

ARTICLE 1. GENERAL PROVISIONS

Sec. 1-6-1. Name.

This division shall be known and may be cited as the "Orange County Campaign Reform Ordinance.

(Ord. No. 3862, § 1, 6-23-92)

Sec. 1-6-2. Purpose.

The purpose of this division is to ensure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of Orange County candidates. To achieve this purpose, this division is designed to minimize the opportunity for corruption, to minimize the appearance or perception of corruption, to prevent evasion of the contribution limit, and to maintain public trust in governmental institutions and the electoral process.

(Ord. No. 3862, § 2, 6-23-92; Ord. No. 02-012, § 1, 12-17-02)

Sec. 1-6-3. Relation to Political Reform Act of 1974.

This division is intended to supplement the Political Reform Act of 1974. Unless the term is specifically defined in this division or the contrary is stated or clearly appears from the context, words and phrases shall have the same meaning as when they are used in title 9 of the California Government Code, in which the Political Reform act of 1974 is codified, as the same may be, from time to time, amended.

(Ord. No. 3862, § 3, 6-23-92)

Sec. 1-6-4. Definitions.

(a) *County Candidate*: "County candidate" means any person who is a candidate for Supervisor, Sheriff-Coroner, District Attorney, Assessor, Treasurer-Tax Collector, County Clerk-Recorder, Auditor, Public Administrator, or Superintendent of Schools, or, in the event any of the listed consolidated county offices are separated, any of the separated offices which are elective.

(b) *Elective County Officer*: "Elective County officer" means any person who is a Supervisor, Sheriff-Coroner, District Attorney, Assessor, Treasurer-Tax Collector, County Clerk-Recorder, Auditor, Public Administrator, or Superintendent of Schools, whether appointed or elected or, in the event any of the listed consolidated county offices are separated, any individual occupying a separated office which is elective.

(Ord. No. 3862, § 4, 6-23-92; Ord. No. 02-012, § 2, 12-17-02)

Sec. 1-6-5. Contribution limitations.

(a) No person shall make to any candidate for County elective office or the controlled committee of such a candidate, and no such candidate or committee shall accept from any such person, a contribution or contributions totaling more than one thousand six hundred dollars (\$1,600.00) for each of the following elections for which the person is a candidate; a primary election, a special election, or a general (runoff) election.

(b) The contribution limitations set forth in subsection (a) shall also apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of the elective County officer, and to contributions

received by the elective County officer during the time period set forth in section 1-6-7(b) of this division.

(c) Any person or committee that spends or incurs more than twenty-five (25) percent of its independent expenditures during the twelve (12) months preceding a County election on independent expenditures supporting or opposing County candidate(s) shall not accept any contribution(s) from any person in excess of one thousand six hundred dollars (\$1,600.00) during the time periods set forth in section 1-6-7 of this division.

(d) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign committee, but shall apply to contributions from a spouse.

(Ord. No. 3862, § 5, 6-23-92; Ord. No. 02-002, § 1, 4-23-02; Ord. No. 03-013, § 1, 5-6-03; Ord. No. 05-002, § 1, 2-15-05; Ord. No. 07-001, § 1, 2-6-07)

Sec. 1-6-6. Aggregation of contributions.

For purposes of the limitations in this division, the following shall apply:

(a) All contributions made by a sponsored committee to a County candidate or to an elective County officer (or to a committee controlled by such candidate or officer) shall be combined with those contributions made by the sponsor(s) of the committee, and the combined amount shall not exceed one thousand six hundred dollars (\$1,600) within the time periods set forth in section 1-6-7 of this division.

(b) Two (2) or more entities shall be treated as one (1) 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 (2) or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent-subsidiary relationship.

(c) An individual and any general or limited partnership in which the individual has a ten (10) percent or more share, or an individual and any corporation in which the individual owns a controlling interest (fifty (50) percent or more), or an individual connected with a business entity and that business entity when the individual participates in or controls in any way a decision on whether the candidate or candidates receive contributions from that business entity, regardless of the percentage of ownership, shall be treated as one (1) person.

(d) No committee which supports or opposes a candidate for County office shall have as a majority of its officers individuals who serve as the majority of officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other 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 whether the candidate or candidates receive contributions.

(e) Contributions by a husband and wife except as set forth in section 1-6-5(d), shall be aggregated unless a contribution comes exclusively from the separate property of one spouse.

(f) Contributions by children under eighteen (18) years of age shall be presumed to be contributions by their parents or legal guardians, allocated equally to each living parent or living guardian of the child.

(Ord. No. 3862, § 6, 6-23-92; Ord. No. 02-012, § 3, 12-17-02; Ord. No. 03-013, § 2, 5-6-03; Ord. No. 05-002, § 2, 2-15-05; Ord. No. 07-001, § 2, 2-6-07)

Sec. 1-6-7. Election cycles.

(a) *Primary and general (runoff) elections:* For purposes of the limits of this division, contributions made at any time between the final date for contributions to the last primary or general (runoff) election (whichever occurred last) for that same elective County office and June 30 of the present election year shall be considered primary election contributions. If there is a general (runoff) election, then contributions made from July 1 through December 31 of the election year shall be considered general (runoff) election contributions.

(b) *Recalls:* For purposes of the limits of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election, or after the registrar has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur:

(1) The recall proponents fail to return signed petitions to the registrar within the time limits set forth in the California Elections Code.

(2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act.

(3) Ten (10) days after a recall election has been held.

(c) *Special Elections:* For purposes of the limits of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a candidate for a special election shall be considered contributions during a special election cycle. A special election cycle shall end on June 30 or December 31 following the special election, whichever occurs first.

(Ord. No. 3862, § 7, 6-23-92; Ord. No. 02-002, § 2, 4-23-02)

Sec. 1-6-8. Prohibition on multiple campaign committees.

A County candidate or an elective County officer shall have no more than one (1) campaign committee which shall have only one (1) bank account out of which all qualified campaign and office holder expenses related to that County office shall be made. This section does not prevent a County candidate or an elective County officer from establishing another committee solely for the purpose of running for a state, federal, or local office that is not identified in section 1-6-4 of this division.

(Ord. No. 3862, § 8, 6-23-92)

Sec. 1-6-9. Prohibition on transfers.

(a) No funds may be transferred into any County candidate or elective County officer's campaign committee from any other campaign committee controlled by a candidate. No contributions shall be accepted by any County candidate or elective County officer or

their controlled committees, from any other committee controlled by another federal, state, or local candidate or officeholder.

(b) No County candidate or elective County officer and no committee controlled by a County candidate or elective County officer shall make any contribution to any other County candidate or elective County officer or to any committee supporting or opposing a County candidate for office. This section shall not prohibit a County candidate or elective County officer from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective County office.

(Ord. No. 3862, § 9, 6-23-92; Ord. No. 02-012, § 4, 12-17-02)

Sec. 1-6-10. Loans to County candidates and elective County officers and their controlled committees.

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

(b) Every loan to a County candidate or elective County officer or their controlled committees shall be by written agreement which shall be filed with the campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a County candidate or elective County officer by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this division if the loan is made directly to the County candidate or elective County officer or his or her controlled committee. The guarantors of such a loan shall remain subject to the contribution limits of this division.

(d) Extensions of credit (other than loans pursuant to subsection (c) of this section) for a period of more than thirty (30) days are subject to the contribution limitations of this division.

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

(Ord. No. 3862, § 10, 6-23-92)

Sec. 1-6-11. Money received by officials treated as contributions.

Any funds, property, goods or services, other than government funds, received by elective County officers or County candidates which are used, or intended by the donor or by the recipient to be used, for expenses (including legal expenses) related to holding County office or running for County office, shall be considered campaign contributions and shall be subject to the limitations of this division. Reimbursement for reasonable travel expenses related to holding County office shall be excluded from the provisions of this section.

(Ord. No. 3862, § 11, 6-23-92; Ord. No. 02-012, § 5, 12-17-02)

Sec. 1-6-12. Solicitation of contributions from persons who have County business dealings.

No nonelected County public official or County employee shall solicit, direct or receive a contribution from any person, or his or her agent, who has a proceeding involving

legislative or administrative action pending before the County public official or County employee or has had such a matter pending during the preceding twelve (12) months. This section does not apply to a nonelected County public official or County employee who is a County candidate acting in furtherance of his own controlled committee. (Ord. No. 3862, § 12, 6-23-92)

Sec. 1-6-13. Transmittal of campaign contributions in County office buildings.

(a) No person shall receive or personally deliver or attempt to deliver a contribution in any office which the County owns or for which the County pays the majority of the rent.

(b) For purposes of this section:

(1) *Personally deliver* means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary, other than the United States Mail.

(2) *Receive* includes the receipt of a campaign contribution delivered in person.

(Ord. No. 3862, § 13, 6-23-92)

Sec. 1-6-14. Disclosure of occupation and employer.

(a) No campaign contribution cumulating to one hundred dollars (\$100.00) or more shall be deposited into a campaign bank account of a County candidate or elective County officer unless the disclosure information required by the Political Reform Act, including the name, address, occupation and employer of the contributor or, if self-employed, the name of the business under which the individual is self-employed, is on file in the records of the recipient of the contribution. Said disclosure information shall be included in the campaign disclosure statement in which the contribution is reported.

(b) In the event the required disclosure information is not obtained within sixty (60) days of receipt of the contribution or by the end of the next filing period whichever occurs last, the contribution shall be returned to the contributor. If the whereabouts of the contributor cannot be ascertained, the contribution shall be deposited in the Orange County General Fund or transferred to a charity that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(Ord. No. 3862, § 14, 6-23-92; Ord. No. 02-012, § 6, 12-17-02)

Sec. 1-6-15. Criminal misdemeanor actions.

(a) Any person who willfully violates any provision of this division is guilty of a misdemeanor. Any person who willfully causes or solicits any other person to violate any provision of this division, or who aids and abets any other person in the violation of any provision of this division, shall be liable under the provisions of this section.

(b) No person convicted of a misdemeanor under this division shall be a candidate for an elective County office or act as a County lobbyist or as a County contractor for a period of four (4) years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea *of nolo contendere* shall be deemed a conviction for purposes of this section.

(Ord. No. 3862, § 15, 6-23-92)

Sec. 1-6-16. Civil actions.

(a) Any person who intentionally or negligently violates any provision of this division shall be liable in a civil action brought by the District Attorney or by a person residing within the jurisdiction for an amount not more than three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received or five thousand dollars (\$5,000.00) per violation, whichever is greater.

(b) If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

(c) Any person, other than the District Attorney, before filing a civil action pursuant to this subdivision, shall first file with the District Attorney a written request for the District Attorney to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The District Attorney, within thirty (30) days of receipt of the request, shall conduct an initial inquiry into the merits of the complaint. If the District Attorney determines in good faith that additional time is needed to examine the matter further, the complaining party shall be notified and the District Attorney shall automatically receive an additional sixty (60) days in order to determine the merits of the complaint. At the end of sixty (60) days the District Attorney shall inform the complaining party whether the District Attorney intends to file a civil action or is conducting a criminal investigation. If the District Attorney indicates in the affirmative and files a civil action or criminal charges within thirty (30) days thereafter, no other action may be brought unless the action brought by the District Attorney is dismissed without prejudice.

(d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty (50) percent of the amount recovered. The remaining fifty (50) percent shall be deposited into the County's General Fund. In an action brought by the District Attorney, the entire amount shall be paid to the General Fund.

(Ord. No. 3862, § 16, 6-23-92)

Sec. 1-6-17. Injunctive relief.

Any person residing in the jurisdiction, including the District Attorney, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this division.

(Ord. No. 3862, § 17, 6-23-92)

Sec. 1-6-18. Cost of litigation.

The court may award to a plaintiff, other than an agency, who prevails in any action authorized by this division, his or her costs of litigation.

(Ord. No. 3862, § 18, 6-23-92)

Sec. 1-6-19. Statute of limitations.

Civil actions and/or criminal prosecutions for violations of any provision of this division shall be commenced within four (4) years after the date on which the violation occurred.

(Ord. No. 3862, § 19, 6-23-92)

Sec. 1-6-20. Applicability of other laws.

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

(Ord. No. 3862, § 20, 6-23-92)

Sec. 1-6-21. Severability.

If any provision of this division, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this division 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 division are severable.

(Ord. No. 3862, § 21, 6-23-92)

Sec. 1-6-22. Interpretation of division.

This division should be liberally construed to accomplish its purposes.

(Ord. No. 3862, § 22, 6-23-92)

Sec. 1-6-23. Amendments and additional requirements.

(a) The Board of Supervisors shall by ordinance adjust the contribution limitations in January of odd-numbered years to reflect any cumulative increase or decrease in the Consumer Price Index for the State of California as announced by the United States Department of Labor since the last adjustment. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.

(b) Except as specified in subsection (a), no amendment or repeal of any provision of this division shall be effective unless the proposition of its amendment or repeal shall first have been submitted to the electors of the County and approved by a majority vote.

(c) Nothing in this division prevents the Orange County Board of Supervisors from imposing additional requirements on any person if the requirements do not prevent the person from complying with this division.

(Ord. No. 3862, § 23, 6-23-92)

Sec. 1-6-24. Slate mailers.

(a) The provisions of Government Code Section 82048.4 are not incorporated in, and shall not be used in the interpretation of, the Orange County Campaign Reform Ordinance.

(b) If a slate mailer is produced and/or distributed other than at the behest of a County candidate, then it is an independent expenditure, and is not subject to the contribution limitations of this division.

(c) The following provisions shall apply only to slate mailers in which more than twenty-five (25) percent of the surface area of the slate mailer (exclusive of the area used for address and postage) expressly advocates or opposes the election of an individual County candidate.

(1) If a third party has provided funds to the slate mailer organization that are used for the production and/or distribution of a slate mailer at the behest of a County candidate, then:

(A) The attributable cost of production and/or distribution of the slate mailer is a contribution from the third party to the County candidate to the extent the attributable cost of production and/or distribution exceeds the amount, if any, paid by the County candidate or the controlled committee of such a candidate, up to the total of the funds provided by the third party, and this contribution is subject to the contribution limitations of this division, and

(B) The attributable cost of production and/or distribution of the slate mailer that exceeds the total of the funds provided by the third party and any funds paid by the County candidate or the controlled committee of such a candidate is a contribution from the slate mailer organization to the County candidate, and this contribution is subject to the contribution limitations of this division.

(2) If a slate mailer is produced or distributed at the behest of a County candidate, without any contribution from a third party, then the attributable cost of production and/or distribution is a contribution from the slate mailer organization to the County candidate to the extent the attributable cost of production and/or distribution exceeds the amount, if any, paid by the County candidate or the controlled committee of such a candidate to the slate mailer organization, and this contribution is subject to the contribution limitations of this division.

(3) If a slate mailer expressly opposes the election of a County candidate, and the slate mailer is produced and/or distributed at the behest of an opposing County candidate ("the opponent"), then:

(A) If a third party has paid the slate mailer organization to oppose the County candidate, then:

(i) The attributable cost of production and/or distribution of the slate mailer is a contribution from the third party to the opponent to the extent it exceeds any payment to the slate mailer organization from the opponent or the controlled committee of such opponent up to the total amount paid to the slate mailer organization by the third party to oppose the County candidate, and this contribution is subject to the contribution limitations of this division, and

(ii) The attributable cost of production and/or distribution of the slate mailer that exceeds the total of the payment made to the slate mailer organization by the third party to oppose the County candidate and any payment made to the slate mailer organization by the opponent or the controlled committee of such opponent is a contribution from the slate mailer organization to the opponent, and this contribution is subject to the contribution limitations of this division.

(B) If no third party has paid the slate mailer organization to oppose the County candidate, then the attributable cost of production and/or distribution is a contribution from the slate mailer organization to the opponent to the extent the attributable cost of production and/or distribution exceeds the amount, if any, paid by the opponent or the controlled committee of such opponent to the slate mailer organization, and this contribution is subject to the contribution limitations of this division.

(d) "Attributable cost of production and/or distribution" is computed by multiplying the total cost of production and/or distribution of the slate mailer by a fraction, the numerator of which is the number of square inches of the mailer that expressly advocates or opposes the election of a County candidate, and the denominator of which is the number of square inches of the mailer devoted to all candidates.

- (e) A slate mailer is produced and/or distributed at the behest of a County candidate:
- (1) If the County candidate, or the County candidate's controlled committee, or the County candidate's or committee's agent or consultant pays any of the costs for the slate mailer, or provides any information or photographs used in the mailer, or consults or confers with the slate mailer organization in any manner regarding the content, timing, or distribution of the slate mailer, or
 - (2) Under any of the circumstance described in section 18225.7(a) and section 18225.7(b) of Title 2 of the California Code of Regulations, as those sections exist as of June 1, 2002.
 - (3) A nonrefundable deposit made to a slate mailer organization shall not be considered a payment within the meaning of subsections (e)(1) or (e)(2) above, if (A) the deposit is made by, or on behalf of, a County candidate who is not opposed in the County election, or (B) if the deposit is made as consideration for a written agreement whereby the slate mailer organization obligates itself to not produce a slate mailer in which more than twenty-five (25) percent of the surface area of the slate mailer (exclusive of the area used for address and postage) expressly advocates or opposes the election of the County candidate by, or for whom, the deposit is made.
- (Ord. No. 02-006, § 1, 7-23-02)

Sec. 1-6-25. Notice of late independent expenditures.

Any person who makes a late independent expenditure of one thousand dollars (\$1,000.00) or more in support of or in opposition to any County candidate(s) shall notify all candidates running for that same office at least twenty-four (24) hours prior to the first publication, distribution or broadcast of the independent expenditure communication. The Notice of Late Independent Expenditure shall be by personal delivery, telegram, facsimile, or by any other electronic means and shall include a copy of such communication.

(Ord. No. 02-012, § 7, 12-17-02)

Sec. 1-6-26. Disclosure by persons subject to aggregation of contributions.

Any person who makes a contribution(s) that is subject to aggregation as described in section 1-6-6(b), (c) and (f) shall disclose in writing to the County candidate or to his or her committee at the time a contribution is made, any other prior contributions with which their current contribution must be aggregated. This subsection does not relieve the County candidate or his/her treasurer of the obligation to use reasonable diligence in determining which contributions should be aggregated.

(Ord. No. 02-012, § 8, 12-17-02)

Sec. 1-6-27. Reporting of current and cumulative contributions.

Contributions received from any contributor during a reporting period which have a cumulative total of one hundred dollars (\$100.00) or more shall be itemized along with the cumulative total of contributions received from that contributor (including any other contributions required to be aggregated with the current contribution) during that same election cycle. Such amounts shall be reported on the required forms as provided by the

Fair Political Practices Commission. The term "election cycle" as used in this section shall mean the applicable period described in section 1-6-7.
(Ord. No. 02-012, § 9, 12-17-02)

Sec. 1-6-28. Filing of post-election campaign statements.
A post-election Campaign Statement (Fair Political Practices Commission Form 460, or successor form) shall be filed by all County candidates running in the current election including write-in candidates, no later than fifteen (15) days following the date of a primary, general (runoff), recall or special election covering the period from the last pre-election statement through the tenth (10th) day following the election.
(Ord. No. 02-012, § 10, 12-17-02)

Sec. 1-6-29. Filing of amendments to campaign statements.
Upon written notification by the County Registrar of Voters that an amendment of a previously-filed campaign statement is required, said amendment shall be filed with the Registrar of Voters no later than thirty (30) calendar days following the date of the notification.
(Ord. No. 02-012, § 11, 12-17-02)

Sec. 1-6-30. Timely return of excess contributions.
That portion of contributions accepted in excess of the limitations imposed by this ordinance shall be returned to the donor within seven (7) days of their discovery. A written notification showing the donor's name, the amount returned, and the date of the return shall be provided to the Registrar of Voters within seventy-two (72) hours after the return.
(Ord. No. 02-012, § 12, 12-17-02)

Sec. 1-6-31. Candidate acknowledgment of receiving county Campaign Finance Ordinance.
The Registrar of Voters shall provide each County candidate and County officer appointed to an office which is normally elective with a copy of this division as well as copies of any subsequent amendments. Each County candidate and County officer appointed to an office which is normally elective will be required to sign a form prepared by the Registrar of Voters acknowledging receipt of a copy of this division and any subsequent amendments.
(Ord. No. 02-012, § 13, 12-17-02)