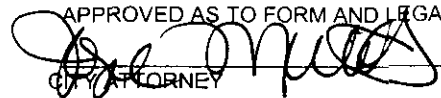


REDLINED COPY

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_ C.M.S.

---

AN ORDINANCE AMENDING THE CITY OF OAKLAND CAMPAIGN  
REFORM ACT, ORDINANCE NUMBER 11612 C.M.S., OAKLAND  
MUNICIPAL CODE CHAPTER 3.12

Whereas, the Oakland Campaign Reform Act, (the "Act"), Ordinance number 11612 C.M.S. was adopted on July 20, 1993, effective January 1, 1994, and recodified as Oakland Municipal Code Chapter 3.12; and

Whereas, the Act was most recently amended on July 28, 1998, to provide for enforcement by the Public Ethics Commission instead of independent counsel and to reduce the statute of limitations from four years to two years; and

Whereas, upon amendment of the Act, the City Council determined that it would be in the best interests of the City of Oakland for the Mayor to appoint a Campaign Reform Act Task Force to further study the Act and recommend further amendments to the Act; and

Whereas, the Campaign Reform Act Task Force was appointed by the Mayor, has met and recommends that the Act be amended to add the Office of City Attorney, to clarify the aggregation provisions, clarify the prohibition against contractors making contributions while negotiating contracts, require separate checks for contributions to the officeholder fund, further clarify the uses for the officeholder fund, increase the statute of limitations, and clarify the enforcement provisions, now therefore be it

Ordained:

Oakland Municipal Code Chapter 3.12 is amended to read:

220933.1

4/3/9/99

-1-

17  
3-9-99

## **Chapter 3.12**

### **THE CITY OF OAKLAND CAMPAIGN REFORM ACT**

#### **Article I. Findings and Purpose**

##### **3.12.010. Title**

This ordinance shall be known as the City of Oakland Campaign Reform Act, hereinafter "the Act".

##### **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 officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

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

### **3.12.030. Purpose of This Act**

#### **The purpose of this Act is to accomplish the following:**

A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. To reduce the advantage of incumbents and thus encourage competition for elective office.

E. To allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.

G. To help restore public trust in governmental and electoral institutions.

---

## Article II. Definitions

### 3.12.040. Interpretation of This Act

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 81000 et seq., as they appear in 1998 shall govern the interpretation of this Act.

"City Offices" for the purposes of this Act include: Mayor, City Attorney, City Auditor, City Councilmembers and School Board Directors.

"Election" -means any primary or general election held in the City of Oakland for City Office. Primary and general elections are separate elections for purposes of this Act. The primary election period shall extend from January 1 of the first year of an election cycle up to and including June 30 of the fourth year of the election cycle, and the general election period shall extend from July 1 of the fourth year of the election cycle up to and including December 31 of the fourth year of the election cycle.

An "Election Cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1, and ending on December 31 of the fourth year thereafter.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

"Broad Based Political Committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

"Qualified Campaign Expenditure".

1. "Qualified Campaign Expenditure" for candidates means and includes all of the following:

- a. Any expenditure made by a candidate, Officeholder or committee controlled by the candidate or Officeholder, for the purpose of influencing or attempting

to influence the actions of the voters for or against the election of any candidate for City Office.

- b. A non-monetary contribution provided at the request of or with the approval of the candidate, Officeholder or committee controlled by the candidate or Officeholder.

2. "Qualified Campaign Expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

### **Article III. Contribution Limitations**

#### **3.12.050. Limitations on Contributions from Persons**

A. No person shall make to any candidate for City Office and the controlled committee of such a candidate, and no such candidate for City Office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than \$100.00 for each election except as stated in (c) below.

B. No person shall make to any committee which supports or opposes any candidate for City Office and no such committee shall accept from any person a contribution or contributions totaling \$100.00 for each election.

C. For candidates who adopt the expenditure ceilings as defined in section Article IV of this Act, no person shall make to a candidate for City Office and the controlled committee of such candidate, and no such candidate for City Office and the controlled committee of such candidate shall accept contributions totaling more than \$500.00 from any person for each election.

#### **3.12.060. Limitations on Contributions From Broad Based Political Committees**

A. No broad based political committee shall make to any candidate for City Office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$250.00 for each election except as stated in (c) below.

B. No broad based political committee shall make to any committee supporting or opposing a candidate for City Office and no such committee shall accept from a broad based political committee a contribution or contributions totaling more than \$250.00 for each election.

C. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad based political committee shall make to any candidate for City Office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$1,000.00 for each election.

### **3.12.070. Return of Contributions**

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within 72 hours of receipt. In the case of a late contribution as defined in Government Code section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

### **3.12.080. Aggregation of Payments**

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

A. All payments made by a person, committee or broad based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad based political committee.

B. Two or more entities shall be treated as one person when any of the following circumstances apply:

1. The entities share the majority of members of their boards of directors.
2. The entities share two or more officers.

3. The entities are owned or controlled by the same majority shareholder or shareholders.
4. The entities are in a parent-subsidary relationship.

C. An individual and any general or limited partnership in which the individual ~~is a partner~~ has a 50% or more share, or an individual and any corporation in which the individual owns a controlling interest (50% or more), shall be treated as one person.

D. No committee and no broad based political committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

### **3.12.090. Loans**

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 Act.

B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.

C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

D. Other than loans pursuant to subsection C of this section, extensions of credit in excess of \$1,500.00 for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

### **3.12.100 Family Contributions**

A. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

B. Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

### **3.12.110. One Campaign Committee and One Checking Account Per Candidate for City Office**

A candidate for City Office shall have no more than one campaign committee and one checking account for the City Office being sought, out of which all expenditures for that office shall be made. This section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

### **3.12.120. Money Received by City Officials and Candidates Treated as Contributions, Income or Gifts**

Any funds received by any elected City official or candidate running in the jurisdiction or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code Sections 87100 et. seq.

### **3.12.130. Identification of Contributor Required**

No contribution of \$100.00 or more shall be deposited into a campaign checking account of a candidate for City Office unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution, and has been reported ~~on a Candidate, Officeholder, and Controlled Committee Campaign Statement~~ in the daily record of receipts pursuant to state Political Reform Act requirements.



**3.12.140. Contractors Doing Business With The City of Oakland or the Oakland Unified School District Prohibited from Making Contributions**

A. A.—No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City or the , for the rendition of personal services, for the furnishing of any material, supplies, commodities or equipment to the City or the School or for selling any land or building to the City or the School—whenever the value of such transaction would require approval by the City Council or the School Board, shall make any contribution to an elected official City , candidate, the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such official City officeholder or candidate at any time between commencement of negotiations and either six months after the completion of, or the termination of, negotiations for such contract.

B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District or for selling any land or building to the the School District whenever the value of such transaction would require approval the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either six months after the completion of, or the termination of, negotiations for such contract.

C. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.

D. For contributions to City Officers other than School Board Directors, transactions that require approval by the City Council include but are not limited to:

1. Contracts for the procurement of services that are professional or consulting services exceeding \$15,000.
2. Contracts for the procurement of services exceeding \$50,000, other than contracts for professional or consulting services.

3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding \$50,000.
4. Contracts for the sale of any building or land to the City.
5. Amendments to contracts described in subdivisions 1, 2, 3, and 4.

E. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:

1. Professional services and consulting contracts exceeding \$25,000, including personal service agreements.
2. Contracts requiring School Board approval under Public Contract Code section 20111.
3. Construction contracts exceeding \$25,000 whether or not they are subject to the provisions of the Public Contract Code.
4. Contracts for the sale of any building or land to the School District.
5. Amendments to contracts described in subdivisions 1, 2, 3, and 4.

EF. "Commencement of Negotiations" for City of Oakland contracts occurs with the first point of contact, either by telephone, in person or in writing, when a contractor communicates with any elected or appointed City officer or employee elected or appointed about a particular contract or an amendment to a particular contract, or proposed contract, or proposed amendment or an elected or appointed City officer or employee elected or appointed communicates with a potential contractor or existing contractor.

G. "Commencement of Negotiations" for Oakland School District contracts occurs with the first point of contact, either by telephone, in person or in writing, when a contractor communicates with any elected or appointed School District officer or employee about a particular contract or an amendment to a particular contract, or proposed contract, or proposed amendment or an elected or appointed School District officer or employee communicates with a potential contractor or existing contractor

EGH. "Commencement of Negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.

GHI. "Completion of Negotiations" occurs when the City or the School District executes the contract or amendment.

HJJ. "Termination of Negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by an appointed or elected City officer or employee or an appointed or elected School District officer or employee.

IJK. A contractor must sign the following certification at the time the contractor executes a contract subject to City Council approval, or amendment thereto:  
"\_\_\_\_\_ has not made a campaign contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate from the commencement of negotiations regarding this contract or contract amendment. \_\_\_\_\_ will not make campaign contributions to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate for 180 days from the execution of this contract or contract amendment."

L. A contractor must sign the following certification at the time the contractor executes a contract subject to School Board approval, or amendment thereto:  
"\_\_\_\_\_ has not made a campaign contribution to a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate from the commencement of negotiations regarding this contract or contract amendment. \_\_\_\_\_ will not make campaign contributions to a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate for 180 days from the execution of this contract or contract amendment."

BK, JLM. A person who contracts with the City or the School District for the rendition of personal services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article VII of this Act.

KLMN. Elected City Officeholders, candidates for City Office and their controlled committees shall include a notice on all campaign materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

"The Oakland Campaign Reform Act ~~OMC Chapter 3-12~~ limits campaign contributions by all persons and specifically prohibits contributions during specified time periods from existing and prospective contractors."

LMNO. The Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate who intentionally, knowingly or willfully receives a campaign contribution from a person whom the official, candidate or committee controlled by such official or candidate knows is in violation of this section shall be subject to the enforcement provisions of Article VII of this Act.

### **3.12.150. Officeholder Fund**

A. Every elected City Officeholder shall be permitted to establish one officeholder fund and account. All funds contributed to an Officeholder for the officeholder's fund must be deposited into the Officeholder's appropriate campaign bank account prior to being deposited into the officeholder account. ~~Contributions to the officeholder fund must be earmarked by the contributor for contribution to the officeholder fund at the time the contribution is made. The contributor for contribution to the Officeholder fund at the time the contribution is made must earmark in writing contributions to the Officeholder fund on a separate check or other separate written instrument.~~ The officeholder account may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the officeholder fund. ~~For City Auditor and School Board Members total contributions to an officeholder account shall not exceed \$10,000 per year in office.~~ For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder account shall not exceed \$30,000 per year in office. For the office of the Mayor, total contributions to an officeholder account shall not exceed \$40,000 per year in office.

B. Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used in connection with any election for City office for any of the purposes prohibited in paragraph C sections 1 through 5. Such allowable expenditures shall include, but are not limited to the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund.
2. Expenditures for office equipment, furnishings and office supplies.
3. Expenditures for office rent.
4. Expenditures for salaries of part-time or full-time staff employed by the Officeholder for Officeholder activities.
5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office.
6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the Officeholder; (2) a member of the Officeholder's staff; or (3) such other person designated by the Officeholder who is authorized to perform such government duties.
7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the Officeholder, (2) a member of the Officeholder's staff, (3) such other person designated by the Officeholder who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel.
8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity.
9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will personally benefit the elected officer, any member of his or her immediate family, or his or her committee treasurer.
10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose.
11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the Officeholder or a member of the Officeholder's staff in the performance of his or her governmental responsibilities.

12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for City, county, regional, state or federal elective Office.
13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, School District-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board.
14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the Officeholder communicates in his or her official capacity.
15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions.
16. Expenditures for accounting, professional and administrative services provided to the officeholder fund.
17. Expenditures for ballot measures.

C. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office
2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to City, county, regional, state or federal elective Office.
3. Membership in any athletic, social, fraternal, veteran or religious organization.
4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City official or employee.
5. Any expenditures that would violate the provisions the California state Political Reform Act, including Government Code sections 89506 and 89512 through 89519.

GD. No funds may be transferred from the officeholder account of an elected City Officeholder to any other candidate committee.

~~D. If an elected City officeholder has more than one committee which makes expenditures not related to an election at the time of the effective date of this section, the funds from all such committees shall be transferred into one officeholder account within 30~~

~~working days of the effective date of this section, to the extent otherwise allowed by law.~~

E. ~~Annual~~ Contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.

F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

### **3.12.160. Allowance for Donation of Office Space**

A. Donation of office space for use by City Officeholders in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:

1. The donation is made to the City and accepted pursuant to Oakland City Charter section 1203 for use by the Mayor, City Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the City Clerk.

B. Use of office space donated pursuant to this section by a City Officeholder shall not be considered a "qualified campaign expenditure" pursuant to section 3.12.040 of this Act.

### **3.12.170 Legal Expense Funds**

A. An elected City Officeholder or candidate for City Office may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or Officeholder's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or Officeholder's governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an Officeholder or candidate for legal expense fund must be deposited into the Officeholder's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may

be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.

B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.

C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

### **3.12.180. Volunteer Services Exemption**

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

## **Article IV. Expenditure Ceilings**

### **3.12.190. Expenditure Ceilings**

All candidates for ~~City office~~ Office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Sections 3.12.050 C and 3.12.060 C of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

### **3.12.200. Amount of Expenditure Ceilings**

A candidate for District Councilmember or School Board Director who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding \$1.50 per resident for each election in the electoral district in which the candidate is seeking elective office. A candidate for City Attorney, City Auditor, Councilmember-at-Large or Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding \$1.00 per resident for each election in the electoral district in which the candidate is seeking elective office. Residency of each electoral district shall be determined by the



latest decennial census population figures available for that district. Beginning in 1999, the City Clerk shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The City Clerk shall publish the expenditure ceiling amounts no later than February 1 of each year.

### **3.12.210. Time Periods for Expenditures**

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be prorated.

### **3.12.220. Expenditure Ceilings Lifted**

If a candidate declines to accept expenditure ceilings and receives contributions or make qualified campaign expenditures equal to 50% or more of the expenditure ceiling, or if an independent expenditure committee in the aggregate spends more than \$15,000 on a District City Council or School Board election or \$70,000 in an City Attorney, Auditor, Councilmember -at Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in sections 3.12.050 C and 3.12.060 C of this Act. The independent expenditure committee amounts of \$15,000 and \$70,000, respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by section 3.12.180 herein.

## **Article V. INDEPENDENT EXPENDITURES**

### **3.12.230. Contribution Limitations**

A. Any person who makes independent expenditures supporting or opposing a candidate for City Office shall not accept any contribution in excess of the amounts set forth in Sections 3.12.050 A and B.

B. Any broad based political committee that makes independent expenditures supporting or opposing a candidate for City Office shall not accept any contribution in excess of the amounts set forth in Sections 3.12.060 A. and B.

### **3.12.240. Independent Expenditures for Mass Mailings, Slate Mailings or Other Campaign Materials**

Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate for City Office shall place the following statement on the mailing in typeface of no smaller than 14 points:

#### **Notice to Voters**

*(Required by the City of Oakland)*

**This mailing is not authorized or approved by any City candidate or election official.**

**It is paid for**

**by (name)\_\_\_\_\_**  
**\_\_\_\_\_ (address, city, state)**

**Total cost of this mailing is: (amount)**

## **Article VI. AGENCY RESPONSIBILITY**

### **3.12.250 Duties of the Public Ethics Commission**

The Public Ethics Commission shall:

A. Oversee compliance with the Act.

B. Propose necessary regulations in furtherance of this Act subject to City Council approval.

### **3.12.260. Duties of the City Clerk**

The City Clerk shall prescribe the necessary forms for filing the appropriate statements.

---

## **Article VII. Enforcement**

### **3.12.270. Public Ethics Commission as Enforcing Body**

The Public Ethics Commission is the sole enforcing body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.

### **3.12.280. Criminal Misdemeanor Actions**

Any person who knowingly or willfully violates Articles III, IV, or V of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of the Act, or who knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within two-four (24) years after the date on which the violation occurred.

### **3.12.290. Enforcement Actions**

A. Any person who intentionally or negligently violates Articles III, IV or V of this Act is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

C. Any person alleging a violation of Articles III, IV or V of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Commission shall respond within ~~sixty-ninety~~ (690) days after receipt of the complaint indicating whether there is probable cause to conduct a hearing and whether mediation will be recommended pursuant to the mediation provisions contained in the ~~Public Ethics Commission General Rules of Procedure~~ undertaken.

D. ~~If the Commission does not recommend mediation or if any party refuses mediation, or if mediation is unsuccessful in resolving the issues raised in the complaint, the Commission may within six~~ ninety (690) days thereafter convene a hearing. The Commission has full authority to settle any action filed by or on behalf of the Commission in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed three (3) times the amount of the unlawful contribution or expenditure.

F. No complaint alleging a violation of any provision of this Act shall be filed more than ~~two-three~~ (23) years after the date the violation occurred.

### **3.12.300. Injunctive Relief**

Any resident of the City of Oakland, or a corporation who is assessed for and is liable to pay, or within one year before the commencement of an action, has paid a tax within the City and the Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

### **3.12.310. Cost of Litigation**

The court may award to a complainant or respondent who prevails in any action for injunctive relief, his or her costs of litigation, including reasonable attorney's fees.

### **3.12.320. Disqualification**

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of Sections 3.12.050 and 3.12.060, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et. seq., and the regulations of the Fair Political Practices Commission shall apply to interpretations of this section.

## **Article VII. MISCELLANEOUS PROVISIONS**

### **3.12.330. Applicability of Other Laws**

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

### **3.12.340 Severability**

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

---

IN COUNCIL, OAKLAND, CALIFORNIA, 1999

**PASSED BY THE FOLLOWING VOTE:**

AYES- BRUNNER, CHANG, MILEY, NADEL, REID, RUSSO, SPEES AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

17  
3-9-99

**DRAFT**

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_ C.M.S.

---

AN ORDINANCE AMENDING THE CITY OF OAKLAND CAMPAIGN  
REFORM ACT, ORDINANCE NUMBER 11612 C.M.S., OAKLAND  
MUNICIPAL CODE CHAPTER 3.12

Whereas, the Oakland Campaign Reform Act, (the "Act"), Ordinance number 11612 C.M.S. was adopted on July 20, 1993, effective January 1, 1994, and recodified as Oakland Municipal Code Chapter 3.12; and

Whereas, the Act was most recently amended on July 28, 1998, to provide for enforcement by the Public Ethics Commission instead of independent counsel and to reduce the statute of limitations from four years to two years; and

Whereas, upon amendment of the Act, the City Council determined that it would be in the best interests of the City of Oakland for the Mayor to appoint a Campaign Reform Act Task Force to further study the Act and recommend further amendments to the Act; and

Whereas, the Campaign Reform Act Task Force was appointed by the Mayor, has met and recommends that the Act be amended to add the Office of City Attorney, to clarify the aggregation provisions, clarify the prohibition against contractors making contributions while negotiating contracts, require separate checks for contributions to the officeholder fund, further clarify the uses for the officeholder fund, increase the statute of limitations, and clarify the enforcement provisions, now therefore be it

Ordained:

Oakland Municipal Code Chapter 3.12 is amended to read:

17-1  
3-9-99

## Chapter 3.12

### THE CITY OF OAKLAND CAMPAIGN REFORM ACT

#### Article I. Findings and Purpose

##### **3.12.010. Title**

This ordinance shall be known as the City of Oakland Campaign Reform Act, hereinafter "the Act".

##### **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 officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

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

### **3.12.030. Purpose of This Act**

#### **The purpose of this Act is to accomplish the following:**

A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. To reduce the advantage of incumbents and thus encourage competition for elective office.

E. To allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.

G. To help restore public trust in governmental and electoral institutions.

## Article II. Definitions

### 3.12.040. Interpretation of This Act

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 81000 et seq., as they appear in 1998 shall govern the interpretation of this Act.

"City Offices" for the purposes of this Act include: Mayor, City Attorney, City Auditor, City Councilmembers and School Board Directors.

"Election" means any primary or general election held in the City of Oakland for City Office. Primary and general elections are separate elections for purposes of this Act. The primary election period shall extend from January 1 of the first year of an election cycle up to and including June 30 of the fourth year of the election cycle, and the general election period shall extend from July 1 of the fourth year of the election cycle up to and including December 31 of the fourth year of the election cycle.

An "Election Cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1, and ending on December 31 of the fourth year thereafter.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

"Broad Based Political Committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

"Qualified Campaign Expenditure".

1. "Qualified Campaign Expenditure" for candidates means and includes all of the following:

- a. Any expenditure made by a candidate, Officeholder or committee controlled by the candidate or Officeholder, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any

candidate for City Office.

- b. A non-monetary contribution provided at the request of or with the approval of the candidate, Officeholder or committee controlled by the candidate or Officeholder.

2. "Qualified Campaign Expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

### **Article III. Contribution Limitations**

#### **3.12.050. Limitations on Contributions from Persons**

A. No person shall make to any candidate for City Office and the controlled committee of such a candidate, and no such candidate for City Office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than \$100.00 for each election except as stated in (c) below.

B. No person shall make to any committee which supports or opposes any candidate for City Office and no such committee shall accept from any person a contribution or contributions totaling \$100.00 for each election.

C. For candidates who adopt the expenditure ceilings as defined in section Article IV of this Act, no person shall make to a candidate for City Office and the controlled committee of such candidate, and no such candidate for City Office and the controlled committee of such candidate shall accept contributions totaling more than \$500.00 from any person for each election.

#### **3.12.060. Limitations on Contributions From Broad Based Political Committees**

A. No broad based political committee shall make to any candidate for City Office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$250.00 for each election except as stated in (c) below.

B. No broad based political committee shall make to any committee supporting or opposing a candidate for City Office and no such committee shall accept from a broad

based political committee a contribution or contributions totaling more than \$250.00 for each election.

C. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad based political committee shall make to any candidate for City Office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$1,000.00 for each election.

### **3.12.070. Return of Contributions**

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within 72 hours of receipt. In the case of a late contribution as defined in Government Code section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

### **3.12.080. Aggregation of Payments**

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

A. All payments made by a person, committee or broad based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad based political committee.

B. Two or more entities shall be treated as one person when any of the following circumstances apply:

1. The entities share the majority of members of their boards of directors.
2. The entities share two or more officers.
3. The entities are owned or controlled by the same majority shareholder or shareholders.

4. The entities are in a parent-subsidary relationship.

C. An individual and any general or limited partnership in which the individual has a 50% or more share, or an individual and any corporation in which the individual owns a controlling interest (50% or more), shall be treated as one person.

D. No committee and no broad based political committee which supports or opposes a candidate for office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

### **3.12.090. Loans**

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 Act.

B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.

C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

D. Other than loans pursuant to subsection C of this section, extensions of credit in excess of \$1,500.00 for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

**DRAFT**

**3.12.100 Family Contributions**

A. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

B. Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

**3.12.110. One Campaign Committee and One Checking Account Per Candidate for City Office**

A candidate for City Office shall have no more than one campaign committee and one checking account for the City Office being sought, out of which all expenditures for that office shall be made. This section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

**3.12.120. Money Received by City Officials and Candidates Treated as Contributions, Income or Gifts**

Any funds received by any elected City official or candidate running in the jurisdiction or any committee controlled by such an official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the Political Reform Act, Government Code Sections 87100 et. seq.

**3.12.130. Identification of Contributor Required**

No contribution of \$100.00 or more shall be deposited into a campaign checking account of a candidate for City Office unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution, and has been reported in the daily record of receipts pursuant to state Political Reform Act requirements.

## **3.12.140. Contractors Doing Business With The City of Oakland or the Oakland Unified School District Prohibited from Making Contributions**

A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or for selling any land or building to the City -whenever the value of such transaction would require approval by the City Council - shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either six months after the completion of, or the termination of, negotiations for such contract.

B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District or for selling any land or building to the the School District whenever the value of such transaction would require approval the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either six months after the completion of, or the termination of, negotiations for such contract.

C. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.

D. For contributions to City Officers other than School Board Directors, transactions that require approval by the City Council include but are not limited to:

1. Contracts for the procurement of services that are professional or consulting services exceeding \$15,000.
2. Contracts for the procurement of services exceeding \$50,000, other than contracts for professional or consulting services.
3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding \$50,000.
4. Contracts for the sale of any building or land to the City.

5. Amendments to contracts described in subdivisions 1, 2, 3, and 4.

E. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:

1. Professional services and consulting contracts exceeding \$25,000, including personal service agreements.
2. Contracts requiring School Board approval under Public Contract Code section 20111.
3. Construction contracts exceeding \$25,000 whether or not they are subject to the provisions of the Public Contract Code.
4. Contracts for the sale of any building or land to the School District.
5. Amendments to contracts described in subdivisions 1,2,3, and 4.

F. "Commencement of Negotiations" for City of Oakland contracts occurs with the first point of contact, either by telephone, in person or in writing, when a contractor communicates with any elected or appointed City officer or employee about a particular contract or an amendment to a particular contract, or proposed contract, or proposed amendment or an elected or appointed City officer or employee communicates with a potential contractor or existing contractor.

G. "Commencement of Negotiations" for Oakland School District contracts occurs with the first point of contact, either by telephone, in person or in writing, when a contractor communicates with any elected or appointed School District officer or employee about a particular contract or an amendment to a particular contract, or proposed contract, or proposed amendment or an elected or appointed School District officer or employee communicates with a potential contractor or existing contractor

H. "Commencement of Negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.

I. "Completion of Negotiations" occurs when the City or the School District executes the contract or amendment.

J. "Termination of Negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the



negotiations, which is accepted by an appointed or elected City officer or employee or an appointed or elected School District officer or employee.

K. A contractor must sign the following certification at the time the contractor executes a contract subject to City Council approval, or amendment thereto:

"\_\_\_\_\_ has not made a campaign contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or a committee controlled by such official or candidate from the commencement of negotiations regarding this contract or contract amendment. \_\_\_\_\_ will not make campaign contributions to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or a committee controlled by such official or candidate for 180 days from the execution of this contract or contract amendment."

L. A contractor must sign the following certification at the time the contractor executes a contract subject to School Board approval, or amendment thereto:

"\_\_\_\_\_ has not made a campaign contribution to a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate from the commencement of negotiations regarding this contract or contract amendment. \_\_\_\_\_ will not make campaign contributions to a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate for 180 days from the execution of this contract or contract amendment."

M. A person who contracts with the City or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article VII of this Act.

N. Elected City Officeholders, candidates for City Office and their controlled committees shall include a notice on all campaign materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

"The Oakland Campaign Reform Act limits campaign contributions and

prohibits contributions during specified time periods from contractors.”

O. The Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, a School Board Director, a candidate for School Board Director, or a committee controlled by such official or candidate who intentionally, receives a campaign contribution from a person whom the official, candidate or committee controlled by such official or candidate knows is in violation of this section shall be subject to the enforcement provisions of Article VII of this Act.

### **3.12.150. Officeholder Fund**

A. Every elected City Officeholder shall be permitted to establish one officeholder fund and account. All funds contributed to an Officeholder for the officeholder's fund must be deposited into the Officeholder's appropriate campaign bank account prior to being deposited into the officeholder account. The contributor for contribution to the Officeholder fund at the time the contribution is made must earmark in writing contributions to the Officeholder fund on a separate check or other separate written instrument. The officeholder account may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the officeholder fund. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder account shall not exceed \$30,000 per year in office. For the office of the Mayor, total contributions to an officeholder account shall not exceed \$40,000 per year in office.

B. Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in paragraph C sections 1 through 5. Such allowable expenditures shall include, but are not limited to the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund.
2. Expenditures for office equipment, furnishings and office supplies.
3. Expenditures for office rent.
4. Expenditures for salaries of part-time or full-time staff employed by the Officeholder for Officeholder activities.
5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional,

state or federal elective office.

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the Officeholder(2) a member of the Officeholder's staff; or (3) such other person designated by the Officeholder who is authorized to perform such government duties.

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the Officeholder, (2) a member of the Officeholder's staff, (3) such other person designated by the Officeholder who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel.

8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity.

9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will personally benefit the elected officer, any member of his or her immediate family, or his or her committee treasurer.

10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose.

11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the Officeholder or a member of the Officeholder's staff in the performance of his or her governmental responsibilities.

12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for City, county, regional, state or federal elective Office.

13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, School District-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board.

14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the Officeholder communicates in his or her official capacity.

15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions.

16. Expenditures for accounting, professional and administrative services provided to the officeholder fund.
17. Expenditures for ballot measures.

C. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office
2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to City, county, regional, state or federal elective Office.
3. Membership in any athletic, social, fraternal, veteran or religious organization.
4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City official or employee.
5. Any expenditures that would violate the provisions the California state Political Reform Act, including Government Code sections 89506 and 89512 through 89519.

D. No funds may be transferred from the officeholder account of an elected City Officeholder to any other candidate committee.

E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.

F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

### **3.12.160. Allowance for Donation of Office Space**

A. Donation of office space for use by City Officeholders in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:

1. The donation is made to the City and accepted pursuant to Oakland City Charter section 1203 for use by the Mayor, City Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and

2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the City Clerk.

B. Use of office space donated pursuant to this section by a City Officeholder shall not be considered a "qualified campaign expenditure" pursuant to section 3.12.040 of this Act.

### **3.12.170 Legal Expense Funds**

A. An elected City Officeholder or candidate for City Office may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or Officeholder's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or Officeholder's governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an Officeholder or candidate for legal expense fund must be deposited into the Officeholder's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.

B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.

C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

### **3.12.180. Volunteer Services Exemption**

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

## **Article IV. Expenditure Ceilings**

### **3.12.190. Expenditure Ceilings**

All candidates for City Office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Sections 3.12.050 C and 3.12.060 C of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

### **3.12.200. Amount of Expenditure Ceilings**

A candidate for District Councilmember or School Board Director who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding \$1.50 per resident for each election in the electoral district in which the candidate is seeking elective office. A candidate for City Attorney, City Auditor, Councilmember-at-Large or Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding \$1.00 per resident for each election in the electoral district in which the candidate is seeking elective office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district. Beginning in 1999, the City Clerk shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The City Clerk shall publish the expenditure ceiling amounts no later than February 1 of each year.

### **3.12.210. Time Periods for Expenditures**

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time

period in which they are used. Payments for goods or services used in both time periods shall be prorated.

**3.12.220. Expenditure Ceilings Lifted**

If a candidate declines to accept expenditure ceilings and receives contributions or make qualified campaign expenditures equal to 50% or more of the expenditure ceiling, or if an independent expenditure committee in the aggregate spends more than \$15,000 on a District City Council or School Board election or \$70,000 in a City Attorney, Auditor, Councilmember -at Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in sections 3.12.050 C and 3.12.060 C of this Act. The independent expenditure committee amounts of \$15,000 and \$70,000, respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by section 3.12.180 herein.

**Article V. INDEPENDENT EXPENDITURES**

**3.12.230. Contribution Limitations**

A. Any person who makes independent expenditures supporting or opposing a candidate for City Office shall not accept any contribution in excess of the amounts set forth in Sections 3.12.050 A and B.

B. Any broad based political committee that makes independent expenditures supporting or opposing a candidate for City Office shall not accept any contribution in excess of the amounts set forth in Sections 3.12.060 A. and B.

**3.12.240. Independent Expenditures for Mass Mailings, Slate Mailings or Other Campaign Materials**

Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate for City Office shall place the following statement on the mailing in typeface of no smaller than 14 points:

**DRAFT**

**Notice to Voters**

***(Required by the City of Oakland)***

**This mailing is not authorized or approved by any City candidate or election official.**

**It is paid for**

**by (name) \_\_\_\_\_  
\_\_\_\_\_ (address, city, state)**

**Total cost of this mailing is: (amount)**

**Article VI. AGENCY RESPONSIBILITY**

**3.12.250 Duties of the Public Ethics Commission**

The Public Ethics Commission shall:

A. Oversee compliance with the Act.

B. Propose necessary regulations in furtherance of this Act subject to City Council approval.

**3.12.260. Duties of the City Clerk**

The City Clerk shall prescribe the necessary forms for filing the appropriate statements.

**Article VII. Enforcement**

**3.12.270. Public Ethics Commission as Enforcing Body**

The Public Ethics Commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.



## **3.12.280. Criminal Misdemeanor Actions**

Any person who knowingly or willfully violates Articles III, IV, or V of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of the Act, or who knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within four (4) years after the date on which the violation occurred.

## **3.12.290. Enforcement Actions**

A. Any person who intentionally or negligently violates Articles III, IV or V of this Act is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

C. Any person alleging a violation of Articles III, IV or V of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Commission shall respond within ninety (90) days after receipt of the complaint indicating whether there is probable cause to conduct a hearing and whether mediation will be undertaken.

D. If any party refuses mediation, or if mediation is unsuccessful in resolving the issues raised in the complaint, the Commission may within ninety (90) days thereafter convene a hearing. The Commission has full authority to settle any action filed by or on behalf of the Commission in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed three (3) times the amount of the unlawful contribution or expenditure.

F. No complaint alleging a violation of any provision of this Act shall be filed more than three (3) years after the date the violation occurred.

**3.12.300. Injunctive Relief**

Any resident of the City of Oakland, or a corporation who is assessed for and is liable to pay, or within one year before the commencement of an action, has paid a tax within the City and the Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

**3.12.310. Cost of Litigation**

The court may award to a complainant or respondent who prevails in any action for injunctive relief, his or her costs of litigation, including reasonable attorney's fees.

**3.12.320. Disqualification**

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of Sections 3.12.050 and 3.12.060, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et. seq., and the regulations of the Fair Political Practices Commission shall apply to interpretations of this section.

**Article VII. MISCELLANEOUS PROVISIONS**

**3.12.330. Applicability of Other Laws**

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

**3.12.340 Severability**

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

**DRAFT**

IN COUNCIL, OAKLAND, CALIFORNIA, 1999

**PASSED BY THE FOLLOWING VOTE:**

AYES- BRUNNER, CHANG, MILEY, NADEL, REID, RUSSO, SPEES AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

17-1  
3-9-99

# CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney  
Jayne W. Williams  
City Attorney  
Joyce M. Hicks  
Assistant City Attorney

March 9, 1999  
e-mail  
jmhicks@oaklandnet.com

(510) 238-3601  
FAX: (510) 238-6500  
TTY/TDD: (510) 238-7367  
(510) 238-3702

The Honorable Ignacio DeLaFuente, President and members of the Oakland City Council  
Oakland, California

Re: Proposed Revised Amended Oakland Campaign Reform Act

Attached you will find a copy of a revised amended Oakland Campaign Reform Act, Chapter 3.12 of the Oakland Municipal Code, which was prepared pursuant to your direction at your January 26, 1999, City Council meeting. Although many comments were made at that meeting, you only provided specific direction to amend two sections, 1) the candidate/officeholder liability provision at section 3.12.140 L. now O. and 2) the injunctive relief provision 3.12.300. Oakland Municipal Code section 3.12.140 O. imposes liability on an elected official, candidate, or candidate controlled committee who intentionally receives a campaign contribution with knowledge that the contribution is in violation of section 3.12.140. Oakland Municipal Code section 3.12.300 has expanded the parties who may have a cause of action under the Act from the Public Ethics Commission and residents of the City of Oakland to include taxpayers in the City of Oakland. Each of those provisions has been amended pursuant to your direction. No written comments were received by the City Attorney's Office regarding further amendments to the Act.

To further clarify section 3.12.140, we have divided paragraph A. into paragraphs A. and B. to specify that City Council contracts limit contributions to City of Oakland elected officials and candidates and that School District contracts limit contributions to School Board Directors and candidates. We have also divided former section 3.12.140 paragraph E., Commencement of Negotiations, into new paragraphs F. and G. and former section 3.12.140 paragraph K., Contractor Certification, into new paragraphs K. and L. to delineate between the City Council and the School Board. Additionally, in response to comments concerning the length of the notice in former section 3.12.140 paragraph K., now paragraph M., we have eliminated ten words to distill the essence of the notice.

17-171  
3-9-99

President Ignacio DeLaFuentes  
and members of the Oakland City Council  
March 9, 1999  
Page Two

Questions were raised about expanding allowable officeholder expenditures. After consultation with the Fair Political Practices Commission staff, it is my recommendation that no additional provisions be added to that section as some of the questions asked at your January 26, 1999, meeting involve expenditures that the Fair Political Practices Commission may consider grey areas. Oakland Municipal Code section 3.12.150 B. reads in part, "Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in paragraph C sections 1 through 5. Such allowable expenditures shall include, but are not limited to the following categories..." Although the Fair Political Practices Commission is the final arbiter on whether the officeholder expenses we have outlined are an appropriate use of your campaign funds, it is our opinion that categories 1-17 contained in section 3.12.150 B. would satisfy state law, however, further expansion of these categories may not. The Fair Political Practices Commission recommends that should you desire to use your officeholder funds for expenditures such as street fairs, block parties, neighborhood associations, etc, that you request written advice from them.

In addition, a question was raised about the intent of section 3.12.130, Identification of Contributor Required. To clarify that the intent of this section, the words "and has been reported on a Candidate, Officeholder, and Controlled Committee Campaign Statement pursuant to state Political Reform Act requirements" have been removed and replaced with the words "and have been reported in the daily record of receipts pursuant to state Political Reform Act requirements."

The proposed amended Act would make the following changes to Oakland's current Campaign Reform Act, Oakland Municipal Code Chapter 3.12:

1. Add City Attorney to City Offices. (OMC §3.12.040.)
2. Amend "Aggregation of Payments" regarding partnerships and individuals and controlling interests in corporations to require a 50% or greater interest before aggregation occurs. (OMC §3.12.080 C.)
3. Amend "Identification of Contributors" section to require reporting of name, address and occupation of contributor on daily record of receipts instead of on campaign statement before depositing checks of \$100.00 or more. (OMC §3.12.130.)
4. Amend "Contractors Doing Business Prohibited from Making Contributions" provision to include the School Board, elaborate on transactional limits, require contractor certification, notice on campaign materials and, in addition to existing contractor liability, impose liability for intentional, knowing or willful candidate violations. (OMC §3.12.140.)
5. Amend "Officeholder Fund" provision to require contributions on a separate check or written instrument, provide City Auditor and School Board Directors

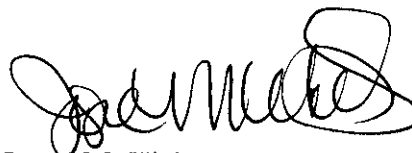
President Ignacio DeLaFuentes  
and members of the Oakland City Council  
March 9, 1999  
Page Three

- with the same fund amount as District City Councilmembers, allow the City Attorney the same fund amount as Councilmember-at-Large, and elaborate on allowable and disallowed uses of Officeholder Fund. (OMC §3.12.150.)
6. Add the City Attorney to "Allowance for Donation of Office Space". (OMC §3.12.160.)
  7. Provide the same expenditure ceilings for the City Attorney as the City Auditor, Councilmember-at-Large and the Mayor. (OMC §3.12.200.)
  8. Increase criminal misdemeanor statute of limitations from two years to four years. (OMC §3.12.280.)
  9. Clarify mediation provisions. (OMC §3.12.290 subds. C and D.)
  10. Increase civil statute of limitations from two years to three years. (OMC §3.12.290 subd. E.)
  11. Amend injunctive relief provision to provide taxpayers with a cause of action. (OMC §3.12.300.)

The proposed revised amended Act is provided in redlined and clean copy for your consideration. Also attached are copies of Government Code sections 89506 and 89512 through 89519 which are referenced in the Act at section 3.12.150 C. 5.

Very truly yours,

Jayne W. Williams  
City Attorney

By:   
Joyce M. Hicks  
Assistant City Attorney

Enclosures

CALIFORNIA CODES  
GOVERNMENT CODE  
SECTION 89506

**89506.** (a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elected state office or local elected office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local **government** agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a **government**, a governmental agency, a foreign **government**, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation **Code**, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue **Code**, or by a person domiciled outside the United States which substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue **Code**.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient's statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue **Code**, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by Section 170.9 of the **Code** of Civil Procedure.

CALIFORNIA CODES  
GOVERNMENT CODE  
SECTION 89510-89522

89510. (a) A candidate may only accept contributions from persons, political committees, broad based political committees, and political parties and only in the amounts specified in Article 3 (commencing with Section 85300). A candidate shall not accept contributions from any other source.

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office for which the candidate has stated, pursuant to Section 85200, that he or she intends to seek or expenses associated with holding that office.

(c) In the event that the numerical reference to a district changes due to a reapportionment subsequent to a candidate declaring an intention to seek a specific office, the candidate may use the contribution raised under the old-numbered district to seek office, and for office expenses, in the new-numbered district.

(d) In the event that the boundaries of the district for a specific office change as a result of a reapportionment which is enacted after a candidate files a statement of intention to be a candidate for that specific office, the candidate may use any contributions received for that specific office for expenses associated with the election of the candidate to any other equivalent district office of the agency body which includes the specific office, at the next election for that other district office, and for expenses associated with holding that other district office.

89511. (a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b) (1) For purposes of this chapter, "campaign funds" includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, "committee" means a controlled committee, ballot measure committee, committee opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, "substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than one hundred dollars (\$100) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, "household" includes the candidate's or elected officer's spouse, dependent children, and parents who reside with the candidate or elected officer.

89511.5. (a) An incumbent elected officer may utilize his or her personal funds for expenditures authorized by subdivision (b) of Section 89510 without first depositing those funds in his or her controlled committee's campaign bank account, if both of the following conditions are met:

- (1) The expenditures are not campaign expenses.
- (2) The treasurer of the committee is provided with a dated



receipt and a written description of the expenditure.

(b) An incumbent elected officer may be reimbursed for expenditures of his or her personal funds, from either the controlled committee campaign bank account established pursuant to Section 85201 with respect to election to the incumbent term of office, or from a controlled committee campaign bank account established pursuant to Section 85201 with respect to election to a future term of office, if all of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The incumbent elected officer, prior to reimbursement, provides the treasurer of the committee with a dated receipt and a written description of each expenditure.

(3) Reimbursement is paid within 90 days of the expenditure, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(c) When the elected officer's controlled committee is notified that expenditures totaling one hundred dollars (\$100) or more in a fiscal year have been made by the incumbent elected officer, the committee shall report, pursuant to subdivision (j) of Section 84211, the expenditures on the campaign statement for the period in which the expenditures were made and the reimbursements on the campaign statement for the period in which the reimbursements were made.

(d) If reimbursement is not paid within the time authorized by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 90th day after the expenditure is paid, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(e) This section shall not be construed to authorize an incumbent elected officer to make expenditures from any campaign bank account for expenses other than those expenses associated with his or her election to the specific office for which the account was established and expenses associated with holding that office.

**89512.** An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. An expenditure associated with holding office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.

**89512.5.** (a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

**89513.** The following provisions govern the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that these provisions shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth below.

(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a

committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(2) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(3) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by paragraph (7) of subdivision (j) of Section 84211.

(4) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit which is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. Neither the earning or awarding of mileage credit, nor the redeeming of credit for actual travel, shall be subject to reporting pursuant to Section 84211.

(b) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(1) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of his or her household. "Health-related expenses" include, but are not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses or medications, treatments or medical equipment, expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity which was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, where this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or his or her immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(1) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the

candidate, elected officer, or members of his or her immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(2) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee while on vacation, leave, or otherwise outside of compensated public time.

(2) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

89514. Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

89515. Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

89516. Notwithstanding Sections 89512 and 89513, this section governs the use of campaign funds for vehicle expenses.

(a) Campaign funds shall not be used to purchase a vehicle unless both of the following apply:

(1) Title to the vehicle is held by the committee and not the candidate, elected officer, campaign treasurer, or any other individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or a member of his or her immediate family.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(b) Campaign funds shall not be used to lease a vehicle unless

both of the following apply:

(1) The lessee is the committee, or a state or local **government** agency and not the candidate, elected officer, or a member of his or her immediate family; or the lessor is a state or local **government** agency.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(c) Campaign funds may be used to pay for or reimburse the operating costs, including, but not limited to, insurance, maintenance, and repairs, for any vehicle for which campaign funds may be spent pursuant to this section.

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue **Code** in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

(e) For the purposes of this section, use of a vehicle is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

89517. (a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or member of his or her immediate family.

(b) Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

89517.5. Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five

thousand dollars (\$5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

89518. (a) Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

89519. Any campaign funds in excess of expenses incurred for the campaign or for expenses specified in subdivision (d) of Section 85305, received by or on behalf of an individual who seeks nomination for election, or election to office, shall be deemed to be surplus campaign funds and shall be distributed within 90 days after withdrawal, defeat, or election to office in the following manner:

(a) No more than ten thousand dollars (\$10,000) may be deposited in the candidate's officeholder account; except such surplus from a campaign fund for the general election shall not be deposited into the officeholder account within 60 days immediately following the election.

(b) Any remaining surplus funds shall be distributed to any political party, returned to contributors on a pro rata basis, or turned over to the General Fund.

89520. The remedies provided in Chapter 11 (commencing with Section 91000) shall not apply to violations of this chapter.

89521. Any person who makes or receives an honorarium, gift, or expenditure in violation of this chapter is liable in a civil action brought by the commission for an amount of up to three times the amount of the unlawful honorarium, gift, or expenditure.

89522. This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 18680 of the Elections Code.

1717-1  
3-9-99