

19 MAY 30 PM 3:55

Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL
ORDINANCE NO. 18545 C.M.S.

INTRODUCED BY COUNCILMEMBER KAPLAN

ORDINANCE AMENDING THE "OAKLAND CAMPAIGN REFORM ACT" BY AMENDING SECTION 3.12.020 AND ADDING SECTIONS 3.12.116 AND 3.12.117 TO REQUIRE DISCLOSURE OF THE PRINCIPAL OFFICERS OF NON-CANDIDATE CONTROLLED COMMITTEES REQUIRED TO FILE CAMPAIGN STATEMENTS IN OAKLAND AND REQUIRING THAT CITY PUBLIC SERVANTS ALSO DISCLOSE SOLICITATION OF CONTRIBUTIONS FROM ANY PERSON OR ENTITY CONTRACTING OR PROPOSING TO CONTRACT WITH THE CITY OF OAKLAND

WHEREAS, City government integrity depends upon an election process that is transparent and where political contributions do not unduly influence decisions made by elected officials on matters pertaining to city governance; and

WHEREAS, in a 2016 study, *Money in Exile: Campaign Contributions and Committee Access*, a correlation was found between donations and U.S. Congressional committee membership behavior and that donations were used by corporations and Political Action Committees to acquire political access and favor and gave the appearance of corruption; and

WHEREAS, in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), the Supreme Court upheld that financial limitations on independent expenditures were unconstitutional thereby expanding the ability of wealthy donors to contribute unlimited amounts of monies towards independent expenditures; and

WHEREAS, Justice Kennedy in his majority opinion in *Citizens United* held that disclosure requirements provide "citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters" and "enables the electorate to make informed decisions and give proper weight to different speakers and messages"; and

WHEREAS, a November 2015 poll by the Associated Press showed that 87% of those polled believe that disclosing donors is effective at reducing the influence of money in politics; and

WHEREAS, the California Political Reform Act ("CPRA") established reporting requirements on candidates and committees, including but not limited to required reporting of all campaign contributions and expenditures on state campaign forms and restrictions on the receipt, maintenance, use, and distribution of campaign funds (Government Code Section 81000 et seq.); and

WHEREAS, a Charter City has the constitutional authority to enact local regulations to supplement state ethics laws such as CPRA under the home rule and municipal affairs doctrines; and

WHEREAS, the City of Oakland, as a charter city, passed the Oakland Campaign Reform Act (OCRA) in 1993 with the goal of "reducing the influence of money in local politics" and has amended OCRA on various occasions to strengthen disclosure requirements including in 2016 with Ordinance No. 13399 that required disclosure of the top donors for independent expenditure mailers and television ads; and

WHEREAS, the explicit purpose of the OCRA, according to Section 3.12.030, was to "reduce the influence of large contributors with a specific financial stake in matters under consideration by the City" and "to help restore public trust in governmental and electoral institutions"; and

WHEREAS, the Oakland City Council finds that these amendments further the purposes of OCRA; and

WHEREAS, The City Council of the City of Oakland, in order to ensure clear expectations pertaining to the financing of campaign measures and independent expenditure committees, does hereby amend Chapter 3.12 of the Oakland Municipal Code, the Oakland Campaign Reform Act (hereinafter referred to as the "Act") by modifying Section 3.12.020 and adding Sections 3.12.116 and 3.12.117 as set forth below (chapter and section numbers and titles are indicated in bold type; additions are indicated by underscoring; portions of the regulations not cited or not shown in underscoring or strikethrough type are unchanged;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT

Article I. - Findings and Purpose

3.12.010-Title.

This chapter shall be known as the city of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. 12158 (part), 1999)

3.12.020 - Findings and declarations.

The Oakland City Council finds and declares each of the following:

A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by City government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

C. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

D. High campaign costs are forcing elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting elected City Officials from urgent governmental matters.

E. Elected City Officials are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

F. Disclosure of donors who have financial interests with the city of Oakland and also of city officials who solicit contributions safeguards against potential conflicts of interest.

G. For transparency, and to protect our democracy, including from the risk of secretive big money, it is important that the public have a right to know who is paying for, and who is sending, advocacy and campaign communications.

F. H. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

G. I. This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

3.12.116 –Disclosure of principal officers of all non-candidate controlled committees, including ballot measure and independent expenditure committees

All non-candidate controlled recipient committees, including ballot measure committees and general purpose committees, required to file campaign statements in the City of Oakland, must disclose the principal officers of the committee. Such disclosure must include the full name, street address, and telephone number of at least one principal officer, as well as all principal officers up to a total of three. This disclosure shall be made on the statement of organization (FPPC Form 410) by the filing deadlines required by the California Political Reform Act statute and regulations, or, if no Form 410 is required for that committee, the next required campaign statement. Such information shall be filed with the Public Ethics Commission and made available to the public.

3.12.117 – Reporting by city officials who solicit campaign contributions from persons contracting or proposing to contract with the city

A. Any public servant, as defined by Section 2.25.030(D), who is required to file a statement of economic interests (Form 700) and who successfully solicits a contribution of \$5,000 or more per calendar year to any committee from any person who contracts or proposes to contract with the official's department during the contractor prohibition time period specified in Section 3.12.140, must disclose such solicitation within 30 days of the solicitation to the Public Ethics Commission using a process provided by the Public Ethics Commission.

1. Mayor, Members of the Council, and their Senior Staff Members. For purposes of this section, the "department" of the Mayor, member of the Council, or senior staff member to either the Mayor or member of Council shall be the City, and the disclosure requirement shall apply when the solicitation is made to a person contracting or proposing to contract with the City;

a. For purposes of this section, a "senior staff member" to either the Mayor or a member of the Council means an individual employed in any of the following positions: chief of staff, deputy chief of staff, communications or other director, legislative or policy aide, or any other position in the Mayor's or Council Member's office who is required to file a Form 700.

SECTION 2 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 3. Effective Date. This ordinance shall become effective commencing with the next required disclosure filing date following the date of adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUN 18 2019

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

Introduction Date

JUN 04 2019

ATTEST:



LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of Oakland, California

Date of Attestation:

June 25, 2019

NOTICE AND DIGEST

ORDINANCE AMENDING THE "OAKLAND CAMPAIGN REFORM ACT" BY AMENDING SECTION 3.12.020 AND ADDING SECTIONS 3.12.116 AND 3.12.117 TO REQUIRE DISCLOSURE OF THE PRINCIPAL OFFICERS OF NON-CANDIDATE CONTROLLED COMMITTEES REQUIRED TO FILE CAMPAIGN STATEMENTS IN OAKLAND AND REQUIRING THAT CITY PUBLIC SERVANTS ALSO DISCLOSE SOLICITATION OF CONTRIBUTIONS FROM ANY PERSON OR ENTITY CONTRACTING OR PROPOSING TO CONTRACT WITH THE CITY OF OAKLAND

All non-candidate controlled committees required to file campaign statements in the City of Oakland must disclose the name, address, and telephone number of all principal officers of the Committee up to a total of three. Any city of Oakland public servant, as defined by Section 2.25.030(D), who successfully solicits a contribution to any committee from any person contracting or proposing to contract with the city of Oakland during the contractor prohibition period specified in Section 3.12.140 must disclose such solicitation using a process provided by the Public Ethics Commission.