

# SECOND READING

## BOARD OF SUPERVISORS



SCOTT HAGGERTY  
SUPERVISOR, FIRST DISTRICT

CONTINUED FROM Tuesday 11/2/10 (Item #2A)

November 2, 2010

HONORABLE BOARD OF SUPERVISORS  
County of Alameda  
1221 Oak Street, Suite 536  
Oakland, CA 94612

Subject: Campaign Finance Reform for County Elected Offices

Colleagues:

### Recommendation

Approve the first reading of the attached ordinance adopting a campaign finance reform ordinance for all elected County offices.

### Discussion

The purpose of this ordinance is to level the playing field for elected offices for the County of Alameda. Currently Alameda County has no rules or limits on campaign contributions, multiple committees or transfers from other candidates' political committees. The only regulations are those contained in the Fair Political Practices Act and State regulations. The attached ordinance would supplement the current regulations by placing further limits on County elections.

It is important to allow everyone the right to participate and support the candidates of their choice, which I believe this ordinance does. It also attempts to prevent a person or entity from having undue influence in a County election.

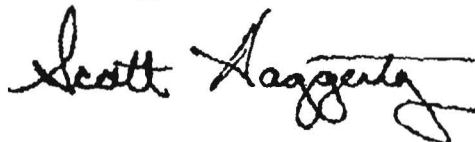
We considered recommending a per year limit but used a per election limit instead. This is consistent with the structure of State laws. This ordinance does not apply to the candidates own personal funds.

Honorable Board of Supervisors  
November 2, 2010  
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Fiscal Impact

There is no County cost in implementing the Reform Ordinance for all County elected Offices.

Sincerely,

A handwritten signature in black ink that reads "Scott Haggerty". The signature is written in a cursive style with a horizontal line underlining the name.

Scott Haggerty  
Supervisor, First District

Attachment

cc. County Administrator  
Auditor-Controller  
County Counsel

**AN ORDINANCE ADDING CHAPTER 1.07 TO THE  
ADMINISTRATIVE CODE OF THE COUNTY OF ALAMEDA CONCERNING  
CAMPAIGN REFORMS FOR ELECTIVE COUNTY OFFICES**

The Board of Supervisors of the County of Alameda does hereby ordain as follows:

**SECTION I**

**Chapter 1.07** is hereby added to the Administrative Code to read as follows:

**1.07.010 – Name.**

This Chapter shall be known and may be cited as the “Alameda County Campaign Reform Ordinance.”

**1.07.020 - Definitions.**

- (a) The definitions and other applicable provisions of the California Political Reform Act of 1974 (Government Code §§ 81000 *et seq.*) and any amendments thereto and the regulations of the Fair Political Practices Commission shall govern the interpretation and application of this Ordinance to the extent practicable.
- (b) “County office” means every office of the government of the County of Alameda that is filled by county-wide or district election.
- (c) “Elective County officer” means any person holding a County office as defined herein.

**1.07.030 - Limitation of campaign contributions to candidates in County elections.**

- (a) No person or entity shall make to any candidate for County office or elective County officer nor a candidate’s or elective County officer’s controlled committee a contribution or contributions totaling more than twenty thousand dollars (\$20,000) for each election. No candidate’s or elective County officer’s controlled committee shall accept from any person or entity a contribution or contributions totaling more than twenty thousand dollars (\$20,000) for each election.
- (b) The Board of Supervisors shall by ordinance adjust the contribution limitations contained in subsection (a) in January of odd-numbered years to reflect any cumulative increase or decrease in the Consumer Price Index of California as announced by the United States Department of Labor since the last adjustment. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.
- (c) The provisions of this Chapter do not apply to a candidate’s contributions of his or her personal funds to his or her own campaign or controlled committee.

**1.07.040 – Aggregation of Contributions.**

- (a) For purposes of the contribution limits of this Chapter, the following terms have the following meanings:
  - (1) “Entity” means any person, other than an individual person.
  - (2) “Majority-owned” means an ownership of more than fifty percent (50%).
- (b) The contributions of an entity whose contributions are directed and controlled by any individual person shall be aggregated with contributions made by that individual person and any entity whose contributions are directed and controlled by the same individual person.
- (c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- (d) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

**1.07.050 – Limitations on Transfers from Controlled Committees**

- (a) A candidate may transfer funds from one controlled committee of the candidate to a controlled committee for County office of the same candidate in an amount not to exceed the limits set forth in section 1.07.030, including any ordinance adopted pursuant to Section 1.07.030(b).
- (b) A candidate or committee controlled by that candidate shall not accept any contribution from a controlled committee of any other candidate for County office or from a committee controlled by another federal, state, or local candidate or officeholder in excess of the limits set forth in Section 1.07.030, including any ordinance adopted pursuant to Section 1.07.030(b).

**1.07.060 – Prohibition on multiple campaign committees.**

A candidate for County office or an elective County officer shall have no more than one (1) campaign committee which shall have only one (1) bank account out of which all qualified campaign and office holder expenses related to that County office shall be made. This section does not prevent a County candidate or an elective County officer from establishing another committee solely for the purpose of running for a state, federal, or local office that is not identified in section 1.07.020(b) of this Chapter.

**1.07.070 - Transmittal of campaign contributions in County office buildings.**

- (a) No person shall receive or personally deliver or attempt to deliver a contribution in any office which the County owns or for which the County pays the majority of the rent.
- (b) For purposes of this section:
  - (1) *Personally deliver* means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary, other than the United States Mail.
  - (2) *Receive* includes the receipt of a campaign contribution delivered in person.

**1.07.080 - Criminal misdemeanor actions.**

- (a) Any person who willfully violates any provision of this division is guilty of a misdemeanor. Any person who willfully causes or solicits any other person to violate any provision of this division, or who aids and abets any other person in the violation of any provision of this division, shall be liable under the provisions of this section.
- (b) No person convicted of a misdemeanor under this division shall be a candidate for an elective County office or act as a County contractor for a period of four (4) years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of *nolo contendere* shall be deemed a conviction for purposes of this section.

**1.07.090 - Civil actions.**

- (a) Any person who intentionally or negligently violates any provision of this division shall be liable in a civil action brought by the District Attorney or by a person residing within the jurisdiction for an amount not more than three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received or five thousand dollars (\$5,000.00) per violation, whichever is greater.
- (b) If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
- (c) Any person, other than the District Attorney, before filing a civil action pursuant to this subdivision, shall first file with the District Attorney a written request for the District Attorney to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The District Attorney, within thirty (30) days of receipt of the request, shall conduct an initial inquiry into the merits of the complaint. If the District Attorney determines in good faith that additional time is needed to examine the matter further, the complaining party shall be notified and the District Attorney shall automatically receive an additional sixty (60) days in order to determine the merits of the complaint. At the end of sixty (60) days the District Attorney shall inform the complaining party whether the District Attorney intends to file a civil action or is conducting a criminal investigation. If the District Attorney indicates in the affirmative and files a civil action or

criminal charges within thirty (30) days thereafter, no other action may be brought unless the action brought by the District Attorney is dismissed without prejudice.

- (d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty (50) percent of the amount recovered. The remaining fifty (50) percent shall be deposited into the County's General Fund. In an action brought by the District Attorney, the entire amount shall be paid to the General Fund.

**1.07.100 - Injunctive relief.**

Any person residing in the jurisdiction, including the District Attorney, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this division.

**1.07.110 - Costs of litigation.**

The court may award to a plaintiff, other than an agency, who prevails in any action authorized by this division, his or her costs of litigation.

**1.07.120 - Statute of limitations.**

Civil actions and/or criminal prosecutions for violations of any provision of this division shall be commenced within four (4) years after the date on which the violation occurred.

**1.07.130 - Applicability of other laws.**

Nothing in this division shall exempt any person from applicable provisions of any other laws of this State or jurisdiction.

**1.07.140 - Severability.**

If any provision of this division, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this division to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this division are severable.

**1.07.150 - Interpretation of division.**

This division should be liberally construed to accomplish its purposes.


**1.07.160 - Candidate acknowledgment of receiving county Campaign Finance Ordinance.**

The Registrar of Voters shall provide each candidate for County office and County officer appointed to an office which is normally elective with a copy of this Chapter as well as copies of any subsequent amendments. Each candidate for County office and County officer appointed to an office which is normally elective will be required to sign a form prepared by the Registrar of Voters acknowledging receipt of a copy of this division and any subsequent amendments.

**SECTION II**

This Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. Before the expiration of fifteen days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

APPROVED AS TO FORM  
RICHARD E. WINNIE

By  \_\_\_\_\_