

**FULL TEXT OF MEASURE E
COUNTY OF ORANGE**

ORDINANCE NO. ___

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA,
AUTHORIZING THE CALIFORNIA FAIR POLITICAL PRACTICES
COMMISSION TO PROSECUTE VIOLATIONS OF THE ORANGE COUNTY
CAMPAIGN REFORM ORDINANCE, AND ADDING SECTIONS 1-6-15.1
AND 1-6-15.2 TO, AND AMENDING SECTIONS 1-6-16 AND 1-6-17 OF,
ARTICLE 1, DIVISION 6 OF TITLE 1 OF THE CODIFIED
ORDINANCES OF THE COUNTY OF ORANGE

The People of the County of Orange, California, hereby ordain as follows:

SECTION 1: Section 1-6-15.1 is added to the Codified Ordinances of the County of Orange to read:

Sec. 1-6-15.1. Enforcement by the California Fair Political Practices Commission.

Upon mutual agreement between the Fair Political Practices Commission and the County, the civil prosecutor shall be the Fair Political Practices Commission. In the absence of an agreement between the Fair Political Practices Commission and the County, the civil prosecutor shall be the District Attorney.

SECTION 2. Section 1-6-15.2 is added to the Codified Ordinances of the County of Orange to read:

Sec. 1-6-15.2. Violations and Enforcement - Administrative.

- (a) Any person who, pursuant to an appropriate administrative action, is determined by the civil prosecutor to have violated any provision of this division, purposely caused any other person to violate any provision of this division, or aided and abetted any other person in the violation of any provision of this division, shall be subject to an administrative order requiring that the person to do all or any of the following:
 - (1) cease and desist violating this division;
 - (2) file any reports, statements, or other documents or information required by this division;
 - (3) pay to the County a monetary penalty of up to five thousand dollars (\$5,000) per violation;
- (b) If two or more persons are responsible for any violation of any provision of this division, then they shall be jointly and severally liable.
- (c) No administrative action brought alleging a violation of any provision of this division shall be commenced more than five (5) years after the date on which the violation occurred.

SECTION 3: Section 1-6-16 of the Codified Ordinances of the County of Orange is amended to read:

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~~ **civil prosecutor** 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.
 - a. Any person, other than the ~~District Attorney~~ **civil prosecutor**, before filing a civil action pursuant to this subdivision, shall first file with the ~~District Attorney~~ **civil prosecutor** a written request for the ~~District Attorney~~ **civil prosecutor** to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The ~~District Attorney~~ **civil prosecutor**, within thirty (30) days of receipt of the request, shall conduct an initial inquiry into the merits of the complaint. If the ~~District Attorney~~ **civil prosecutor** determines in good faith that additional time is needed to examine the matter further, the complaining party shall be notified and the ~~District Attorney~~ **civil prosecutor** 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~~ **civil prosecutor** shall inform the complaining party whether the ~~District Attorney~~ **civil prosecutor** intends to file a civil action or **refer the complaint to the District Attorney** for ~~is conducting~~ a criminal investigation. **Within thirty (30) days thereafter, if** the ~~District Attorney~~ **civil prosecutor** indicates in the affirmative and files a civil action or **if** criminal charges **are filed by the District Attorney** ~~within thirty (30) days thereafter~~, no other action may be brought unless the action brought by the **civil prosecutor** or District Attorney is dismissed without prejudice.
- (c) 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~~ **civil prosecutor** the entire amount shall be paid to the General Fund.

SECTION 4: Section 1-6-17 of the Codified Ordinances of the County of Orange is amended to read:

Sec. 1-6-17. Injunctive relief.

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

**IMPARTIAL ANALYSIS
COUNTY OF ORANGE
MEASURE E**

The Orange County Campaign Reform Ordinance was approved by the voters in 1992. The Ordinance sets contribution limits and regulates other campaign activity of County elected officials and candidates for those offices. Under the existing Ordinance, civil actions seeking monetary penalties for violations of the Ordinance may be brought by the Orange County District Attorney or by a County resident after following the procedure set forth in the Ordinance. Criminal violations are prosecuted by the District Attorney. There is no mechanism in the existing Ordinance for administrative enforcement short of filing a civil action.

State legislation was introduced this year to authorize the Fair Political Practices Commission ("FPPC") to enter into an agreement with a city or county for the FPPC's civil administration, implementation and enforcement of a local campaign finance ordinance. The FPPC is a State agency that regulates and enforces the Political Reform Act of 1974, including its provisions on campaign finance.

This measure would amend the Orange County Campaign Reform Ordinance to authorize Orange County and the FPPC to enter into an agreement for the FPPC to be the civil prosecutor of the Ordinance. The measure provides that in the absence of an agreement between the County and the FPPC, the District Attorney will be the civil prosecutor. The civil prosecutor can bring civil actions to enforce the Ordinance. Under the measure, authority to prosecute criminal violations of the Ordinance remains with the District Attorney.

The measure also provides that the civil prosecutor may bring an administrative action to stop violations of the Ordinance, and to require the filing of reports, statements or other documents and payment to the County of a monetary penalty of up to \$5,000 per violation. The measure further provides that an administrative action must be brought within 5 years after a violation occurs.

This measure will become effective if approved by a majority of the voters in the County casting votes on the measure. Future changes to the Orange County Campaign Reform Ordinance, including this provision if approved, must be submitted to the voters for approval. However, the Board of Supervisors may impose additional requirements without voter approval.

A "yes" vote is a vote to amend Orange County Campaign Reform Ordinance to authorize the Fair Political Practices Commission to be the civil prosecutor of the Ordinance and to add administrative enforcement to the Ordinance.

A "no" vote is a vote not to amend the Orange County Campaign Reform Ordinance.

ARGUMENT IN FAVOR OF MEASURE E

Measure E does one simple thing: it allows California's ethics commission to enforce Orange County's campaign finance rules.

In 1974, California voters approved Proposition 9, the Political Reform Act, which created the Fair Political Practices Commission (FPPC). The FPPC is California's ethics commission, serving as a watchdog enforcing California's campaign finance laws.

Currently, the FPPC is not allowed to enforce Orange County's campaign finance regulations. Measure E amends Orange County's campaign finance rules to permit the County to enter into an agreement with the FPPC to enforce our local campaign finance regulations. The FPPC will be able to provide enforcement, auditing, and training for Orange County's campaign finance rules. **Orange County's lower campaign finance limits would remain unchanged.**

Read the text of Measure E yourself — you'll see it does the following, nothing more, nothing less:

- Orange County can enter into an agreement for the FPPC to be the civil prosecutor enforcing Orange County's campaign finance rules. If there's no agreement, the civil prosecutor remains the District Attorney.
- The FPPC can impose penalties for violations of Orange County's campaign finance rules — including fines of \$5,000 per violation.
- The FPPC can refer cases to the District Attorney for criminal prosecution, if necessary.

Currently, a politician is responsible for enforcing Orange County's campaign finance rules. Some people want an Orange County ethics commission to enforce campaign finance rules while others have expressed concern about creating a new government bureaucracy.

Measure E provides critical government reform by giving Orange County the best of both worlds by bringing in the expertise of the FPPC, California's existing ethics commission.

The FPPC is California's watchdog and expert on enforcing campaign finance law. The FPPC is independent and far beyond the reach of Orange County's politicians, lobbyists, labor unions, business groups, and special interests.

Vote "Yes" on Measure E to allow California's ethics commission to enforce Orange County's campaign finance laws.

s/ Shawn Nelson
Chairman, Orange County Board of Supervisors

s/ Todd Spitzer
Orange County Supervisor

s/ Darryl Wold
Former Chairman, United States Federal Election Commission

s/ Ronald Rotunda
Former Commissioner, California Fair Political Practices Commission

s/ Lou Correa
California State Senator

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE E

Vote NO on Measure E. What Orange County needs is a **local** independent Ethics Commission that will audit **all** campaign statements and identify **all** violations.

Measure E incorrectly refers to the Fair Political Practices Commission (FPPC) as "California's Ethics Commission".

- The FPPC is **NOT** an ethics commission. Ethics commissions, such as those in Los Angeles, San Diego and San Francisco, deal with much more than just campaign law violations – including fraud, waste, conflicts of interest, transparency of public records, nepotism, etc.
- The primary job of the FPPC is to enforce the State's campaign laws – **not** to handle ethics issues.

In order to adequately enforce Orange County's campaign law, the FPPC would have to **audit all** the county candidates' campaign statements over an entire four-year Election Cycle. But the FPPC has stated they would audit only on a random basis. Most violations would therefore go undetected.

Moreover, the Board of Supervisors could cancel the FPPC contract at any time, making the process vulnerable to political pressure. **A local Ethics Commission would not be subject to this interference.**

The last two Grand Juries recommended establishment of an Ethics Commission for Orange County and the last Grand Jury specifically recommended **against** hiring the FPPC.

Measure E is an attempt by the Board of Supervisors to skirt the need for an Orange County Ethics Commission. Politicians do not want this type of scrutiny that the public deserves. **Don't be fooled** by this diversion.

Vote NO on Measure E.

s/ Shirley L. Grindle
Author of TINCUP Campaign Reform Ordinance

s/ Kay Bruce
Co-President League of Women Voters of Orange County

s/ Dave Baker
Foreman 2013-2014 Grand Jury

s/ Wm. R. Mitchell
Former Chair Orange County Common Cause

s/ Fred Smoller
Political Science Professor

ARGUMENT AGAINST MEASURE E

According to the Orange County Grand Jury, Orange County has been a “hotbed of corruption” and “untoward behavior continues and is actively festering”. Former Sheriff Mike Carona is in prison, and there is a history of county executives that have been convicted or charged with serious crimes. Unfortunately, these problems have gone unaddressed for the past decade by the County District Attorney.

As a result, several Grand Juries and citizen activists have repeatedly asked the Board of Supervisors to establish an independent Ethics Commission. This Commission would monitor and enforce conflicts of interest by county officials and employees, as well as monitor and enforce the County campaign finance law (TINCUP - Time Is Now, Clean Up Politics.)

Rather than establish an Ethics Commission, the Board of Supervisors is asking the voters to amend the TINCUP Campaign Ordinance to allow the Board to contract with the Fair Political Practices Commission (FPPC) in Sacramento to review complaints and enforce violations of TINCUP. The FPPC would not address the culture of corruption in Orange County government and most of the violations of the county’s Campaign Reform Ordinance would also go undetected since only random audits would be conducted by the FPPC.

An Orange County Ethics Commission would help reduce the influence of money and interest group power in County politics. Los Angeles, San Diego, San Francisco and at least five other major cities/counties in California have their own Ethics Commissions. Orange County needs one too. Contracting with a narrowly focused Sacramento-based bureaucracy will not get the job done. We can only get comprehensive reform by establishing a local Ethics Commission that is independent of the politicians.

We therefore urge you to Vote No on Measure E to prevent this band-aid solution as an alternative to an Orange County Ethics Commission.

s/ Shirley L. Grindle

Author of TINCUP Campaign Reform ordinance

s/ Dave Baker

Foreman, 2013-2014 Grand Jury

s/ Kay Bruce

Co-President, League of Women Voters of Orange County

s/ Wm. R. Mitchell

Former Chairman Orange County Common Cause

s/ Fred Smoller

Political Science Professor

REBUTTAL TO ARGUMENT AGAINST MEASURE E

Measure E stands for ethical standards and accountability for Orange County’s elected officials. California’s Fair Political Practices Commission (FPPC) currently audits and prosecutes campaign finance violations in other counties: **Measure E allows the FPPC to enforce laws in Orange County that often go unenforced.**

Opponents claim the only way to obtain proper oversight is to create a local ethics commission. However, the opponents’ idea would expand bureaucracy, cost taxpayers additional pension liability, be filled with political appointees and primed for corruption. Local “Ethics Commissions” in the cities of San Francisco, Los Angeles and San Diego cited by the opponents are appointed by politicians and have proven ineffective:

- **Indeed, the three California State Senators who have been indicted for corruption are from the counties the opponents seek to emulate**, and those Ethics Commissions did nothing to help indict these corrupt politicians.
- Opponents cite San Francisco’s ethics commission as a model to follow. In fact, Senator/former Supervisor **Leland Yee appointed San Francisco Ethics Commissioners prior to his gun trafficking indictment** to provide “oversight” of the ethical behavior of that city’s politicians.

Measure E would provide real oversight and enforcement by a known quantity: the California FPPC. The County of San Bernardino currently utilizes the FPPC as their campaign finance watchdog and the **FPPC HAS AUDITED EVERY POLITICIAN** there and is proven in cleaning up corruption in San Bernardino County government.

If Measure E is defeated, Orange County will get neither a County Ethics Commission nor oversight from the FPPC.

Vote “YES” on Measure E for ethical accountability and oversight of our politicians!

s/ Shawn Nelson

Chairman, Orange County Board of Supervisors

s/ Darryl Wold

Former Chairman, United States Federal Election Commission

s/ Ronald Rotunda

Former Commissioner, California Fair Political Practices Commission

s/ Todd Spitzer

Orange County Supervisor