ANALYSIS

This ordinance amends Title 2 - Administration of the Los Angeles County Code related to Political Campaigns for County Office (Proposition B – Campaign Finance). Chapter 2.190 is amended to increase contribution limits to reflect changes in the cost of living since 1996 and to make the chapter consistent with state and federal law and judicial action.

ANDREA SHERIDAN ORDIN
County Counsel

By
BRANDI M. MOORE
Deputy County Counsel
Government Services Division

BMM:plp

[Requested 6/6/2011]
[Revised 7/19/2011]

ORDINANCE NO. 2011-0040

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to Political Campaigns for County Office.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.190.030 is hereby amended to read as follows:

2.190.030 Definitions.

The following phrases, whenever used in this chapter, shall be construed as defined in this section:

A. "Bundling of contributions" means the making of contributions to a candidate through another person or entity who acts as an intermediary or conduit.

B. "Campaign expenditure" means any "expenditure" as that term is defined in Government Code Section 82025 which is made by a candidate or his or her controlled committee in furtherance of that candidate's effort to be elected to a county office. Campaign expenditures occurring at any time up to and including the date of the primary election, even if prior to the filing for office, shall be considered campaign expenditures related to the primary election. If the candidate is a candidate in the general election, campaign expenditures occurring after the date of the primary election shall be considered campaign expenditures related to the general election, except to the extent any expenditure is to repay a debt incurred for the primary election prior to the primary election, in which case the expenditure will be a campaign expenditure related to the primary election.

C. "Candidate" means an individual, with regard to any primary or general election for either a county-wide office or supervisor, who is listed on the ballot or who

has qualified to have write-in votes on his or her behalf counted by election officials or who receives a contribution or makes any expenditure with a view to bringing about his or her nomination or election.

D. "Committee" shall have the meaning set forth in Government Code Section 82013.

E. "Contribution" shall have the meaning set forth in Government Code Section 82015, except that as used in this chapter, "contribution" shall also include a loan or an extension of credit for a period of more than 30 days, other than loans or extensions of credit from financial institutions which are given in the regular course of business upon terms and conditions generally available to other customers of that financial institution.

F. "Controlled committee" shall have the meaning set forth in Government Code Section 82016.

G. "County-wide office" means the sheriff, the district attorney and the assessor of the county of Los Angeles.

H. "Registrar-recorder" means the registrar-recorder/county clerk for the county of Los Angeles.

I. "Personal funds of the candidate" means both the community and separate property of the candidate. "Personal funds of the spouse of the candidate" means only the separate property of the spouse.

J. "Political action committee" means any "general purpose committee" <u>or "county general purpose committee"</u> as ~~that~~ <u>those</u> term<u>s</u> ~~is~~ <u>are</u> defined by Government Code Section 82027.5.

K. "Political party" means any "qualified party" as described in Elections Code Section 5100.

L. "Inter-Candidate Transfer" means the transfer of campaign funds from a candidate as defined by Government Code Section 82007 or Section 2.190.030 C to any other candidate.

M. "Intra-Candidate Transfer" means the transfer of campaign funds between controlled commitees of a single candidate as defined by Government Code Section 82007 or Section 2.190.030 C.

~~L.~~N. "Primary election" shall also include a special election, and "general election" shall also include the runoff for a special election.

~~M.~~O. "Person" shall have the meaning set forth in Government Code Section 82047.

~~N. "Small contributor committee" means any committee which meets all of the following criteria:~~

~~1. It has membership of at least 100 individuals;~~

~~2. All contributions it receives from any one person in a calendar year total $50.00 or less;~~

~~3. It has been in existence at least six months;~~

~~4. It is not a candidate controlled committee.~~

~~O.~~P. "Supervisor" means a member of the board of supervisors of the county of Los Angeles.

SECTION 2. Section 2.190.040 is hereby amended to read as follows:

2.190.040 Contribution limits.

A. Except as otherwise provided in subsection B of this section or Section 2.190.070, other than a political party, no person or committee, including political action committees and controlled committees, shall make to any candidate or any candidate's controlled committee, and no candidate or his or her controlled committee shall solicit or accept, any contribution from any person or committee, including political action committees and controlled committees, which exceeds ~~$200.00~~ 300.00 for each primary election campaign and ~~$200.00~~ 300.00 for each general election campaign.

B. Except as otherwise provided in Section 2.190.070, if either in a primary election campaign or in a general election campaign, a candidate commits to and does not exceed the voluntary expenditure limit set forth in Section 2.190.050, the contribution limits set forth in subsection A of this section shall be increased to ~~$1,000.00~~ 1,500.00 for that primary or that general election campaign.

C. No candidate or his or her controlled committee shall solicit or accept a total amount exceeding $150,000.00 for each primary election campaign and $150,000.00 for each general election campaign, from all political action committees, other than controlled committees or a political party, combined.

D. No political party shall make to any candidate or any candidate's controlled committee, and no candidate or his or her controlled committee shall solicit or accept, any contribution from any political party which exceeds $6,500.00 for each primary election campaign and $6,500.00 for each general election campaign.

SECTION 3. Section 2.190.080 is hereby amended to read as follows:

2.190.080 Bundling of contributions and contributions from committees.

A. The bundling of contributions to a candidate or to his or her controlled committee is prohibited.

B. ~~Except as otherwise provided in this section, contributions from any committee, except from a committee as described in subdivision (c) of Government Code Section 82013 or from a political action committee which qualifies as a small contributor committee, to a candidate or to his or her controlled committee are prohibited.~~Notwithstanding subdivision A of this section, a candidate as defined by Section 2.190.030 C or Government Code Section 82007, may make, and a candidate or his or her controlled committee may solicit or accept, inter-candidate transfers subject to the limits established by Section 2.190.040 A and B.

C. ~~Contributions from any political party to a candidate or to his or her controlled committee are prohibited.~~Notwithstanding subdivision A of this section, or the limits established by Section 2.190.040 A and B, a candidate as defined by Section 2.190.030 C or Government Code section 82007, may make, and a candidate or his or her controlled committee may accept, intra-candidate transfers. Contributions transferred shall be attributed to specific contributors using a "last in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in Section 2.190.040 A and B.

D. ~~Except as otherwise provided in this section, contributions from a committee as described in subdivision (c) of Government Code Section 82013 or from a political action committee which qualifies as a small contributor committee to a candidate or to his or her controlled committee shall be limited in the same manner as~~

~~contributions from individuals.~~Notwithstanding subdivision A of this section, a political action committee may contribute to any candidate or a candidate's controlled committee, and a candidate or his or her controlled committee may solicit or accept any contribution from any political action committee, subject to the limits set forth in Section 2.190.040 A, B and C.

E. ~~Notwithstanding subsections B through D of this section, if either in a primary or in a general election any candidate for a particular county office actually makes contributions of the personal funds of the candidate to his or her campaign for county office which exceed $100,000.00, for that primary or that general election, for each other candidate for that office who has committed to the voluntary expenditure limit set forth in Section 2.190.050 and who has chosen the $100,000.00 personal funds limit option, any committee, including, but not limited to, any political action committee and any small contributor committee, may make, and such candidate may solicit and accept, contributions to such candidate for that election, but the total of all contributions for that election from any one committee to any one candidate may not exceed $10,000.00.~~Notwithstanding subdivision A of this section, a political party may contribute to any candidate or a candidate's controlled committee, and a candidate or his or her controlled committee may solicit or accept any contribution from any political party, subject to the limits set forth in Section 2.190.040 D.

~~F. Notwithstanding subsections B through E of this section, if either in a primary or in a general election any candidate for a particular county office actually makes contributions of the personal funds of the candidate to his or her campaign for county office which exceed $300,000.00, for that primary or that general election, for each~~

~~other candidate for that office who has committed to the voluntary expenditure limit set forth in Section 2.190.050 and who has chosen the $100,000.00 personal funds limit option, any committee, including, but not limited to, any political action committee and any small contributor committee, may make, and such candidate may solicit and accept, contributions to such candidate for that election, and there shall be no contributions limit on such contributions.~~

SECTION 4. Section 2.190.100 is hereby amended to read as follows:

2.190.100 Officeholder accounts.

Each person holding a county office is allowed one segregated officeholder account which shall be subject to the following restrictions:

A. No county officeholder shall accept contributions to his or her officeholder account which total more than $75,000.00 in any calendar year, after deducting therefrom the amount of any expenditures made from this account in connection with the receipt of such contributions.

B. No county officeholder shall make expenditures from his or her officeholder account which total more than $75,000.00 in any calendar year. This $75,000.00 limit shall not include any expenditures made from this account in connection with the receipt of contributions to this account.

C. No county officeholder who is a candidate for county office in a primary election shall make any expenditures whatsoever from his or her officeholder account during the period beginning six months prior to that primary election and ending on the day after that primary election if the officeholder is not a candidate in the general election, or ending on the day after the general election if the officeholder is a candidate

in the general election.

D. No person shall contribute to the officeholder account of any county officer in excess of ~~$1,000.00~~1,500.00 in any calendar year. Said amount shall be in addition to any applicable limits on campaign contributions set forth in this chapter.

E. Unspent ~~Surplus~~campaign funds related to an election to county office which were accumulated prior to November 5, 1996, may be transferred by the candidate to his or her officeholder account. After November 5, 1996, a maximum of $10,000.00 of ~~surplus~~unspent campaign funds from each primary and each general election campaign may be transferred by the candidate to his or her officeholder account. ~~Surplus~~Unspent campaign funds transferred to an officeholder account as allowed by this section shall not count toward the contribution limits in this section.

F. Officeholder account funds may be expended or disbursed for the purposes for which campaign funds may be expended or disbursed as set forth in Article 4 (beginning with Section 89510) of Chapter 9.5 of Title 9 of the Government Code, except that officeholder account funds shall only be used for expenses related to assisting, serving or communicating with constituents, or with carrying out the official duties of the elected county officer and may not be used to pay expenses related to a campaign for county office of an officeholder who is a candidate for county office.

G. Any county officeholder who maintains an officeholder account shall report contributions to, expenditures from, and all other activities of that account in accordance with the requirements for the filing of campaign statements as set forth in Government Code Section 84200 et seq., as it is currently written or as it may be amended.

SECTION 5. Section 2.190.110 is hereby amended to read as follows:

2.190.110 Attorney's fees fund.

A. Any person who holds county office or who is or was a candidate for county office may maintain a fund, separate from campaign funds and any officeholder account, to pay attorney's fees to defend actions related to holding county office or running for county office, or for the purpose of obtaining advice regarding the administration of this or other campaign laws. There shall be no expenditure limit on any such fund, but no person maintaining such a fund may accept as a contribution to such fund more than $~~1,000.00~~1,500.00 per calendar year from any person. Unspent~~Surplus~~ campaign funds related to an election to county office which were accumulated prior to November 5, 1996, may be transferred by the candidate to his or her attorney's fees fund, and any such transfer will not count toward the contribution limits in this section.

B. Any person who holds county office or who is or was a candidate for county office who chooses to maintain an attorney' s fees fund shall report contributions to, expenditures from, and other activities of that fund in accordance with the requirements for the filing of campaign statements as set forth in Government Code Section 84200 et seq., as it is currently written or as it may be amended.

SECTION 6. Section 2.190.120 is hereby amended to read as follows:

2.190.120 Distribution of excess funds.

Unspent and/or e~~E~~xcess funds in the campaign account of a candidate for county office, or in an officeholder account or an attorney's fees fund allowed by this chapter, may, in addition to any other method allowed by law, be disposed of by contribution to a

organization, where no substantial part of the proceeds will have a material financial effect on the candidate for county office, county officeholder, his or her campaign treasurer, any individual or individuals with authority to approve the expenditure of campaign funds, officeholder account funds or attorney's fees funds, or a member of his or her immediate family. If a candidate in a primary election becomes a candidate in the general election for that office, unspent~~excess~~ funds from the primary campaign may be carried over for use in that candidate's general election campaign and all expenditure and contribution limits will continue to apply as if no funds were carried over.

SECTION 7. Section 2.190.140 is hereby amended to read as follows:

2.190.140 Violations and enforcement.

A. Any person who knowingly violates any provision of this chapter, is guilty of a misdemeanor which may be punished by imprisonment in the county jail for not exceeding six months, or by a fine not exceeding $1,000.00, or by both.

B. In addition to the penalty set forth in subsection A of this section, any violation of this chapter shall be subject to a civil penalty of up to three times the amount by which any applicable expenditure or contribution limit has been exceeded or $5,000.00, whichever is greater.

C. (1) In addition to the penalties set forth in subsections A and B of this section, any person who intentionally or negligently violates any provision of this chapter which prohibits or limits contributions shall be subject to an administrative fine, issued pursuant to chapter 1.25 of this code, of up to three times the amount by which any applicable contribution limit has been exceeded or $5,000.00, whichever is greater. Notwithstanding the provisions of chapter 1.25 of this code, in imposing the

administrative fine, the registrar-recorder shall issue a notification of violation setting forth the intent to issue a proposed administrative fine and set a hearing date. The purpose of the hearing would be to allow the candidate the opportunity to challenge the fine and also to allow the hearing officer, if so requested by the registrar-recorder, to make recommendations as to the appropriateness of the proposed fine and its amount, through a process which may include taking evidence and testimony, and calling witnesses. Should the candidate choose not to challenge the fine, the registrar-recorder may, at his discretion, determine the amount of the fine without a hearing and without a recommendation from a hearing officer. Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered by the registrar-recorder in determining the amount of the administrative fine to be imposed.

(2) Notwithstanding the provisions of subsection C (1) above, no administrative fine shall be issued if a contribution received in violation of this chapter is returned and the candidate submits an amended campaign statement reflecting that the contribution has been returned within thirty (30) days of the date in which the candidate has actual knowledge of the contribution or the date of the filing a campaign statement required by Government Code § 84200 et seq. or by this chapter on which such contribution is reported, whichever is earlier.

D. The registrar-recorder shall be responsible for the administration of this chapter, which shall include, but is not limited to, the receipt and review of mandatory candidate filings, investigation of any potential violations of this chapter reflected in those filings, and receipt and investigation of complaints that a person has violated any

provision of this chapter. Additionally, the registrar-recorder shall be designated the enforcement officer responsible for final determination and imposition of administrative fines to be issued and for appearances before the administrative hearing officer as provided for in §§ 1.25.050 and 1.25.060 of this code, in addition to the provisions of this chapter. The registrar-recorder shall also recommend rules governing this chapter. Such rules shall be effective if approved by a majority vote of the board of supervisors.

E. The registrar-recorder and the district attorney shall receive and investigate complaints that a person has violated a provision of this chapter. When the registrar-recorder has evidence of a violation of this chapter, he or she shall give initial notice of the violation to the district attorney. In addition, the registrar-recorder shall provide notification of the final resolution of each violation to the district attorney.

F. The district attorney shall be the enforcement officer responsible for prosecution of the civil penalties and criminal charges. In addition, any person residing in the county may bring a civil action to enjoin violations of this chapter or to compel compliance with any provision of this chapter by following the procedures set forth in Government Code sections 91003 et. seq., except that the civil prosecutor shall be the district attorney.

G. Within 60 days after the enactment <u>or any amendment</u> of this chapter the registrar-recorder and the district attorney shall each designate persons within their respective offices who will be responsible for the enforcement and administration of the duties assigned to them under this chapter. Nothing in this chapter shall preclude the county from contracting with a state agency to administer and/or enforce any provision

of this chapter, including conducting administrative hearings pursuant to Government Code section 27727.

[2190030BMCC]

SECTION 8. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Mike Antonovich
Mayor

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of August 2, 2011 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	None
	Mark Ridley-Thomas		
	Zev Yaroslavsky		
	Don Knabe		
	Michael D. Antonovich		

Effective Date: September 1, 2011

~~Operative Date:~~

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:
ANDREA SHERIDAN ORDIN
County Counsel

By Leela Kapur
Leela Kapur
Chief Deputy County Counsel

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