election or a recall election, provided that, to the extent the Political Reform Act provides a lower limit for special elections, the lower limit shall apply. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for mayor from his or her personal funds.

(3) **Off-election-year contributions to officeholders:** Contributions to an incumbent mayor or an incumbent city council member during off-election years shall be considered contributions for the election in which the incumbent acquired his or her office, unless the contributions are accepted and deposited into a new campaign contribution account for a future election to the same or different office.

(4) **Timing of contributions:** For purposes of this section, a contribution made and accepted on or before June 30th to a candidate for a city elective office in a regular election shall be deemed to be contributions for the primary election, and contributions made and accepted on or after July

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

1st to a candidate for a city elective office in a regular election shall be deemed to be contributions for the general election.

- (5) **Written solicitations by candidates:** Any candidate making a written solicitation for a contribution for his or her campaign for city elective office shall include the following written notice in no less than ten-point type on each such solicitation:

NOTICE

Sections 62.02.200 to 62.05.232 of the Sacramento City Code limit the amounts that a contributor may give to a candidate for city elective office for a primary, general, special or recall election. Generally, a contributor other than a political action committee may not give more than a total of \$500.00 to a candidate for city council for a primary, general, special or recall election; and a contributor other than a political action committee may not give more than a total of \$750.00 to a candidate for mayor for a primary, general, special or recall election. Generally, a political action committee may not give more than \$1,500.00 to a candidate for city council for a primary, general, special or recall election, and a political action committee may not give more than \$3,000.00 to a candidate for mayor for a primary, general, special or recall election. The regulations contain certain other rules that may affect the amounts that an individual contributor may give. Please read these regulations before making a contribution to my campaign.

(b) **Cumulative off-election-year contribution limitations.**

- (1) **City council members:** No incumbent or candidate for the office of city council member, or a controlled committee of said incumbent or candidate, shall accept contributions totaling more than ~~twenty-five thousand dollars (\$25,000.00)~~ **ten thousand dollars (\$10,000.00)** in any single off-election year. The intent of this section is to impose an absolute limit of ~~twenty-five thousand dollars (\$25,000.00)~~ **ten thousand dollars (\$10,000.00)** on the total amount of contributions from all sources received by any incumbent or candidate in any single off-election year, even if no single contribution exceeds the limits set forth in Section 62.04.220(a). It is the further intent that contributions made during the off-election years shall be attributed to a particular election, and shall be

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

included in the amount attributed to a particular contributor for purposes of the contribution limits established by Section 62.04.220 above.

- (2) **Mayor:** No incumbent or candidate for the office of mayor or a controlled committee of said incumbent or candidate shall accept contributions totaling more than ~~fifty thousand dollars (\$50,000.00)~~ ~~twenty thousand dollars (\$20,000.00)~~ in any single off-election year. The intent of this section is to impose an absolute limit of ~~fifty thousand dollars (\$50,000.00)~~ ~~twenty thousand dollars (\$20,000.00)~~ on the total amount of contributions from all sources received by any incumbent or candidate in any single off-election year, even if no single contribution exceeds the limits set forth in Section 62.04.220(a). It is the further intent that contributions made during the off-election years shall be attributed to a particular election, and shall be included in the amount attributed to a particular contributor for purposes of the contribution limits established by Section 62.04.220 above.
- (3) **Exception: Campaign indebtedness:** The aggregate contribution limitations for off-election years shall not apply to candidates or incumbents whose campaigns for city elective office are in debt following the election(s). The candidate or incumbent who is in debt following an election may only collect funds in excess of the cumulative limits set forth above in the amounts necessary to eliminate the debt incurred by the candidate, and shall thereafter be subject to the aggregate off-election-year limits. Nothing in this exception is intended to allow a contributor to give, or a candidate or incumbent, or controlled committee of said candidate or incumbent, to accept, contributions in amounts exceeding the individual contribution limits set forth in Section 62.04.220. For purposes of the contribution limits set forth in Section 62.04.220, the contributions to the candidate shall be considered to be contributions for the last election in which the candidate was on the ballot for the city elective office in which the debt was incurred.

SECTION 4.

Paragraphs (b) and (c) of Section 62.04.223 of Chapter 62 of the Sacramento City Code are hereby amended to read as follows:

- (b) Two or more persons shall be treated as one and the same person for purposes of the contribution limitations set forth in ~~paragraphs (a) and (b)~~ of Section 62.04.220 above, and their contributions shall be aggregated and shall not exceed the limitations set forth

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

in ~~paragraph (a) and (b)~~ of Section 62.04.220 above, in the following situations:

- (1) Related entities. Two or more entities shall be treated as one person when such entities:
 - a) Share the majority of members of their boards of directors;
 - b) Share two or more corporate officers;
 - c) Are owned or controlled by the same majority shareholder or shareholders; or
 - d) Are in a parent-subsidary relationship. A parent-subsidary relationship exists when one corporation directly or indirectly owns shares possessing more than fifty percent (50%) of the voting power of another corporation.
- (2) Controlling interest ~~partnerships and corporations~~. A person and any general or limited partnership in which the person is a general partner, or a person and any corporation in which the person owns a controlling interest, shall be treated as one person. For purposes of this subsection, a controlling interest in a corporation means fifty percent (50%) or more of the voting power of a corporation.
- ~~(3) If the same person or majority of the same persons directs and controls the decisions of two or more entities to make contributions or expenditures to support or oppose a candidate or candidates, those affiliated entities shall be considered one person or one political action committee for purposes of the contribution limits specified in paragraph (a) of Section 62.04.220 above.~~
- (c) Notwithstanding the provisions of Section 62.05.231, a candidate shall not be deemed to be in violation of this section if he or she accepts a contribution from a person that was made to such candidate in violation of paragraphs ~~(a) (1)~~ and ~~(b) (2)~~ above. It is the intent of this section to made contributors, and not candidates, liable for violations of this section occurring as a result of the applicability of paragraphs ~~(a) (1)~~ and ~~(b) (2)~~ to a contribution.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTIONS 62.03.210(h) AND (i),
62.04.220, AND 62.04.223(b) AND (c) OF CHAPTER 62 OF THE
SACRAMENTO CITY CODE RELATING TO THE CAMPAIGN
CONTRIBUTION LIMITS CODE AND THE INDIVIDUAL
CONTRIBUTION LIMITS AND AGGREGATE OFF-ELECTION-
YEAR LIMITS ESTABLISHED THEREUNDER

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Paragraph (h) of Section 62.03.210 of Chapter 62 of the Sacramento City Code is hereby amended to read as follows:

- (h) Person shall mean an individual or any proprietorship, labor union, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, or any other entity or organization or group of persons, however organized.

SECTION 2.

Paragraph (i) of Section 62.03.210 of Chapter 62 of the Sacramento City Code is hereby added to read as follows:

- (i) Political action committee shall mean a committee, as that term is defined in Government Code Sec. 82013, which has been in existence for a period of not less than six (6) months and receives contributions from more than ten (10) persons; provided that a controlled committee of a candidate for elective office shall not be considered a political action committee for purposes of this article.

SECTION 3.

Section 62.04.220 of Chapter 62 of the Sacramento City Code is hereby amended to read as follows:

- 1 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

62.04.220 Contribution limitations.

Contributions to candidates for the office of city council member and for the office of the mayor shall be subject to the following limitations:

(a) Individual contribution limits.

(1) Council members

- a) **Contributions by Persons:** No person shall make, and no candidate for the office of city council member, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee, to exceed five hundred dollars (\$500.00) for each of the following elections for the office of city council member: a primary election, general election, special election or recall election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city council from his or her personal funds.
- b) **Contributions by Political Action Committees:** No political action committee shall make, and no candidate for the office of city council member, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that political action committee to the candidate, or to the candidate's controlled committee, to exceed fifteen hundred dollars (\$1500.00) for each of the following elections for the office of city council member: a primary election, general election, special election, or recall election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city council from his or her personal funds.

(2) Mayor

- a) **Contributions by Persons:** No person shall make, and no candidate for the office of mayor, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

contribution which would cause the total amount contributed by that person to the candidate, or to the candidate's controlled committee, to exceed seven hundred and fifty dollars (\$750.00) for each of the following elections for the office of mayor: a primary election, general election, special election or recall election. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city council from his or her personal funds.

b) **Contributions by Political Action Committees:** No political action committee shall make, and no candidate for the office of mayor, or a controlled committee of said candidate, or person acting by or on behalf of said candidate or said candidate's controlled committee, shall accept any contribution which would cause the total amount contributed by that political action committee to the candidate, or to the candidate's controlled committee, to exceed three thousand dollars (\$3000.00) for each of the following elections for the office of mayor: a primary election, general election, special election or a recall election; provided that, to the extent the Political Reform Act provides a lower limit for special elections, the lower limit shall apply. Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for mayor from his or her personal funds.

- (3) **Off-election-year contributions to officeholders:** Contributions to an incumbent mayor or an incumbent city council member during off-election years shall be considered contributions for the election in which the incumbent acquired his or her office, unless the contributions are accepted and deposited into a new campaign contribution account for a future election to the same or different office.
- (4) **Timing of contributions:** For purposes of this section, a contribution made and accepted on or before June 30th to a candidate for a city elective office in a regular election shall be deemed to be contributions for the primary election, and contributions made and accepted on or after July 1st to a candidate for a city elective office in a regular election shall be deemed to be contributions for the general election.
- (5) **Written solicitations by candidates:** Any candidate making a written solicitation for a contribution for his or her campaign for city elective

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

office shall include the following written notice in no less than ten-point type on each such solicitation:

NOTICE

Sections 62.02.200 to 62.05.232 of the Sacramento City Code limit the amounts that a contributor may give to a candidate for city elective office for a primary, general, special or recall election. Generally, a contributor other than a political action committee may not give more than a total of \$500.00 to a candidate for city council for a primary, general, special or recall election; and a contributor other than a political action committee may not give more than a total of \$750.00 to a candidate for mayor for a primary, general, special or recall election. Generally, a political action committee may not give more than \$1,500.00 to a candidate for city council for a primary, general, special or recall election; and a political action committee may not give more than \$3,000.00 to a candidate for mayor for a primary, general, special or recall election. The regulations contain certain other rules that may affect the amounts that an individual contributor may give. Please read these regulations before making a contribution to my campaign.

(b) Cumulative off-election-year contribution limitations.

- (1) City council members:** No incumbent or candidate for the office of city council member, or a controlled committee of said incumbent or candidate, shall accept contributions totaling more than twenty-five thousand dollars (\$25,000.00) in any single off-election year. The intent of this section is to impose an absolute limit of twenty-five thousand dollars (\$25,000.00) on the total amount of contributions from all sources received by any incumbent or candidate in any single off-election year, even if no single contribution exceeds the limits set forth in Section 62.04.220(a). It is the further intent that contributions made during the off-election years shall be attributed to a particular election, and shall be included in the amount attributed to a particular contributor for purposes of the contribution limits established by Section 62.04.220 above.
- (2) Mayor:** No incumbent or candidate for the office of mayor or a controlled committee of said incumbent or candidate shall accept contributions totaling more than fifty thousand dollars (\$50,000.00) in any

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

single off-election year. The intent of this section is to impose an absolute limit of fifty thousand dollars (\$50,000.00) on the total amount of contributions from all sources received by any incumbent or candidate in any single off-election year, even if no single contribution exceeds the limits set forth in Section 62.04.220(a). It is the further intent that contributions made during the off-election years shall be attributed to a particular election, and shall be included in the amount attributed to a particular contributor for purposes of the contribution limits established by Section 62.04.220 above.

- (3) **Exception: Campaign indebtedness:** The aggregate contribution limitations for off-election years shall not apply to candidates or incumbents whose campaigns for city elective office are in debt following the election(s). The candidate or incumbent who is in debt following an election may only collect funds in excess of the cumulative limits set forth above in the amounts necessary to eliminate the debt incurred by the candidate, and shall thereafter be subject to the aggregate off-election-year limits. Nothing in this exception is intended to allow a contributor to give, or a candidate or incumbent, or controlled committee of said candidate or incumbent, to accept, contributions in amounts exceeding the individual contribution limits set forth in Section 62.04.220. For purposes of the contribution limits set forth in Section 62.04.220, the contributions to the candidate shall be considered to be contributions for the last election in which the candidate was on the ballot for the city elective office in which the debt was incurred.

SECTION 4.

Paragraphs (b) and (c) of Section 62.04.223 of Chapter 62 of the Sacramento City Code are hereby amended to read as follows:

- (b) Two or more persons shall be treated as one and the same person for purposes of the contribution limitations set forth in paragraphs (a) of Section 62.04.220 above, and their contributions shall be aggregated and shall not exceed the limitations set forth in paragraph (a) of Section 62.04.220 above, in the following situations:
- (1) **Related entities.** Two or more entities shall be treated as one person when such entities:
- a) Share the majority of members of their boards of directors;

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

- b) Share two or more corporate officers;
 - c) Are owned or controlled by the same majority shareholder or shareholders; or
 - d) Are in a parent-subsidary relationship. A parent-subsidary relationship exists when one corporation directly or indirectly owns shares possessing more than fifty percent (50%) of the voting power of another corporation.
- (2) Controlling interest-partnerships and corporations. A person and any general or limited partnership in which the person is a general partner, or a person and any corporation in which the person owns a controlling interest, shall be treated as one person. For purposes of this subsection, a controlling interest in a corporation means fifty percent (50%) or more of the voting power of a corporation.
- (3) If the same person or majority of the same persons directs and controls the decisions of two or more entities to make contributions or expenditures to support or oppose a candidate or candidates, those affiliated entities shall be considered one person or one political action committee for purposes of the contribution limits specified in paragraph (a) of Section 62.04.220 above.
- (c) Notwithstanding the provisions of Section 62.05.231, a candidate shall not be deemed to be in violation of this section if he or she accepts a contribution from a person that was made to such candidate in violation of paragraphs (a) and (b) above. It is the intent of this section to made contributors, and not candidates, liable for violations of this section occurring as a result of the applicability of paragraphs (a) and (b) to a contribution.

DATE PASSED FOR PUBLICATION:
 DATE ENACTED:
 DATE EFFECTIVE:

 MAYOR

ATTEST:

 CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

(Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations)

18535. Contribution Limitations During Special and Special Runoff Elections.

For purposes of Government Code Section 85305:

(a) No person shall make, and no candidate for or campaign treasurer of a candidate for elective office in a special election or special runoff election shall solicit or accept, any contribution for a special election or special runoff election unless both of the following apply:

(1) The candidate has filed a statement of intention to be a candidate for the elective office pursuant to Government Code Section 85200.

(2) Contributions solicited and accepted from a contributor for a special election, in the aggregate, do not exceed the amount that a contributor may contribute to the special election committee for the special election, and where required, for the special runoff election, pursuant to Government Code Section 85305.

(b) Unless otherwise prohibited by law, a candidate may transfer contributions from any other committee controlled by the candidate to the candidate's special election committee if all of the following apply:

(1) The contributions transferred to the candidate's special election committee, when aggregated with all other contributions from, and transfers attributable to, the same contributor do not exceed the amount the contributor could have contributed to the special election committee for the special election, and, where required, the special runoff election,

pursuant to Government Code Section 85305.

(2) All contributions transferred to the special election committee are attributed to specific contributors to the transferring committee for the actual amount contributed. The fair market value of any inventory, equipment, or other assets to be transferred to the candidate's special election committee shall be similarly attributed to specific contributors at the time of transfer.

(3) The contributions transferred to the special election committee do not include contributions received from any other candidate.

(c) A candidate who transfers contributions to a special election committee shall:

(1) Maintain records which identify the specific contributors to whom any transferred contributions have been attributed.

(2) Disclose on the special election committee's campaign statement each contribution of one hundred dollars (\$100) or more transferred to the special election committee, including the following information:

- (A) The contributor's name;
- (B) The contributor's street address;
- (C) The contributor's occupation;
- (D) The name of the contributor's employer, or if self-employed, the name of the contributor's business;
- (E) The date the contribution was received by the transferring committee;

(F) The total amount of contributions transferred to the special election committee attributable to the contributor;

(G) The cumulative amount of contributions received from the contributor for the special election or special runoff election including any contributions attributable to the contributor which are transferred to the special election committee.

(d) Following the date of the special election or special runoff election, a candidate for or campaign treasurer of a candidate for that special election or special runoff election, may do the following:

(1) Solicit and accept contributions for the special election committee subject to the limitations set forth in Government Code Section 85305.

(2) Transfer contributions to the special election committee so long as the contributions are transferred pursuant to subdivisions (a), (b), and (c).

(e) Any expenditure made by a candidate in a special election or special runoff election during the special election cycle or special runoff election cycle shall be made by the candidate's special election committee, unless it is clear from the surrounding circumstances that the expenditure is unrelated to the special or special runoff election.

(f) Any expenditure made by any person at the behest of a candidate in a special election or special runoff election during the special election cycle or special runoff election cycle must be in compliance with the contribution limitations of

Government Code Section 85305, unless it is clear from the surrounding circumstances that the expenditure is unrelated to the special or special runoff election.

Note: Authority cited: Section 83112, Gov. Code
Reference: Sections 84211, 85200-85202, 85304, 85305, Gov. Code

History

(1) New section filed 8-3-92; effective thirtieth day thereafter.