



City of Long Beach
Working Together to Serve

Memorandum

Office of the City Attorney

DATE: December 16, 2014
To: Election Oversight Committee Members
FROM: Charles Parkin, City Attorney *cp*
SUBJECT: Proposed Amendments to Chapter 2.01

Pursuant to City Council action on September 16, 2014, attached are the following:

Proposed Amendments to Chapter 2.01 for discussion by the Election Oversight Committee.

The following items were referred to the Election Oversight Committee and can be amended by City Council action. Additional proposed sections, which will require a vote of the people to change, will be presented to the Committee at a later date.

You will find explanatory comments in *italics*.

Amend 2.01.210 Definition (D)

2.01.210 Definitions

D. "Person" means any individual, organization or political action committee whose contributions or expenditure activities are financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or 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.

Two (2) or more entities shall be deemed one (1) person when any of the following circumstances apply:

The entities share the majority of members of their Boards of Directors; or

The entities share two (2) or more officers; or

The entities are owned or controlled by the same majority shareholder or shareholders;
or

The entities are in a parent-subsidiary relationship.

An individual and any general partnership in which the individual is a general partner, or an individual and any corporation in which the individual owns a controlling interest, shall be deemed one (1) person.

The candidate responsible for reporting the contribution shall provide and include in the report the identity(ies) of the individual(s) affiliated with the entities referenced on the contributions.

Comment:

Recommend the definition of "persons" be clarified so that the City must be provided additional information concerning the identity(ies) of various individual(s) affiliated with entities referenced.

Alternative Language:

The candidate shall provide notice that contributions which appear similar in type may require further explanation in order to ensure that the City's contribution limits have not been exceeded. When contributions are received from both a company and an employee of that company a further certification may be necessary. In the event that certification is not received by the City Clerk within the time period specified, the described contributions shall be deemed to be from the same contributions and must be refunded by the committee.

2.01.380 Contributions for officeholder expenses. (Proposed changes to A and recommend delete C)

A. Notwithstanding any other provision of this Chapter, each elected City officeholder may establish an officeholder expense fund upon taking office. ~~and may solicit and accept e~~Contributions for said officeholder expense fund may be solicited and accepted not to exceed a total amount of ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) per calendar year for City Councilmembers and ~~twenty-five thousand dollars (\$25,000)~~ seventy-five thousand dollars (\$75,000) per calendar year for the City Attorney, City Auditor, City Prosecutor and Mayor.

The money in such fund shall be expended and used only for the purpose of officeholder expenses associated with holding office, in accordance with and authorized by the applicable provisions of Sections 89512 through 89519 of the California Government Code, except for Subsection 89513(e)(1) for candidate controlled

committees, 89513(e)(2) and 89513(e)(3) and that part of Subsection 89513(g) relating to loans to candidates, political parties or committees.

B. Each such officeholder expense fund shall be considered a subaccount of the officeholder's controlled committee. All solicitations made and contributions received for an officeholder expense fund shall be clearly designated as being made or received for such uses and purposes.

~~C. In addition to the disclosure and recordkeeping requirements of the Political Reform Act of 1974, as amended, every elected City officeholder who establishes and maintains an officeholder expense fund pursuant to this Section shall be required to file a supplemental report indicating all contributions to and disbursements from the officeholder expense fund with the City Clerk at the same time that each campaign statement is required to be filed by the elected officer. The supplemental officeholder expense fund report shall itemize each expenditure of more than one hundred dollars (\$100.00) from the officeholder expense fund by stating the date, amount and purpose of each such expenditure, and the name of each payee or other person upon whose behalf the expenditure was made. The officeholder or his or her treasurer shall retain all receipts, invoices, written agreements and other documents relating to expenditures from such officeholder expense fund. Pursuant to Section 2.01.810 of this Chapter the City Clerk shall prescribe and furnish the necessary and appropriate forms for filing such supplemental information.~~

Comment:

Makes it clear when an officeholder account can be established.

Provides guidance that a controlled election committee becomes the officeholder account (to comply with the state one bank account rules) and this is not a new controlled committee or bank account. While activity in connection with election debt is taking place, indicate on FPPC Form 460 which contributions and which expenditures are officeholder account related.

Consider if the current annual amount that can be raised is too low for elected officials to serve/be active in the community, such as by attending community events, sponsoring district events, etc.

Current rule enables the contribution to be made to the political party, ballot measure committee, PAC, etc., and to buy an ad, etc., but the elected official can't attend the event. Elected officials should be able to attend political events

(that are not for candidates) using their officeholder account funds because these events provide opportunities to forge relationships that benefit the community.

Eliminate the LBOEF because it no longer provides information that isn't already on the FPPC Form 460.

2.01.630 Notice of independent expenditures.

~~Any person who makes independent expenditures of more than two hundred fifty dollars (\$250.00) in support of or in opposition to any candidate shall notify the City Clerk and all candidates running for the same seat by telegram, facsimile or any other electronic means approved by the City Clerk each time such an expenditure is made.~~

Comment: Consider deletion

Redundant & no useful information provided. More detail about independent expenditures is already required to be disclosed pursuant to state law.

2.01.1020 Retention of ~~ten~~ twenty-five thousand dollars by officeholders.

Any person holding office as a result of a successful campaign resulting in surplus funds may retain up to ~~ten~~ twenty-five thousand dollars (\$25~~40,000.00~~) of such surplus funds for expenditures associated with holding such office in accordance with the provisions of Sections 89512 and 89513 of the California Government Code.

Comment:

*Consider increase in the amount that may be retained after a campaign
Move to officeholder account provisions.*

*Enable transfer up to the amount allowed to be raised in a calendar year and
reduce the amount able to be raised after the transfer.*