



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

M-1

For the meeting of: September 9, 2014

Date: September 3, 2014
To: Board of Supervisors
From: Supervisor Rex Bohn
Subject: Campaign Finance Reform

RECOMMENDATION(S): That the Board of Supervisors:

1. Dissolve the Campaign Finance Reform Subcommittee; and
2. Direct staff to draft a campaign finance ordinance that imposes contribution limits in the amount of \$3,000 per 4-year election cycle; and
3. Direct staff to return within 14 days with a draft ordinance for Board consideration.

SOURCE OF FUNDING: N/A

DISCUSSION: On July 22, 2014, the Board of Supervisors appointed Supervisor Sundberg and Supervisor Bass to a subcommittee on Campaign Finance Reform and directed that they work with County Counsel to explore options for campaign finance reform and to bring back an outline for a proposed ordinance. In the interest of moving forward with an ordinance, Supervisor Bohn is requesting that the subcommittee be dissolved and that staff be directed to draft an ordinance that imposes campaign contribution limits in the amount of \$3,000 per 4-year election cycle, and return within 14 days for Board consideration.

FINANCIAL IMPACT: N/A

OTHER AGENCY INVOLVEMENT: N/A

Prepared by _____ Kathy Hayes

Signature _____

REVIEW:

Auditor _____ County Counsel _____ Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

_____ Consent
_____ Departmental
_____ Public Hearing
XX _____ Other _____ Board Initiated (20 minutes)

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor _____ Seconded by Supervisor _____

Ayes
Nays
Abstain
Absent

SEE ACTION SUMMARY

and carried by those members present the Board hereby approves the recommended action contained in this Board report.

1 Dated: _____

By: _____

Kathy Hayes, Clerk of the Board

ALTERNATIVES TO STAFF RECOMMENDATIONS: Board discretion.

ATTACHMENTS: Sonoma County Ordinance.

CHAPTER 2 - ADMINISTRATION
Article XX. - Campaign Contribution Limits.

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- Sec. 2-300. - Intent and purpose.
- Sec. 2-301. - Relation to Political Reform Act of 1974.
- Sec. 2-302. - Definitions.
- Sec. 2-303. - Contribution limitations.
- Sec. 2-304. - Outstanding debt retirement and reporting.
- Sec. 2-305. - Election cycles.
- Sec. 2-306. - Aggregation of contributions.
- Sec. 2-307. - Multiple campaign committees.
- Sec. 2-308. - Loans to county candidates and their controlled committees.
- Sec. 2-309. - Funds, property, goods or services received by officials treated as contributions.
- Sec. 2-310. - Disclosure requirements.
- Sec. 2-311. - Reporting of cumulative contributions.
- Sec. 2-312. - Reporting of late contributions.
- Sec. 2-313. - Notice of independent expenditures.
- Sec. 2-314. - Enforcement of chapter.

Sec. 2-300. - Intent and purpose.

The purpose of this article is to ensure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of Sonoma County candidates. To achieve such purpose, this article is designed to reduce the influence of large contributions, to ensure that individuals and interest groups continue to have a fair and equal opportunity to participate in electing county candidates, and to maintain public trust in governmental institutions and the electoral process.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-301. - Relation to Political Reform Act of 1974.

This article is intended to supplement the Political Reform Act of 1974. Unless a word or term is specifically defined in this article, or the contrary is stated or clearly appears from the context, words and terms used herein shall have the same meaning as defined or used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, and as supplemented by the Regulations of the Fair Political Practices Commission as set forth in Title 2, Division 6 of the California Code of Regulation, as the same may be, from time to time, amended.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-302. - Definitions.

- (a) "County candidate" means any person who is a candidate for supervisor, assessor, auditor-controller, county clerk-public administrator, recorder, treasurer-tax collector, district attorney, sheriff-coroner or superintendent of schools, or is an elective county officer whether or not that elective county officer is a candidate for reelection.
- (b) "County election" means any primary election, general (runoff) election, special election or recall election.
- (c) "County office" means the office of county supervisor, assessor, auditor-controller, county clerk-public administrator, recorder, treasurer-tax collector, district attorney, sheriff-coroner, and

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superintendent of schools.

- (d) "Election cycle" means the applicable period as set forth in Section 2-305 of this article.
- (e) "Elective county officer" means any person who is a member of the board of supervisors, or is the assessor, auditor-controller, county clerk-public administrator, recorder, treasurer-tax collector, district attorney, sheriff-coroner, or superintendent of schools, whether appointed or elected.
- (f) "Indebted former candidate" means a person, other than an elective county officer, who was a candidate for a county office at any county election and who has campaign debt remaining from such election after expiration of the election cycle for the county office for which he or she was a candidate.
- (g) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-303. - Contribution limitations.

- (a) County Candidates. Except as otherwise provided in this section, no person shall make, and no county candidate or treasurer of any controlled committee of any county candidate shall solicit or accept, any contributions which would cause the total amount contributed by such person to such candidate or to his or her controlled committee, to exceed two thousand five hundred dollars (\$2,500.00) during any election cycle for any county office. No contributions shall be accepted by any candidate before the beginning of the election cycle related to the election for which the person is a candidate. Contributions accepted for campaign expenses and for officeholder expenses shall be aggregated for purposes of the limitation set forth in this section.
- (b) Elective County Officers With Outstanding Debt From Prior Election. No person shall make, and no elective county officer, or treasurer of any controlled committee of any elective county officer, shall solicit or accept, any contributions for the purpose of retiring outstanding debt from a prior county election which would cause the total amount contributed by such person to such elective county officer or to his or her controlled committee, to exceed two thousand five hundred dollars (\$2,500.00) for the election in which the outstanding debt was incurred, regardless of when the contribution(s) is made or received. This restriction shall not apply to indebted former candidates who are not elective county officers.
- (c) Recall Elections. The contribution limitations set forth in Section 2-303(a) shall also apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of an elective county officer, and to contributions received by such elective county officer, during a recall election cycle as defined in Section 2-305 of this article.
- (d) Candidate's Personal Funds. The provisions of this section shall not apply to a county candidate's contribution of his or her personal funds to his or her own controlled committee. Contributions by the spouse of a county candidate from such spouse's separate property shall be subject to the contribution limitations set forth in Section 2-303(a).
- (e) Special Circumstances Permitting Increased Contribution Limits. In any election cycle where independent expenditures totaling more than ten thousand dollars (\$10,000.00) are made to support or oppose any candidate for county office, the two thousand five hundred dollars (\$2,500.00) limit imposed

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by this section shall be increased to five thousand dollars (\$5,000.00) for all candidates running for the same seat. In such an instance, no person shall make, and no county candidate, elective county officer or treasurer of any controlled committee of any county candidate or elective county officer shall solicit or accept, any contributions which would cause the total amount contributed by such person to such candidate or to his or her controlled committee, to exceed five thousand dollars (\$5,000.00).

(f) Escalator. Contribution limits shall be increased by five percent (5%) biannually with the first escalation to take place on January 1, 2011.

(Ord. No. 5798 § 2, 2008; Ord. No. 5231 § 2, 2000.)

Sec. 2-304. - Outstanding debt retirement and reporting.

(a) Any elective county officer or indebted former candidate, or any controlled committee of any such officer or candidate, accepting any contribution(s) for the purpose of retiring outstanding debt from a prior county election and required by state law to report such contributions on Schedule A of Fair Political Practices Commission Form 460 or any successor form thereto, shall, at the time required for the reporting of such contributions on Schedule A and in addition to any other reporting requirements under state law, clearly designate on said Schedule A which contributions were received for the purpose of retiring outstanding debt and for which prior county election such contributions were received.

(b) Any contribution accepted for the purpose of retiring outstanding debt from a prior county election shall be applied to reduce or retire said outstanding debt in the same reporting period in which such contribution was accepted. The application of any contribution to retire outstanding debt from a prior county election (i.e., repayment of outstanding loans and payment of accrued expenses) shall be itemized and identified on the appropriate schedules and on the Summary Page of Form 460, or any successor form thereto, provided by the Fair Political Practices Commission.

(c) No elective county officer or indebted former candidate, or any controlled committee of any such officer or candidate, shall use any contributions received for the purpose of retiring outstanding debt from a prior county election for any purpose other than for the retirement of outstanding debt remaining from the prior county election for which such contribution was received.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-305. - Election cycles.

(a) Primary Elections. For purposes of any primary election for any county office, the term "election cycle" as used in this article shall mean the period commencing on the day after a primary election for such county office, and ending on the day of the next primary election for the same county office. In the event there is a runoff election, the primary "election cycle" for the next primary election shall commence on the day after the runoff election and end on the day of the next primary election for the same county office. Notwithstanding the preceding sentences, following a special election for any county office, the "election cycle" for the next primary election for said county office shall commence on the day following said special election and shall end on the day of the next primary election for the same county office.

(b) General (Runoff) Elections. For purposes of any runoff election for any county office, the term "election cycle" as used in this article shall mean the period commencing on the day after the primary election for such county office and ending on the day of the runoff election.

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(c) Special Elections. For purposes of any special election for any county office, the term "election cycle" as used in this article shall mean the period commencing on the date a special election is called by the board of supervisors and ending on the day of the special election.

(d) Recall Elections. For purposes of any recall election of any elective county officer, the term "election cycle" as used in this article shall mean the period commencing on either the date a committee is formed pursuant to the Political Reform Act in support of a recall election or the date the county registrar of voters approves a recall petition for circulation and gathering of signatures, whichever occurs earlier, and ending on the day the first of the following events occur:

- (1) The time provided by law for the gathering of signatures on recall petitions expires without sufficient recall petition signatures having been filed with the county registrar of voters to require a recall election;
- (2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act;
- (3) The date the recall election is held.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-306. - Aggregation of contributions.

For purposes of the contribution limitations contained in this article, the following provisions shall apply:

(a) All contributions made by a sponsored committee to a county candidate or to an elective county officer (or to a committee controlled by such candidate or officer) shall be combined with those contributions made during the same election cycle by the sponsor(s) of the committee. Consistent with the definition and use of the terms "sponsored committee" and "sponsor" in the Political Reform Act, the term "sponsor" shall not include individuals.

(b) Contributions received from the following combinations of individuals and entities must be aggregated to determine the cumulative amount of contributions received from a contributor:

- (1) Contributions from an individual who makes contributions from personal funds and who also has sole authority to direct and control contributions made from other funds;
- (2) Contributions from business entities in a parent-subsidary relationship and business entities with the same controlling owner (more than fifty percent (50%)), unless the entities act completely independently in their decisions to make contributions;
- (3) Contributions from any number of entities or committees if the same person or a majority of the same persons in fact directs and controls the contributions each entity makes. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on whether the candidate or candidates received contributions.

(c) Contributions by a married person shall be treated as the separate contributions of such person and shall not be aggregated with any contributions of the spouse of such person.

(d) Contributions by children under eighteen (18) years of age shall be treated as contributions by their parent(s) or legal guardian(s), one-half to each parent or guardian unless only one (1)

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parent or guardian has legal custody of such child in which event any such contributions shall be attributed solely to the custodial parent.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-307. - Multiple campaign committees.

(a) A county candidate shall have no more than one (1) controlled committee for each county office for which such individual is a candidate or is an elective county officer and such controlled committee shall have only one (1) bank account out of which all qualified campaign and officeholder expenses related to that county office shall be made.

(b) This section does not prevent a county candidate or an elective county officer from establishing another controlled committee solely for the purpose of running for a state, federal, city or other elective county office, or for opposing his or her recall.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-308. - Loans to county candidates and their controlled committees.

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this article.

(b) The proceeds of a loan made to a county candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this article if the loan is made directly to the candidate. The guarantors of such a loan shall remain subject to the contribution limits of this article.

(c) Extensions of credit (other than loans pursuant to Section 2-308(b)) for a period of more than thirty (30) days are subject to the contribution limitations of this article.

(d) This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-309. - Funds, property, goods or services received by officials treated as contributions.

Any funds, property, goods or services, other than government funds, received by elective county officers which are used, or intended by the donor or by the recipient to be used, for expenses (including legal expenses) related to holding public office, shall be considered campaign contributions and shall be subject to the contribution limitation of Section 2-303. Reimbursement for travel expenses related to holding public office shall be excluded from the provisions of this section.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-310. - Disclosure requirements.

(a) Disclosure of name, address, and occupation and employer of contributor. If either the name, address, occupation and employer of an individual contributor (or if such individual is self-employed, the name of the business, if any, under which the individual is operating) is not on file in the records of the recipient of the contribution by the end of the reporting period in which the contribution was accepted,

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the contribution shall then be returned to the individual, or to the county's general fund, by the end of that reporting period. Notwithstanding the above, if a contribution does not designate the requisite information, the candidate or the candidate's committee may hold the contribution without returning it or depositing it into a campaign account for a period of up to fourteen (14) days while the requisite information is obtained. The required information shall be reported on Schedule A of Form 460, or any successor form thereto, as prepared by the Fair Political Practices Commission. Both the receipt and return of any such contribution shall be disclosed on the appropriate schedules of Form 460, or any successor form thereto, as prepared by the Fair Political Practices Commission.

(b) **Disclosure of Major Contributors.** Any mailing financially supported by an independent expenditure committee shall indicate on the envelope containing the mailing, and on the mailing itself, the name of the committee, and the names of the top three financial contributors to the committee at the time the mailing is being prepared. This required disclosure shall be in substantially the following form: "This information is provided by [Name of Independent Expenditure Committee] and has been supported by [names of top three contributors]."

(Ord. No. 5798 § 2, 2008; Ord. No. 5231 § 2, 2000.)

Sec. 2-311. - Reporting of cumulative contributions.

Contributions received from any contributor during a reporting period which have a cumulative total of one hundred dollars (\$100.00) or more when added to all other contributions received from such contributor during the same election cycle shall be itemized and reported, both as to individual contribution amounts received during the reporting period and the total cumulative amount received during the election cycle. Such amounts shall be reported on Schedule A of Form 460 or any successor form thereto, as prepared by the Fair Political Practices Commission, if the candidate or controlled committee is required to use such form, or shall be reported on a separate schedule appended to the required campaign statement. The term election cycle as used in this section shall mean the period described in Section 2-305.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-312. - Reporting of late contributions.

Any contribution(s) of five hundred dollars (\$500.00) or more, including contributions aggregated pursuant to Section 2-306, that are made to or received by a county candidate, his or her controlled committee or a committee formed or existing primarily to support or oppose a county candidate, shall be reported within twenty-four (24) hours if the contribution(s) were made or received before the date of the election at which the county candidate is to be voted on, but after the closing date of the last campaign statement required to be filed before the election.

(Ord. No. 5231 § 2, 2000.)

Sec. 2-313. - Notice of independent expenditures.

Any person who makes independent expenditures in support of or in opposition to any county candidate, which accumulate to one thousand dollars (\$1,000.00) or more during an election cycle shall notify the county registrar of voters and all candidates running for the same seat, by telegram, facsimile, or by any other electronic means accepted by the county registrar of voters, within twenty-four (24) hours each time such an expenditure is made.

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(Ord. No. 5231 § 2, 2000.)

Sec. 2-314. - Enforcement of chapter.

(a) **No Criminal Penalties.** Notwithstanding any other provision of the Sonoma County Code, any violation of any provision of this article shall be enforceable solely as provided in this section.

(b) **Civil Liability.** Any person who knowingly and willfully violates or otherwise fails to comply with any provision or requirement of this article shall be liable to the county of Sonoma in a sum not to exceed the following amount for each such violation:

(1) For the making or accepting of any contribution in excess of the applicable contribution limits specified in this article, a sum equal to three (3) times the amount by which the contribution exceeds the applicable contribution limit, or the sum of twenty-five hundred dollars (\$2,500.00), whichever is greater, for each violation.

(2) For any other violation of this article, the sum of five hundred dollars (\$500.00) for each violation.

(c) **Right to Cure Unknowing Violation.** In the event a candidate accepts a contribution and then becomes aware it is in violation of the contribution limit, that violation by the candidate may be excused, and will not be deemed "knowing and willful," if the candidate returns the contribution or contributes it to the county general fund within fourteen (14) days of becoming aware of the violation.

(d) **Debt Owing to County.** Any amount due from any person pursuant to subsection (b) of this section shall be a debt due and owing upon demand to the general fund of the county of Sonoma.

(e) **Civil Action to Collect Debt and Obtain Other Relief.** The district attorney of the county of Sonoma may file and prosecute a civil action in superior court, to recover any amount(s) due and owing to the county of Sonoma by any person pursuant to this section, or to enjoin any violation or otherwise compel compliance with the requirements of this article. In the event an allegation of violation of this chapter involves a candidate for district attorney, the matter shall be referred to the California Attorney General for investigation and enforcement.

(f) **Limitation of Actions.** No civil action shall be brought under the provisions of this section unless said action is filed within two (2) years following the date of such violation.

(g) **Remedial Measures.** If the district attorney determines or believes that any person (the target party) has violated any provision of this article, the district attorney may, at his or her sole discretion, advise the target party of remedial measures which may be taken by the target party to avoid possible civil action (the "remedial measures"). Such remedial measures may, but need not necessarily, include the payment of a civil fine to the county. Nothing contained herein shall be deemed to require the district attorney to offer remedial measures to any target party. In the event the target party is offered and timely performs such remedial measures to the satisfaction of the district attorney, the district attorney shall advise the target party (and any person who, in writing, informed or complained to the district attorney concerning any such violation), in writing, that the alleged violation has been resolved (the letter of resolution) and, in such event, no civil action shall thereafter be filed or maintained relating to such alleged violation of this article.

(Ord. No. 5231 § 2, 2000.)