

ORDINANCE NO. 4226

AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING CHAPTER 43 OF DIVISION 2 OF TITLE 1 OF THE SAN BERNARDINO COUNTY CODE, RELATING TO CAMPAIGN FINANCE REFORM.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. On August 28, 2012, the Board of Supervisors of the County of San Bernardino adopted the Campaign Finance Reform Ordinance. The Board of Supervisors made the following findings when it adopted the Campaign Finance Reform Ordinance:

(a) The Political Reform Act of 1974, as amended, includes provisions pertaining to the campaign contribution limits and disclosure and reporting requirements applicable to candidates for elective state office and individuals, entities, and committees involved in the campaign process.

(b) Although the Political Reform Act establishes contribution limits for candidates for elective state office, it does not establish contribution limits for candidates for elective local office. However, the Political Reform Act expressly authorizes local governments to impose additional requirements on candidates for local office as long as the requirements do not prevent any person from complying with the Political Reform Act.

(c) It is in the best interest of the electorate of San Bernardino County and the operations of County government for the Board of Supervisors to adopt, pursuant to the authorization granted by the Political Reform Act, an ordinance establishing a campaign contribution limit and other requirements pertaining to candidates for elective County office.

1 (d) The Board of Supervisors recognizes that the expertise necessary for the  
2 effective administrative implementation and enforcement of such ordinance is  
3 significant. The Board of Supervisors also recognizes that the cost to the County if the  
4 County directly implements and enforces such ordinance would be significant.

5 (e) The Board of Supervisors directed County staff to work with local  
6 legislators and the Fair Political Practices Commission to introduce a bill that would  
7 authorize the Fair Political Practices Commission to implement and enforce this  
8 ordinance. The Board of Supervisors believes that this would reduce the cost of  
9 implementing and enforcing the ordinance, increase the effectiveness and efficiency of  
10 enforcement, and enable the County to directly benefit from the extensive expertise of  
11 the Fair Political Practices Commission.

12 (f) The County worked with Assembly Member Paul Cook (R-Yucca Valley)  
13 to have a bill introduced, that is, AB 2146, that would authorize the FPPC to  
14 administratively and civilly enforce the ordinance upon an agreement between the  
15 County and the FPPC. The bill was well-received in the various committees and was  
16 ultimately signed by the Governor on July 24, 2012.

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18 SECTION 2. The Board of Supervisors finds that the amendments proposed to  
19 the Board of Supervisors on January 28, 2014, will clarify the requirements of the  
20 Campaign Finance Reform Ordinance and make the ordinance more closely follow the  
21 requirements of the Political Reform Act. The Board of Supervisors notes that County  
22 staff consulted with the Fair Political Practices Commission about the amendments.  
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SECTION 3. Chapter 43 of Division 2 of Title 1 of the San Bernardino County Code, is amended to read:

**CHAPTER 43: CAMPAIGN FINANCE REFORM**

**Sections:**

- 12.4301 Name of Ordinance.
- 12.4302 Purpose of the Ordinance.
- 12.4303 Relationship to the Political Reform Act of 1974.
- 12.4304 Definitions.
- 12.4305 Contribution Limit.
- 12.4306 Contributions Through Intermediary and Disclosure.
- 12.4307 Aggregation of Contributions.
- 12.4308 Reasonable Diligence and Disclosure of Aggregated Contributions.
- 12.4309 Candidate's Own Contributions; Family Contributions.
- 12.4310 Intra-Candidate Transfer of Funds.
- 12.4311 Electronic Filing of Campaign Statements.
- 12.4312 Non-Application to Other Elections and Recall Elections.
- 12.4313 Maintenance and Access to Records.
- 12.4314 Violations and Enforcement – Criminal.
- 12.4315 Violations and Enforcement – Civil.
- 12.4316 Violations and Enforcement – Administrative.
- 12.4317 Construction.
- 12.4318 Effective Date.

1     **12.4301     Name of Ordinance.**

2             This ordinance shall be known and cited as the "County of San Bernardino  
3 Campaign Finance Reform Ordinance" or the "Campaign Finance Reform Ordinance."  
4

5     **12.4302     Purpose of the Ordinance.**

6             The United States Supreme Court has held that the purpose of a campaign  
7 reform ordinance must be to reduce corruption or the appearance of corruption in the  
8 electoral process, and that corruption in this context means "quid pro quo" corruption,  
9 that is, the contribution of money or resources for political favors. This ordinance does  
10 this primarily in three ways. First, the ordinance establishes a limit on the amount that  
11 individuals and entities may contribute to candidates for elective County office and their  
12 controlled committees. Second, the ordinance prohibits the hiding of the identity of  
13 contributors through the making of contributions via intermediaries without disclosure.  
14 Such contributions are attributed to the real contributor and subject to the contribution  
15 limit. Third, the ordinance requires candidates, and persons or entities making  
16 independent expenditures (expenditures that are not coordinated with candidates), who  
17 raise or expend \$10,000 or more, to file campaign statements in an electronic form with  
18 the Registrar of Voters, thus making them more accessible to the public. All of these  
19 requirements are intended to make it more difficult for candidates and influential  
20 individuals and entities to engage in quid pro quo corruption, to make the financing of  
21 campaigns for elective County office more transparent, and to make more information,  
22 especially financial information, regarding candidates and their supporters available to  
23 voters.  
24

25     **12.4303     Relationship to the Political Reform Act of 1974.**

26             (a)     The Political Reform Act, as amended and codified, already establishes  
27 certain minimum reporting and other requirements for candidates and certain  
28 committees making independent and other expenditures. The Political Reform Act

1 establishes contribution limits for candidates for state office but does not provide for  
2 any contribution limits for candidates for local office. The Political Reform Act expressly  
3 authorizes local governments to impose additional requirements on candidates for local  
4 office as long as the requirements do not prevent any person from complying with the  
5 Political Reform Act.

6 (b) Unless a word or term is specifically defined in this ordinance or the  
7 contrary is stated or clearly appears from the context, words and terms shall have the  
8 same meaning as when they are used in the Political Reform Act, as amended and  
9 codified, and in the related regulations of the Fair Political Practices Commission.

10 (c) If any provision of this ordinance prevents any candidate or person from  
11 complying with the Political Reform Act, such provision is preempted by the Political  
12 Reform Act to the extent necessary to bring the ordinance into full compliance  
13 therewith.

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15 **12.4304 Definitions.**

16 For the purposes of this chapter, certain words are defined as follows:

17 **CANDIDATE.** Any individual who is a candidate for Supervisor, Sheriff, District  
18 Attorney, Auditor-Controller/Treasurer/Tax Collector, Assessor, County Superintendent  
19 of Schools, or any other elective County office. Such office would include any elected  
20 County offices that have been consolidated or later separated. The provisions of  
21 Government Code section 82007 shall also apply to such individual.

22 **COUNTY.** The County of San Bernardino.

23 **ELECTION.** A primary, general, special, or recall election. Each of these is a  
24 separate election for purposes of this chapter.

25 **ELECTIVE OFFICER.** An individual who is a Supervisor, Sheriff, District  
26 Attorney, Auditor-Controller/Treasurer/Tax Collector, Assessor, County Superintendent  
27 of Schools, or holder of any other elective County office.

28 **ENTITY.** Any person, other than an individual.

1       **INDIVIDUAL.** A human being.

2       **PERSON.** An individual, proprietorship, firm, partnership, joint venture,  
3       syndicate, business trust, company, corporation, limited liability company, association,  
4       committee, and any other organization or group of persons acting in concert.

5       **SPONSORED COMMITTEE.** A committee, other than a controlled committee,  
6       which has one or more sponsors.

7       **SPONSOR.** Any entity may sponsor a committee. A candidate or other  
8       individual may not sponsor a committee. An entity sponsors a committee if any of the  
9       following applies:

10       (a) The committee receives 80 percent or more of its contributions from the  
11       entity or its members, officers, employees, or shareholders.

12       (b) The entity collects contributions for the committee by use of payroll  
13       deductions or dues from its members, officers, or employees.

14       (c) The entity, alone or in combination with other organizations, provides all  
15       or nearly all of the administrative services for the committee.

16       (d) The entity, alone or in combination with other organizations, sets the  
17       policies for soliciting contributions or making expenditures of committee funds.

18

19       **12.4305. Contribution Limit.**

20       (a) *Limit on Contributions to a Candidate or a Candidate's Controlled*  
21       *Committee.* A person may not make to a candidate or the candidate's controlled  
22       committee, and a candidate or the candidate's controlled committee may not accept  
23       from a person, any contribution totaling more than the per election amount permitted in  
24       Government Code section 85301(a), as adjusted by the Fair Political Practices  
25       Commission pursuant to California Code of Regulations title 2, section 18544, effective  
26       on January 1, 2013, and on January 1 of each odd-numbered year thereafter. Each  
27       primary, general, special, and recall election is a separate election for purposes of this  
28       chapter.

1           (b)    Post-Election Fundraising Restrictions. A contribution for an election may  
2 be accepted by a candidate after the date of the election only to the extent that the  
3 contribution does not exceed net debts outstanding from the election, and the  
4 contribution does not otherwise exceed the applicable contribution limit for that  
5 election. Notwithstanding any other provision of County Code section 12.4305, if a  
6 candidate or the candidate's controlled committee had net debts resulting from an  
7 election held prior to January 1, 2013, contributions to that candidate or committee for  
8 that election are not subject to the limits of Subsection 12.4305(a).

9           (c)    Contributions Received for Primary and General Elections. A candidate  
10 may raise contributions for a general election prior to the primary election, and for a  
11 special general election prior to a special primary election, for the same elective office  
12 if the candidate sets aside these contributions and uses these contributions for the  
13 general election or special general election. If the candidate is elected to office in a  
14 primary election or special primary election and will not appear on the ballot in the  
15 ensuing general election or special general election, is defeated in the primary election  
16 or special primary election, or otherwise withdraws from the general election or special  
17 general election, the general election or special general election funds shall be  
18 refunded to the contributors on a pro rata basis less any expenses associated with the  
19 raising and administration of general election or special general election contributions.  
20 Notwithstanding Government Code Section 85201, candidates may establish separate  
21 campaign contribution accounts for the primary and general elections or special  
22 primary and special general elections.

23           (d)    Separate Controlled Committee for Each Campaign Account. A  
24 candidate who is required to file a statement of organization for a controlled committee  
25 pursuant to Government Code Section 84101 shall establish a separate controlled  
26 committee and campaign bank account for each specific term of elective office  
27 identified in statements filed by the candidate pursuant to Government Code Section  
28 85200. A controlled committee and campaign bank account established for a specific

1 term of elective office may not be redesignated as a controlled committee and  
2 campaign account for a future election, even if the future election is for the same  
3 elective office.

4 (e) Return of Contribution in Excess of Limits.

5 (1) Contributions which either in the aggregate or on their face exceed the  
6 contribution limits of Section 12.4305(a) shall be deemed not to have been accepted  
7 within the meaning of that provision, if returned pursuant to Section 12.4305(e).

8 (2) A monetary contribution shall be returned prior to deposit or negotiation,  
9 within 14 days of receipt.

10 (3) A non-monetary contribution shall be returned by returning to the  
11 contributor, within the deadline specified in subdivision (2), any of the following: the  
12 non-monetary contribution; its monetary equivalent; the monetary amount by which the  
13 value of the non-monetary contribution exceeds the contribution limits of Section  
14 12.4305(a).

15 (4) Subsection (e) shall not be construed to authorize the making or  
16 solicitation of any contribution in excess of the contribution limits of Section 12.4305(a).

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18 **12.4306. Contribution Through Intermediary and Disclosure.**

19 (a) *Contributor Acting through an Intermediary.* A person may not make any  
20 contribution to another person or to a committee on the condition or with the agreement  
21 that it will be contributed to any particular candidate unless the contribution is fully  
22 disclosed pursuant to Government Code section 84302.

23 (b) *Intermediary Acting on Behalf of Contributor.* A person may not make  
24 any contribution to a particular candidate on behalf of another person, or while acting  
25 as the intermediary or agent or conduit of another person, unless the contribution is  
26 fully disclosed pursuant to Government Code section 84302.



1 **12.4307 Aggregation of Contributions.**

2 (a) For purposes of the contribution limit and reporting requirements of this  
3 chapter, the contributions from certain combinations of individuals and entities must be  
4 added together to determine the total amount that will be treated as made by, and  
5 received from, a single contributor. Such aggregated amount shall not exceed the  
6 contribution limit established under Section 12.4305.

7 (b) *Contributions of an Entity Treated as Contributions of an Individual.*

8 (1) The contributions of an entity whose contributions are directed and  
9 controlled by an individual shall also be treated as the contributions of the individual.

10 (2) The contributions of an entity whose contributions are directed and  
11 controlled by two or more individuals shall also be treated as the contributions, on a pro  
12 rata basis, of the individuals.

13 (3) The contributions of an entity that is majority-owned by an  
14 individual shall also be treated as the contributions of the individual, unless the entity  
15 acts independently in its decision to make the contributions.

16 (c) *Contributions of an Entity Treated as Contributions of Another Entity.*

17 (1) The contributions of an entity whose contributions are directed and  
18 controlled by an individual shall also be treated as the contributions of any other entity  
19 whose contributions are directed and controlled by the same individual.

20 (2) The contributions of an entity whose contributions are directed and  
21 controlled by a majority of persons shall also be treated as the contributions of all other  
22 entities whose contributions are directed and controlled by the same majority of  
23 persons.

24 (3) The contributions of an entity that is majority-owned by a person  
25 shall also be treated as the contributions of all other entities majority owned by the  
26 same person, unless the entity acts independently in its decision to make the  
27 contributions.

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1 **12.4308. Reasonable Diligence and Disclosure of Aggregated Contributions.**

2 (a) Candidates, their controlled committees and treasurers, and any person  
3 must exercise reasonable diligence to determine whether a particular contribution must  
4 be aggregated with another contribution by operation of any provision of this chapter or  
5 law.

6 (b) Any person who makes a contribution that is subject to aggregation by  
7 operation of any provision of this chapter or law shall, at the time of making the  
8 contribution, disclose in writing to the candidate or the candidate's controlled committee  
9 the existence of all other contributions that must be aggregated with such contribution.  
10 This requirement does not relieve the candidate and the candidate's controlled  
11 committee and treasurer of the obligations under Subsection 12.4308(a) or law.  
12

13 **12.4309 Candidate's Own Contributions; Family Contributions.**

14 (a) *Contribution of Candidate's Own Funds.* The provisions of Section  
15 12.4305 do not apply to a candidate's contributions of his or her personal funds or  
16 community property to his or her campaign.

17 (b) *Contribution of Spouses or Domestic Partners.* For purposes of this  
18 chapter, a single contribution made by both spouses or by both registered domestic  
19 partners shall not be aggregated but shall be divided equally between both spouses or  
20 between both domestic partners.

21 (c) *Contribution of Minor.* A contribution made by a child less than eighteen  
22 (18) years of age is presumed to be a contribution from the parent or guardian of the  
23 child. For contribution tracking purposes, if the parents or guardians of the child are  
24 married or have joint legal custody of child, the contribution shall be divided equally  
25 between them. If one parent or guardian has primary or sole legal custody of the child,  
26 then the contribution shall be attributed to that parent or guardian. The committee or  
27 candidate accepting a contribution from a child under the age of eighteen (18) shall  
28 obtain the information concerning parental or guardian attribution.

1   **12.4310       Intra-Candidate Transfer of Funds.**

2       (a)   A candidate may transfer campaign funds from one controlled committee  
3   to a controlled committee for County office of the same candidate. Contributions  
4   transferred shall be attributed to specific contributors using a "last in, first out" or "first  
5   in, first out" accounting method, and these attributed contributions when aggregated  
6   with all other contributions from the same contributor may not exceed the limits set  
7   forth in Section 12.4305.

8       (b)   Notwithstanding Subsection 12.4310(a), a candidate for County office  
9   may carry over contributions raised in connection with one election to County office to  
10   pay campaign expenditures incurred in connection with a subsequent election for the  
11   same County office.

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13   **12.4311       Electronic Filing of Campaign Statements.**

14       (a)   *Electronic Filing of Statements.* Any candidate and the candidate's  
15   controlled committee that raises or spends at least ten thousand dollars (\$10,000), or  
16   any other person, entity, or committee that raises or spends at least ten thousand  
17   dollars (\$10,000), in any election in support of or opposition to a candidate, shall file all  
18   campaign statements in a format that is approved by the Registrar of Voters for  
19   electronic filing.

20       (b)   *Placement of Statements on County's Website.* The Registrar of Voters  
21   shall cause to be placed on the County's web site a copy of each campaign statement  
22   required by subdivision (a) within one working day of the statement being filed with the  
23   Registrar of Voters.

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25   **12.4312       Non-Application to Other Elections and Recall Elections.**

26       (a)   *Non-County Election.* In the event a candidate also runs for election for a  
27   state, federal, city, special district, or other non-County office, the provisions of this  
28   chapter do not apply to the candidate's campaign for such other office nor to any

1 committee established solely for the purpose of running for such other office.

2 (b) *Recall Election.* The contribution limit of this chapter shall not apply to  
3 recall elections but all other provisions of this chapter shall apply to recall elections.

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5 **12.4313 Maintenance and Access to Records.**

6 (a) *Maintenance of Records.* Candidates and their controlled committees  
7 shall maintain, for the period of time required in Government Code section 84104, such  
8 detailed accounts, records, bills, receipts, and other documentation necessary to  
9 prepare campaign statements and to comply with the provisions of this chapter.

10 (b) *Disclosure of Records.* Candidates and their controlled committees shall  
11 deliver to the Registrar of Voters and any public entity or official having authority to  
12 implement or enforce this chapter, upon demand, the documentation and information  
13 described in subsection (a) and any other information and documentation sufficient to  
14 allow the determination of whether any provision of this chapter has been violated.

15 (c) *Authorization to Access Records.* Candidates and their controlled  
16 committees shall deliver to the Registrar of Voters and any public entity or official  
17 having authority to implement or enforce this chapter, upon demand, a written  
18 authorization permitting such entity or official to have access to all documentation and  
19 information pertaining to the campaign contribution checking account.

20 **12.4314 Violations and Enforcement -- Criminal.**

21 (a) Any person who knowingly or willfully violates any provision of this  
22 chapter, who purposely causes any other person to violate any provision of this  
23 chapter, or who aids and abets any other person in the violation of any provision of this  
24 chapter, is guilty of a misdemeanor.

25 (b) In addition to any other penalties provided by this chapter or the County  
26 Code or law, a fine of up to the three times the amount the person failed to report  
27 properly or unlawfully contributed, expended, gave, or received, or ten thousand dollars  
28 (\$10,000), whichever is greater, may be imposed upon conviction for each violation.

1 (c) A plea of nolo contendere shall be deemed a conviction for purposes of  
2 this section.

3  
4 **12.4315 Violations and Enforcement -- Civil.**

5 (a) Any person who violates any provision of this chapter, who purposely  
6 causes any other person to violate any provision of this chapter, or who aids and abets  
7 any other person in the violation of any provision of this chapter, shall be subject to, in  
8 addition to any other penalties provided by this chapter or the County Code or law, a  
9 civil penalty of up to three times the amount the person failed to report properly or  
10 unlawfully contributed, expended, gave, or received, or one thousand dollars (\$1,000),  
11 whichever is greater. Civil remedies also include injunctive or other equitable or  
12 declaratory relief.

13 (b) If two or more persons are responsible for any violation of any provision  
14 of this chapter, then they shall be jointly and severally liable.

15 (c) The civil prosecutor is primarily responsible for enforcement of the civil  
16 penalties and remedies of this chapter. The civil prosecutor shall be the Fair Political  
17 Practices Commission.

18 (d) Any person residing within the jurisdiction of the election may bring a civil  
19 action under this section. Before filing such action, such person must first file with the  
20 civil prosecutor a written request for the civil prosecutor to commence the action,  
21 subject to procedures that comport with the procedures set forth in Government Code  
22 section 91007.

23 (e) No civil action may be filed with regard to a person for any violation of this  
24 chapter after an administrative order pursuant to section 12.4316 has been issued  
25 against such person for the same violation.

1     **12.4316     Violations and Enforcement -- Administrative.**

2           (a)   Any person who, pursuant to an appropriate administrative action, is  
3     determined to have violated any provision of this chapter, purposely caused any other  
4     person to violate any provision of this chapter, or aided and abetted any other person  
5     in the violation of any provision of this chapter, shall be subject to an administrative  
6     order requiring that the person to do all or any of the following:

7                   (1)   cease and desist violation of the chapter;

8                   (2)   file any reports, statements, or other documents or information  
9     required by the chapter;

10                  (3)   pay a monetary penalty of up to five thousand dollars (\$5,000) per  
11     violation;

12           (b)   If two or more persons are responsible for any violation of any provision  
13     of this chapter, then they shall be jointly and severally liable.

14           (c)   No administrative action brought alleging a violation of any provision of  
15     this chapter shall be commenced more than five (5) years after the date on which the  
16     violation occurred.

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18     **12.4317     Construction.**

19           This chapter shall be liberally construed to accomplish its purposes.  
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21     **12.4318     Effective Date.**

22           The Campaign Finance Reform Ordinance shall be effective on January 1,  
23     2013. The Campaign Finance Reform Ordinance shall apply only to contributions made  
24     to, or received by, a candidate on or after January 1, 2013. No contribution made to, or  
25     received by, a candidate prior to January 1, 2013, shall be considered whatsoever for  
26     purposes of the contribution limit, the aggregation of contributions provision, or any  
27     other requirement of the Campaign Finance Reform Ordinance.  
28

SECTION 4. The Board of Supervisors declares that it would have adopted this ordinance and each section, sentence, clause, phrase, or portion of it irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of it were declared invalid or unconstitutional. If for any reason any portion of this ordinance is declared invalid or unconstitutional, then all other portions of the ordinance shall remain valid and enforceable.

SECTION 5. This ordinance shall take effect thirty (30) days from the date of adoption.

*Janice Rutherford*  
 JANICE RUTHERFORD, Chair  
 Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIR OF THE BOARD

LAURA H. WELCH  
Clerk of the Board of Supervisors  
of the County of San Bernardino

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF SAN BERNARDINO )

4 I, LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San  
5 Bernardino, State of California, hereby certify that at a regular meeting of the Board of  
6 Supervisors of said County and State, held on the 11th day of February, 2014, at  
7 which meeting were present Supervisors:

8 Lovingood, Rutherford, Ramos, Ovitt, Gonzales

9 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,  
10 to wit:

11 AYES: SUPERVISORS: Lovingood, Rutherford, Ramos, Ovitt, Gonzales

12 NOES: SUPERVISORS: None

13 ABSENT: SUPERVISORS: None

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official  
15 seal of the Board of Supervisors this 11th day of February, 2014.

16 LAURA H. WELCH  
17 Clerk of the Board of Supervisors  
18 of the County of San Bernardino

19 By: [Signature]  
20 Deputy

21 APPROVED AS TO FORM:  
22 JEAN-RENE BASLE, County Counsel

23 By: [Signature]  
24 KENNETH C. HARDY  
25 Deputy County Counsel

26 Date: 1/27/14