

ORDINANCE NO. 10579 (N.S.)

AN ORDINANCE AMENDING SECTIONS 23.101 THROUGH 23.109 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO LOBBYISTS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Sections 23.101 through 23.109 of the San Diego County Code of Regulatory Ordinances is amended to read as follows

SEC. 23.101. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Candidate" means an individual who has filed a statement of organization as a committee for election to Elective County Office, a declaration of intent for election to Elective County Office or a declaration of candidacy to Elective County Office, whichever occurs first. An individual person shall not be deemed a candidate for purposes of this chapter (1) after he or she is sworn into Elective County Office, or (2) if the individual lost the election, after the individual has terminated his or her campaign statement filing obligation for Elective County Office pursuant to Government Code section 84214 or after certification of the election results, whichever is earlier.

(b) (1) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(2) A payment made at the behest of a Controlled Committee is a Contribution to the Controlled Committee unless full and adequate consideration is received from the Controlled Committee for making the payment.

(3) A payment made at the behest of a Candidate is a Contribution to the Candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the Candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for Elective County Office. The following types of payments are presumed to be for purposes unrelated to a Candidate's candidacy for Elective County Office.

(i) A payment made principally for personal purposes, in which case it may be considered a gift.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i) made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution.

(C) For purposes of subparagraph (B), a payment is made for purposes related to a Candidate's candidacy for Elective County Office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, "election-related activities" shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the Candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the Candidate's candidacy for Elective

County Office, the Candidate's election campaign, or the Candidate's or his or her opponent's qualifications for Elective County Office.

(iii) Solicitation of Contributions to the Candidate or to third persons for use in support of the Candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clauses (i), (ii), or (iii) above.

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the Candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting individuals to vote if the communication contains express advocacy of the nomination or election of the Candidate or the defeat of his or her opponent.

(D) A Contribution made at the behest of a Candidate for a different candidate or to a committee not controlled by the behesting Candidate is not a Contribution to the behesting Candidate.

(4) "Contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the Candidate's own money or property used on behalf of his or her candidacy other than personal funds of the Candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all Candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a Candidate or Controlled Committee without payment of full and adequate consideration.

(5) "Contribution" further includes any transfer of anything of value received by a Controlled Committee from another committee, unless full and adequate consideration is received.

(6) "Contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a Contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(7) "Contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less.

(8) Notwithstanding the foregoing, Contribution does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(9) "Contribution" for purposes of this chapter, also does not include a contribution to support or oppose a ballot measure.

(c) "Controlled Committee" means a committee which is controlled directly or indirectly by a Candidate or which acts jointly with a Candidate in connection with the making of expenditures. A Candidate controls a committee if the Candidate, his or her agent or any other committee he or she controls has a significant influence on the actions or decisions of the Controlled Committee.

(d) "County Decision" means a decision or recommendation (other than the making of a

ministerial decision), concerning a legislative, administrative, or quasi-judicial matter, pending before or which may be submitted to:

- (1) The Board of Supervisors or any County board, commission, committee or officer;
- (2) The Board of Supervisors acting as the governing body of a special district; or
- (3) Any board, commission, committee or officer of a special district for which the Board of Supervisors acts as the governing body.

(e) "County Officer or Employee" means any Elected Officer and any County employee listed in section 23.102.

(f) "Elected Officer" means an individual who holds Elective County Office or has been elected to Elective County Office but has not yet taken office.

(g) "Elective County Office" means the Board of Supervisors, the Assessor/Recorder/County Clerk, the District Attorney, the Sheriff, and the Treasurer/Tax Collector.

(h) "Firm" includes a partnership and joint venture, but does not include an individual operating as a sole proprietorship under a fictitious name.

(i) (1) "Gift" means, except as provided in subsection (2) below, any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(2) "Gift" does not include the following:

(A) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(B) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(C) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that the gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(D) Campaign contributions required to be reported under the Political Reform Act, as amended.

(E) Any devise or inheritance.

(F) Personalized plaques and trophies with an individual value of less than \$250.

SEC. 23.102. REGISTRATION.

(a) Except as provided in section 23.103, an individual who, on behalf of any corporation, firm, organization or individual other than him or herself attempts to influence any County Decision by contacting, personally or by telephone any of the following County Officers or Employees shall prior to the contact, or within 5 days of the contact, register with the Clerk of the Board of Supervisors ("Clerk of the Board") as a County legislative advocate:

- (1) Members of the Board of Supervisors
- (2) Members of Planning Commission

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- (3) Members of Assessment Appeals Board
 - (4) Members of Civil Service Commission
 - (5) Members of San Diego County Air Pollution Control District Hearing Board
 - (6) Board Representatives of the Board of Supervisors
 - (7) County Assessor/Recorder/County Clerk
 - (8) Assistant County Assessor/Recorder County Clerk
 - (9) Chief Deputy, Assessor/Recorder/County Clerk
 - (10) District Attorney
 - (11) Assistant District Attorney
 - (12) Sheriff
 - (13) Undersheriff
 - (14) County Treasurer/Tax Collector
 - (15) Assistant County Treasurer/Tax Collector
 - (16) Chief Deputy, Treasurer/Tax Collector
 - (17) Director of Planning and Development Services
 - (18) Assistant Director of Planning and Development Services
 - (19) Director of General Services
 - (20) Assistant Director of General Services
 - (21) Chief Administrative Officer
 - (22) Assistant Chief Administrative Officer
 - (23) Members of San Diego County Capital Asset Leasing Corporation (SANCAL) Board of Directors
 - (24) Director of Purchasing and Contracting
 - (25) Assistant Director of Purchasing and Contracting
- (b) An individual representing a firm of which he or she is a member shall be deemed to be representing an individual other than him or herself.
- (c) The registration requirement imposed by this section shall apply to all individuals conducting the activities described in subsection (a) above. A corporation, firm, or organization employing persons engaged in lobbying activities may not elect to register in its own name.
- (d) The Clerk of the Board shall maintain a current list of all individuals registered under this section and update the list at least once a month.

SEC. 23.103. EXEMPTIONS FROM REGISTRATION REQUIREMENT.

The following individuals are not required to register:

- (a) An individual whose only contact with any County Officer or Employee consists of speaking at a public meeting or hearing before a board or commission or at a hearing before a County Officer or Employee, or of sending a written communication to a County Officer or Employee, or both.
- (b) An officer or employee of the United States or any state or political subdivision thereof, cities, counties, special districts, or any other governmental entity, representing his governmental employer in the course of his official duties.
- (c) A member of the State Bar of California who is performing a service which lawfully can be performed only by an attorney licensed to practice law in California.
- (d) Any representative of an employee organization while acting pursuant to the Meyers-Milias-Brown Act (the "Act") or pursuant to a procedure established by the County in

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accordance with the Act, who contacts a County Officer or Employee other than a member of a board or commission, or who contacts a member of a board or commission who has been designated by the board or commission as its representative to meet with the representative of an employee organization.

(e) Any individual brought to a County Officer or Employee by a person registered pursuant to this chapter to provide technical or other information.

(f) Any individual whose contacts with County Officers or Employees is limited to routine sales discussions with the Director of Purchasing and Contracting for the purpose of selling goods or services to the County.

SEC. 23.104. CONTENTS OF REGISTRATION.

(a) The registration made pursuant to section 23.102 shall be in writing, filed with the Clerk of the Board, signed by the registrant, or an authorized officer thereof, under penalty of perjury.

(b) The registration shall provide the following information:

(1) Registrant's full name.

(2) Registrant's business address.

(3) The full name of any individual, firm, corporation, or organization represented. If the registrant is employed by a company or firm that itself has been retained by an individual, corporation, firm, or organization to obtain a County Decision, to which the registrant has been assigned, the registrant shall disclose the names of both his or her immediate employer and any individual, corporation, firm, or organization that has retained the individual's immediate employer.

(4) A list of the County Officer or Employee that the registrant will attempt to influence. The list shall include the Board of Supervisors in the event that the registrant will attempt to influence any member of the Board.

SEC. 23.105. NOTIFICATION OF REGISTRATION REQUIREMENT.

The Clerk of the Board shall issue, upon request of any County Officer or Employee a "Notice of Registration Required" to any individual believed by the County Officer or Employee to be required to register under section 23.102. Any individual who in good faith believes that he or she is not required to register under this Chapter shall not be deemed to have violated section 23.102 if the individual registers within 10 days after receipt of notice from the Clerk of the Board that registration is required.

SEC. 23.106. DISCLOSURE STATEMENTS.

(a) The term "quarter" means the annual calendar quarter of the year, namely, the time periods encompassed by January 1 - March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31, respectively.

(b) An individual registered or required to be registered pursuant to this chapter and any individual, corporation, firm, or organization represented by an individual registered pursuant to this chapter, who makes any expenditure of \$25 or more on any one occasion, or who expends in the aggregate a total of \$100 or more in any one quarter in providing food, drink, lodging, transportation, recreation, service, or any other thing of value, including a gift to a County Officer

or Employee, whether on his own behalf or on behalf of another, shall file, between the 1st and 15th day of each calendar quarter, a written statement disclosing the expenditures made during the preceding quarter. The statement shall be filed with the Clerk of the Board, and provide the amount expended, the name of the County Officer or Employee who received the service or thing of value and be signed under penalty of perjury. For purposes of determining the amount expended during one quarter, the amounts expended on any one County Officer or Employee by all representatives, officers, directors and employees of a corporation, firm, or organization shall be aggregated.

SEC. 23.107. EMPLOYMENT OF COUNTY OFFICERS OR EMPLOYEES.

An individual registered or required to be registered under section 23.102 or an individual, corporation, firm or organization employing or represented by an individual registered or required to be registered who knowingly employs a County Officer or Employee shall file a written notice with the Clerk of the Board. The notice shall be filed with the Clerk of the Board within 10 days after employing a County Officer or Employee. The notice shall be entitled, "Notice of Lobbyist Employing a County Officer or Employee" and shall contain the full name and business address of the person filing the statement, the full name of the County Officer or Employee the lobbyist is employing, the amount of money or other consideration the lobbyist is paying to the officer or employee and the date the lobbyist first employed the County Officer or Employee.

SEC. 23.108. PROHIBITED CAMPAIGN CONTRIBUTIONS.

(a) No Elected Officer shall accept any Contribution from a person registered pursuant to this chapter where the person's registration form includes the Elective County Office that the Elected Officer holds.

(b) No Candidate or Controlled Committee shall accept any Contribution from a person registered pursuant to this chapter where the person's registration form includes the Elective County Office to which the Candidate is seeking election.

(c) Prior to the end of each calendar month the Clerk of the Board shall compile a list of all persons registered pursuant to this chapter and the Elective County Office or County Officer or Employee such persons will attempt to influence.

(d) An Elected Officer, Candidate or Controlled Committee may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk of the Board in determining whether Contributions may be accepted from any person. Acceptance of Contributions which would not be prohibited based on the information set forth in the Clerk of the Board's most recent list of registrants shall not constitute a violation of this section.

SEC. 23.109. PROHIBITED GIFTS.

No Elected Officer, Candidate or Controlled Committee shall accept a Gift from an individual registered pursuant to this chapter. An Elected Officer, Candidate or Controlled Committee may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk of the Board in determining whether a Gift may be accepted from an individual. Acceptance of a Gift from an individual or entity not on the Clerk of the Board's most recent list of registrants shall not constitute a violation of this section unless the Elected Officer,

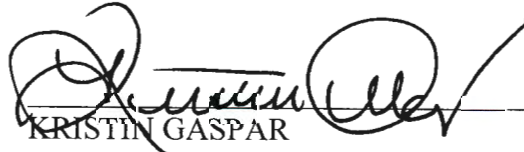
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Candidate or Controlled Committee knows that the individual or entity making the Gift has registered, even though the registrant has not been included on the list.

Section 2. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
THOMAS E. MONTGOMERY, COUNTY COUNSEL
BY: Timothy M. Barry, Chief Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 13th day of November, 2018.


KRISTIN GASPAR
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Roberts, Horn
ABSENT: Gaspar

ATTEST my hand and the seal of the Board of Supervisors this 13th day of November, 2018.

DAVID HALL
Clerk of the Board of Supervisors



By C. Rodriguez
Chrystal Rodriguez, Deputy

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