

Chapter 8.04 ELECTION CAMPAIGN CONTRIBUTION CONTROL

Sections:

- 8.04.010 Purpose of provisions.
- 8.04.020 Definitions.
- 8.04.030 Rules of construction.
- 8.04.040 Campaign contribution limitations.
- 8.04.050 Business and labor union contribution limitations.
- 8.04.060 Reporting requirements generally.
- 8.04.070 Reporting requirements—Organizational statement.
- 8.04.080 Reporting requirements—Campaign statements.
- 8.04.090 Reporting requirements—Exceptions.
- 8.04.100 Advertising rates—Service fees and charges.
- 8.04.110 Enforcement authority—Complaints, legal action, investigatory powers.
- 8.04.120 Violation—Penalty.

8.04.010 Purpose of provisions.

(A) Large sums of money are often expended to finance election campaigns. Inherent in the high cost of election campaigning is the problem of excessive or improper influence, real or perceived, exercised by campaign contributors over elected officials, and over the electoral process itself. It is the purpose and intent of the Board of Supervisors of the County, in enacting this chapter, to place realistic and enforceable limits on the amount that individual persons may contribute to political campaigns in County elections; and to require appropriate reporting requirements, so as to make certain that these limitations will in fact be enforced; and otherwise to provide for fair and full enforcement of all the provisions of this chapter.

(B) This chapter is enacted in accordance with the terms of Section 7 of Article XI of the Constitution of this State, Section 10003 of the Elections Code, Section 81013 of the Government Code, and may be cited as the "Santa Cruz County Election Campaign Contribution Control Ordinance." [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.020 Definitions.

The definitions of words and phrases provided in the Political Reform Acts of 1974 and 1996, as amended (Government Code Section 81000 et seq.), shall be applicable when those same words are used in this chapter, with the following exceptions:

(A) "Business or labor committee" means a committee created or sponsored by a corporation, partnership, labor union, labor organization or other business entity for the sole purpose of using the voluntary donations of its members or employees for public purposes.

(B) "Candidate" means any individual listed on the ballot for nomination for and for election to any County office, or who otherwise has taken affirmative action to seek nomination or election to County office, or who receives a contribution or makes an expenditure, or who gives his or her consent for any other person to receive a

contribution or make an expenditure with a view to bring about his or her nomination or election to any County office. "Candidate" also means an officeholder in connection with a recall election relating to such officeholder.

(C) "Committee" means any person or combination of two or more persons acting in support of or in opposition to a candidate, or in support of or in opposition to the qualification for the ballot of any recall petition, or which seeks or plans to seek to influence the outcome of any election of a candidate, or which supports or opposes the qualification of any recall petition for the ballot.

(D) "Corporation" means a corporation organized under the laws of California, or any other state or nation.

(E) "County office" means any of the following: Auditor, Assessor-Recorder, County Clerk, Treasurer-Tax Collector, District Attorney and Public Administrator, Sheriff and Coroner, and member of the Board of Supervisors. "County office" does not mean Judge of the Superior Court, County Superintendent of Schools, member of a governing board of any local school district or special district, or member of the County Board of Education.

(F) "Election," "election of a candidate," and "County election" means any primary, general or special County election held within the County, including a recall election, and excluding a school district and special district election, which involves the election of any person to any County office. For the purpose of this chapter, a primary election shall be considered a separate election from a general election.

(G) "Enforcement authority" means the district attorney of the County, except as such authority is vested in the California Fair Political Practices Commission by State law. Nothing in this chapter shall be construed as limiting the authority of any law enforcement agency, prosecuting attorney or other person to enforce the provisions of this chapter under any circumstances where such law enforcement agency, prosecuting attorney or other person has lawful authority to do so.

(H) "Individual" means an individual person, and shall not include a partnership, corporation, association, firm, business entity, committee, club, other organization, or a group of persons however organized.

(I) "Measure" means a local proposition submitted to a popular vote at an election by initiative, referendum, or as an advisory measure.

(J) "Proceedings to qualify a recall petition for the ballot" means the attempt by any person or persons to qualify a recall petition for submission of the same to a popular vote at any election, whether or not such recall is ultimately qualified for the ballot. [Ord. 5045 § 1, 2009; Ord. 4546 § 9, 1999; Ord. 4493 § 1, 1998; Ord. 4468 § 1, 1997; Ord. 4045 § 2, 1990].

8.04.030 Rules of construction.

This chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this chapter which does not directly affect the jurisdiction of the County to control campaign contributions shall avoid the effect of this chapter. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.040 Campaign contribution limitations.

The following campaign contribution limitations shall apply in any County election, and in any proceedings to qualify a recall petition for the ballot:

(A) Elections of a Candidate. No person shall make, and no campaign treasurer, committee chairperson or other person shall solicit or accept from any person, candidate or committee any contribution in support of or in opposition to a candidate, or any contribution to any committee, which will cause the total amount contributed by any person in either support of or in opposition to such candidate and to any and all committees in support of or in opposition to such candidate, with respect to any single County election, to exceed \$400.00.

(B) Proceedings to Qualify a Recall Election for the Ballot. No person shall make, and no campaign treasurer, committee chairperson or other person shall solicit or accept from any person or committee, any contribution either in support of or in opposition to any proceedings to qualify a recall petition for the ballot, or any contribution to any committee, which will cause the total amount contributed by any person either in support of or in opposition to any proceedings to qualify a recall petition for the ballot, to exceed \$400.00. Nothing in this section shall prevent a person from contributing up to the maximum amount permitted by this chapter in connection with proceedings to qualify a recall petition for the ballot, and further making an additional contribution, up to the maximum amount permitted by this chapter, in connection with any subsequent recall election, if such recall in fact qualifies for the ballot and is submitted to a popular vote.

(C) No candidate, campaign treasurer or other person shall utilize for campaign purposes any contribution from any person or committee without first determining that the acceptance of such contribution will not, on a cumulative basis, or on any other basis, cause the person making such contribution, or any other person, to violate any campaign contribution limit established by this chapter. A person who has received a contribution and who has utilized such contribution for campaign purposes shall not be held criminally liable for a failure to properly determine that the acceptance of such contribution will not cause the person making such contribution to violate any contribution limit established by this chapter if the candidate, campaign treasurer or other person has first received a written statement from the person making the contribution, stating that the contribution does not violate any such campaign contribution limit.

(D) If a candidate, campaign treasurer or other person is offered a contribution which would be in excess of the limitations set forth in this section, the candidate, campaign treasurer or other person must refuse the contribution. If, however, a contribution is accepted which is in violation of this section, the candidate, campaign treasurer or other person accepting such contribution shall report in writing within 10 days of the acceptance of the contribution to the enforcement authority the facts surrounding such payment or contribution. The amount of any such payment or contribution accepted which is in excess of the amount permitted by this section shall be paid to the Treasurer of the County, at the time such written report is made, for deposit in the general fund of the County, and shall not be used to benefit any candidate or committee. In addition and at the same time that the excess amount is paid to the

treasurer of the County, the same amount shall be paid to the person or entity making the payment or contribution.

(E) If any person is found by a court to be in violation of this section, each campaign treasurer or other person who received part or all of the contribution or contributions which constitute the violation shall pay promptly the amount received from such person in excess of the amount permitted by this section to the County Treasurer, for deposit in the general fund of the County. In addition and at the same time that the excess amount is paid to the Treasurer of the County, the same amount shall be paid to the person or entity making the payment or contribution. [Ord. 5045 § 1, 2009; Ord. 4493 § 2, 1998; Ord. 4468 § 2, 1997; Ord. 4045 § 2, 1990].

8.04.050 Business and labor union contribution limitations.

(A) No corporation, partnership, labor union, labor organization or other business entity shall make a contribution to any candidate, to any committee organized to support or oppose the nomination or election of any candidate, or any person or committee in support of or in opposition to any proceedings to qualify a recall petition for the ballot.

(B) Notwithstanding the provisions of SCCC 8.04.040 and subsection (A) of this section, a business or labor committee created for or sponsored by a corporation, partnership, labor union, labor organization or other business entity for the sole purpose of using the voluntary donations of its individual members or employees for political purposes may make contributions from such accumulated voluntary donations to one or more candidates or committees; provided, that:

(1) Such contributions shall not exceed a total of \$1,000 in support of or in opposition to a candidate, or in support of or in opposition to a recall;

(2) No contribution to any business or labor committee from an individual member or employee shall exceed the limitations established in this chapter for total contributions to candidates or committees;

(3) Contributions to any business or labor committee by an individual member or employee shall be reported by the recipient committee pursuant to any provisions of this chapter and any applicable provisions of State law.

(C) If a candidate, campaign treasurer or other person is offered a contribution which would be in excess of the limitations set forth in this section, the candidate, campaign treasurer or other person must refuse the contribution. If, however, a contribution is accepted which is in violation of this section, the candidate, campaign treasurer or other person accepting such contribution shall report in writing within 10 days of the acceptance of the contribution to the enforcement authority the facts surrounding such payment or contribution. The amount of any such payment or contribution accepted which is in excess of the amount permitted by this section shall be paid to the treasurer of the County, at the time such written report is made, for deposit in the general fund of the County, and shall not be used to benefit any candidate or committee. In addition and at the same time that the excess amount is paid to the treasurer of the County, the same amount shall be paid to the person or entity making the payment or contribution.

(D) Any corporation, partnership, labor union, labor organization or other business entity found by a court to be in violation of this section shall pay promptly the amount contributed in excess of the amount permitted by this section to the County

treasurer, for deposit in the general fund of the County. In addition and at the same time that the excess amount is paid to the treasurer of the County, the same amount shall be paid to the person or entity making the payment or contribution. [Ord. 5045 § 1, 2009; Ord. 4493 § 3, 1998].

8.04.060 Reporting requirements generally.

(A) In order to make certain that the campaign contribution limitations established by this chapter will in fact be enforceable and enforced, the Board of Supervisors determines that the reporting requirements contained in this section are necessary; the Board of Supervisors further determines that the requirements of this section and this chapter do not prevent any person from complying with the requirements of the California Political Reform Act, or other provisions of State law relating to campaign disclosure.

(B) **Checking Account Required.** Every candidate, committee or other person who accepts any campaign contribution, or who makes any expenditure to influence the outcome of any County election, including any expenditure directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates, or in aid of or in opposition to the qualification of any recall petition for the ballot shall, before accepting any contributions or making such expenditure, establish a checking account at a recognized financial institution. All monetary contributions accepted by such candidate, committee or other person, and the proceeds from the sale or transfer of any nonmonetary contributions accepted shall be placed in the account established pursuant to this section. All expenditures made by such candidate, committee or other person to influence the outcome of any election, or in support of or in opposition to any proceedings to qualify a recall petition for the ballot, shall be made by drawing a check on such account.

(C) Upon the establishment of a campaign contribution account, the name of the financial institution, the specific location, and the account number shall be filed with the County Clerk within 24 hours, or prior to the close of business on the first working day following the establishment of such an account.

(D) The Board of Supervisors may adopt, from time to time, specific forms to be used for complying with the reporting requirements established by this chapter. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.070 Reporting requirements—Organizational statement.

(A) Every committee which seeks or intends to seek to influence the outcome of any County election, or which seeks or intends to seek to influence any proceeding to qualify a recall petition for the ballot, shall file an organizational statement with the County Clerk.

(B) The organizational statement required by this section shall be filed at the earliest of the following times:

- (1) Within 30 days after the effective date of the ordinance codified in this chapter;
- (2) Within 10 days after the formation of any such committee;

(3) When more than \$1,000 in total campaign contributions has been received, or more than \$1,000 expended with the intent of influencing the outcome of any election, or any proceedings to qualify a recall election for the ballot.

(C) The organizational statement required by this section shall contain the same information as required by Government Code Section 84102 and be on the same form as required by the California Fair Political Practices Commission.

(D) Whenever there is a change in any of the information required to be filed in an organizational statement, an amendment to the organizational statement shall be filed with the County Clerk within 10 days to reflect the change. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.080 Reporting requirements—Campaign statements.

(A) Every candidate, committee or other person who accepts any campaign contribution, or who makes any expenditure to influence the outcome of any County election, including any expenditure in aid of or in opposition to one or more candidates, or in aid of or in opposition to the qualification for the ballot of any recall petition, shall file semiannual campaign statements for every year during which any contribution was received or any expenditure made. The semiannual campaign statements required by this section shall be filed no later than July 31st for the period ending June 30th, and no later than January 31st for the period ending December 31st.

(B) In addition to the semiannual campaign statements required to be filed by this section, any candidate, committee or other person who accepts any campaign contribution, or who makes any expenditure in aid of or in opposition to the qualification for the ballot of any recall petition shall file the following campaign statements at the following times:

(1) For elections held on the first Tuesday after the first Monday in June, statements shall be filed:

(a) No later than March 22nd for the period ending March 17th;

(b) No later than 12 days prior to the election for the period from March 18th through 17 days before the election;

(c) On the Friday before the election a statement shall be filed for the period from 16 days before the election through the Thursday before the election, and, in addition to disclosing contributions received during that period, shall disclose estimated expenditures, debts, loans or contributions through the date of the election.

(2) For elections held on the first Tuesday after the first Monday in November, statements shall be filed:

(a) No later than October 5th for the period ending September 30th;

(b) No later than 12 days prior to the election for the period from September 30th through 17 days before the election;

(c) On the Friday before the election, a statement shall be filed for the period from 16 days before the election, through the Thursday before the election, and, in addition to disclosing contributions received during that period, shall disclose estimated expenditures, debts, loans or contributions through the date of the election.

(3) For elections held on a date other than the first Tuesday after the first Monday in June or on the first Tuesday after the first Monday in November, statements shall be filed:

(a) No later than 40 days prior to the election for the period ending 45 days before the election;

(b) No later than 12 days prior to the election for the period between 45 days and 17 days before the election;

(c) On the Friday before the election, a statement shall be filed for the period from 16 days before the election through the Thursday before the election, and, in addition to disclosing contributions received during that period, shall disclose estimated expenditures, debts, loans or contributions through the date of the election;

(d) No later than 65 days after the election for the period from 16 days before the election and 58 days after the election; provided, however, if a subsequent runoff election is held within 60 days of the first election, the post-election statement shall be filed 65 days after the runoff election for the period from 16 days before the runoff election and 58 days after the runoff election.

(4) For runoff elections held within 60 days of the first election, statements shall be filed:

(a) No later than 40 days prior to the election for the period ending 45 days before the election (or March 22nd for the period between January 1st through March 17th, if the first election is on the first Tuesday after the first Monday in June, or September 22nd for the period between June 30th through September 17th, if the first election is on the first Tuesday after the first Monday in November); and

(b) No later than 12 days prior to the runoff election for the period between 45 and 17 days before the runoff election; and

(c) On the Friday before the election, a statement shall be filed for the period from 16 days before the election through the Thursday before the election, and, in addition to disclosing contributions received during that period, shall disclose estimated expenditures, debts, loans or contributions; and

(d) No later than 65 days after the runoff election for the period from 16 days before the runoff election and 58 days after the election.

(5) For each committee supporting or opposing the qualification of any recall petition for the ballot, campaign statements shall be filed:

(a) No later than 35 days after the first day that the petition could legally be circulated for a period commencing with the date that the committee was required to file an organizational statement pursuant to SCCC 8.04.070, with respect to the subject proceedings to qualify the recall for the ballot, and ending on a date 30 days after the first day that the petition could legally be circulated; and

(b) No later than 15 days prior to the last day for initial submission of the petition commencing the day after the closing date of the campaign statement required to be filed pursuant to subsection (B)(5)(a) of this section, and ending 20 days prior to the last day for initial submission of the petition; and

(c) No later than 35 days after the date of final notification by the County Clerk that the recall has either qualified or failed to qualify for the ballot for a period commencing the day after the closing date of the campaign statement required to be filed pursuant to subsection (B)(5)(b) of this section and a date 30 days after the date of final notification by the County Clerk that the recall has either qualified or failed to qualify for the ballot; and

(d) If the recall qualifies for the ballot on the first Tuesday after the first Monday in June or the first Tuesday after the first Monday in November, statements shall be filed in accordance with subsections (B)(1) and (B)(2) of this section; and

(e) If the recall qualifies for the ballot for an election to be held on some date other than as provided in subsection (B)(5)(d) of this section, statements shall be filed as provided in subsection (B)(3) of this section.

(6) In every case where campaign statements in addition to the semiannual campaign statements are required to be filed, each campaign statement shall contain the information required by this section for semiannual campaign statements.

(7) Unless otherwise stated in this section, the closing date for each campaign statement required to be filed by this section is five days prior to the filing date. Any campaign statement required to be filed by this section may be filed prior to the closing date if all liabilities of the filers have been paid and no additional contributions, expenditures, debts or loans are anticipated.

(C) Each campaign statement required to be filed by this section shall contain the same information required by Government Code Section 84211 and be on the same form as that required by the California Fair Political Practices Commission. [Ord. 5045 § 1, 2009; Ord. 4468 § 4, 1997; Ord. 4045 § 2, 1990].

8.04.090 Reporting requirements—Exceptions.

(A) The provisions of SCCC 8.04.070 relating to reporting requirements shall not apply to any loans and/or donations made by a candidate of his or her own money or property used in behalf of his or her own candidacy, except insofar as such expenditures exceed \$1,000. For the purposes of this subsection, in calculating whether \$1,000 in expenditures have been made, payments for a filing fee or for a statement of qualification shall not be included if these payments have been made from the candidate's personal funds.

(B) The provisions of SCCC 8.04.060, 8.04.070 and 8.04.080 relating to reporting requirements shall not apply to any expenditures made by an individual from his or her own financial resources to express personal political views when such expenditure is made independent of any candidate or committee and is in no way subject to the control of any candidate or committee, except insofar as such expenditures exceed \$1,000.

(C) The provisions of SCCC 8.04.060 shall not apply to any candidate who did not receive any contribution and the only expenditure will be made with his or her own personal funds for a filing fee and/or statement of qualification that will appear in the voter information pamphlet. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.100 Advertising rates—Service fees and charges.

To the extent that any person sells space in any newspaper, newsletter, or magazine, or sells any advertising time on any radio, television, or cable television station, or performs other services in connection with any efforts to support or oppose any proceedings to qualify a recall petition for the ballot, or in connection with any election relating to a measure, or in connection with any efforts to support or oppose any proceedings to qualify a measure for the ballot, the charges made for the use of such space, time or services shall not exceed the charges normally made for

comparable use of such space, time or services by other purchasers or users thereof. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.110 Enforcement authority—Complaints, legal action, investigatory powers.

(A) Any person who believes that a violation of any portion of this chapter has occurred may file a written complaint with the enforcement authority. A copy of any such written complaint shall, at the time such complaint is made, be filed with the County Clerk, and a copy shall also be provided to any person alleged to have violated any portion of this chapter. If the enforcement authority determines that there is a reason to believe a violation of this chapter has occurred, it shall make an investigation. Whenever the enforcement authority has reason to believe a violation of this chapter has occurred or is about to occur, it may institute such legal action as it deems necessary, including, but not limited to, the following: criminal action, civil action in the name of the County for damages or money due and owing, injunctive relief, and/or declaratory relief.

(B) The enforcement authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this chapter, and may, as provided by State law, demand and be furnished records of campaign contributions and expenses at any time. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].

8.04.120 Violation—Penalty.

A violation of any of the provisions of this chapter shall be a misdemeanor and punishable as provided by this code. [Ord. 5045 § 1, 2009; Ord. 4045 § 2, 1990].