

ORDINANCE NO. 9374 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER 9 OF
DIVISION 2 OF TITLE 3 (COMMENCING WITH SECTION
32.901) OF THE SAN DIEGO COUNTY CODE OF REGULATORY
ORDINANCES RELATING TO ELECTION CAMPAIGN
FINANCE AND CONTROL

The Board of Supervisors of the County of San Diego do ordain as follows:

Section 1. Chapter 9 of division 2 of title 3 (commencing with section 32.901) of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

CHAPTER 9. ELECTION CAMPAIGN FINANCE AND CONTROL

A. GENERAL PROVISIONS

SEC. 32.901. PURPOSE AND INTENT.

Inherent in the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over elected officials. It is the purpose and intent of the Board of Supervisors of the County of San Diego in enacting this chapter:

- a) to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in county elections;
- b) to prohibit contributions by organizations in order to develop a broader base of political efficacy within the community;
- c) to limit the use of loans and credit in the financing of county election campaigns;
- d) to provide full and fair enforcement of all the provisions of this chapter, and
- e) to encourage the public to participate as candidates in elections by simplifying the local regulations as much as possible in matters adequately regulated by state law.

SEC. 32.902. CITATION.

This division shall be cited as the San Diego County Election Campaign Finance and Control Ordinance.

B. DEFINITIONS

SEC. 32.903 "GENERAL RULE".

The terms and phrases in this chapter shall be defined as those terms and phrases are defined in the Political Reform Act of 1974, as amended, (Government Code, section 81000 et seq.) unless otherwise specified in this chapter.

SEC. 32.904. "BROADCAST STATION".

Whenever used in this chapter, the term "Broadcast Station" shall mean a person who engages in the dissemination of radio communication as defined in the Federal Communications Act of 1934. "Broadcast station" includes each cable television system franchised or otherwise licensed by the County of San Diego or any city within the County of San Diego.

SEC. 32.905. "CANDIDATE".

Whenever used in this chapter, the term "candidate" shall mean an individual who is listed on the ballot, who has qualified to have write-in votes on his behalf counted by election officials, or who has begun to circulate nominating petitions or authorized others to circulate nominating petitions in his behalf, for nomination for or election to any elective County office, or who receives a contribution or makes an expenditure or gives his consent for any other person to receive a contribution or make an expenditure with a view to bringing about his nomination or election to any elective County office, whether or not the specific elective office for which he will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he has announced his candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any holder of an elective County office who is the subject of a recall election. "Candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971.

An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Government Code Section 84214.

SEC. 32.909. "COUNTY ELECTION".

Whenever used in this chapter, the term "County election" shall mean any primary, general, or special election, including a recall election, held within the County of San Diego for elective County office or on a County measure. Each primary, general or special election is a separate election for purposes of this chapter.

SEC. 32.910. "COUNTY MEASURE".

Whenever used in this chapter, the term "County measure" shall mean:

(1) Any proposed County charter, any proposed amendment to the County Charter, any proposition for the issuance of funding or refunding bonds of the County, any other question or proposition submitted to the voters of the County at any election held throughout the entire County.

(2) "County measure" includes any measure under subdivision (1) of this subsection which is submitted to a popular vote at an election by action of the Board of Supervisors, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum, or recall procedure, whether or not it qualifies for the ballot.

SEC. 32.911. "ELECTIVE COUNTY OFFICE".

Whenever used in this chapter, the term "Elective County Office" shall mean: Member of the Board of Supervisors; Assessor-Recorder-County Clerk; District Attorney; Sheriff; Treasurer-Tax Collector or member of the County Board of Education.

SEC. 32.912. "ENFORCEMENT AUTHORITY".

Whenever used in this chapter, the term "enforcement authority" shall mean the District Attorney of the County of San Diego. Nothing in this chapter shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this chapter under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

C. CAMPAIGN TREASURER

SEC. 32.917. CAMPAIGN CONTRIBUTION CHECKING ACCOUNT.

The campaign account required by Government Code section 85201(a) shall be established at a financial institution located in San Diego County.

D. CAMPAIGN STATEMENTS

SEC. 32.922. CAMPAIGN STATEMENTS.

Each candidate and committee shall file campaign statements in the time and manner required by the Political Reform Act of 1974 as amended (Government Code Sections 84100 et seq.). Compliance with the requirements of that act shall be deemed to be compliance with this section.

E. CAMPAIGN CONTRIBUTIONS

SEC. 32.923. CAMPAIGN CONTRIBUTIONS -- LIMITATIONS.

Sec. 32.923. CAMPAIGN CONTRIBUTIONS - LIMITATIONS. (a) No person other than a candidate shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or opposition to such candidate, including contributions to all committees supporting or opposing such candidate, to exceed five hundred dollars (\$500).

(b) The terms of this section are applicable to any contributions made to a candidate or committee hereunder, whether used by such candidate or committee to finance a current campaign, to pay deficits incurred in prior campaigns, or otherwise.

(c) If any person is found guilty of violating the terms of this section, the amount of funds received constituting such violation shall be paid by the candidate or committee treasurer who received such funds to the County Treasurer for deposit in the General Fund of the County.

(d) The dollar limitations set forth in subdivisions (a) and (b) of this section may be adjusted by an Ordinance adopted by the Board of Supervisors to reflect changes in the Consumer Price Index, rounded to the nearest fifty dollars (\$50), on or after January 2 of the year 2003 and on or after January 2 of every odd-numbered year thereafter.

SEC. 32.923.5. ELECTIONS TO WHICH CONTRIBUTIONS ARE APPLICABLE.

(a) A candidate for County elective office may raise contributions for a general election prior to the primary election for the same elective office if the candidate sets aside these contributions and uses these contributions for the general election. If the candidate for County elective office is defeated in the primary election or otherwise withdraws from the general election, the general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election contributions.

(b) A contribution for an election may be accepted by a candidate for elective County office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(c) A candidate for County elective office may carry over contributions raised in connection with one election for elective County office to pay campaign expenditures incurred in connection with a subsequent election for the same elective County office.

(d) If a candidate has a surplus of contributions over expenses after a primary County election and will be in a runoff for the elective County office, the candidate need not allocate that surplus among contributors to the primary election, and may solicit from and receive contributions from contributors who donated before the primary election up to the contribution limit without reference to the contribution made before the primary.

(e) Contributions made for primary and general elections for the same office shall be identified and allocated to either the primary or general or both at the direction of the candidate.

SEC. 32.924. ORGANIZATIONAL CONTRIBUTIONS.

(a) No person, other than an individual or a professional corporation that includes only one individual, shall make a contribution to any candidate or committee; provided, however, that this section shall not apply to contributions made to a committee which is organized solely for the purpose of supporting or opposing the qualification for the ballot or adoption of one or more County measures. If the contribution is made by a professional corporation that includes only one individual, that individual shall not make any contribution in that person's individual capacity which, if combined with the contributions made as a professional corporation, would exceed the individual contribution limit as set forth in section 32.923.

(b) No officer, employee, agent or attorney or other representative of a person covered by this division shall aid, abet, advise or participate in a violation of this section.

(c) No person shall knowingly accept a payment or contribution made in violation of this section.

(d) If a campaign treasurer is offered a contribution which would be in excess of the limitation, the treasurer must refuse the contribution. If, however, a contribution which is in violation of this section is deposited into the campaign trust account, he shall report in writing within five (5) days of the receipt of the contribution to the Enforcement Authority the facts surrounding such payment or contribution.

SEC. 32.925 COSTS OF INTERNAL COMMUNICATIONS

For purpose of this ordinance, contributions for and payments for communications to members, employees, shareholders, or families of members, employees, or shareholders

of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not exempted from any reporting requirement regardless of the means of communication. This provision is intended to require full reporting of contributions and expenditures which would otherwise be exempted by Government Code section 85312.

SEC. 32.926 EXTENSIONS OF CREDIT; CANDIDATE'S LOANS TO CAMPAIGN

(a) The provisions of this section regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) A candidate for elective County office may not personally loan to his or her campaign an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$ 100,000). A candidate may not charge interest on any loan he or she made to his or her campaign

F. CAMPAIGN EXPENDITURES

SEC. 32.927. EXPENDITURE OR CONTRIBUTION IN EXCESS OF \$100,000.

No candidate shall expend or contribute more than \$100,000 in personal funds in connection with his or her primary, recall, special or general election campaign unless and until the following conditions are met:

(1) Written notice of the candidate's intent to so expend or contribute in excess of \$100,000 shall be provided at least 21 days in advance of the election to the Registrar of Votes, the District Attorney and all opponent candidates. The notice shall be delivered personally or sent by registered mail and shall specify the amount intended to be expended or contributed; and

(2) All personal funds to be expended or contributed by the candidates shall first be deposited in the candidate's campaign contribution checking account at least 21 days before the election, and the candidate shall in writing notify opponent candidates within 24 hours of the total amount so deposited. The notice shall be delivered personally or sent by registered mail or by electronic mail to the opponent candidates if they have designated an official electronic mail site and have notified all opponent candidates and the Registrar of Voters of the address.

If sent by mail, the notice to opponent candidates shall be sent to the last known address of the opponent candidates as shown in the records of the Registrar of Voters.

Each opponent of any candidate who has complied with the above conditions shall be permitted to solicit and receive, and contributors to each such opponent may make, contributions in excess of the limits established in subdivision (a) of Section 32.923 of the County Code until such opponent has raised contributions in amounts above such limits equal to the amount of personal funds deposited by the candidate in his or her campaign contribution checking account.

SEC. 32.928. ADVERTISING RATES: SERVICE FEES AND CHARGES.

To the extent that any person sells space in any newspaper or magazine or sells time on a broadcast station to a candidate or committee or performs other services in connection with the campaign of the candidate or for or against the measure, the charges made for the use of such space or time shall not exceed the charges normally made for comparable use of such space or time by other users thereof.

SEC. 32.929. SUPPLIERS OF GOODS AND SERVICES -- DISCLOSURE OF RECORDS REQUIRED.

No person who supplies goods or services or both goods and services to a candidate or committee for use in connection with the campaign of the candidate or for or against the measure shall refuse knowingly to divulge or disclose to the Enforcement Authority his record of any expenditures made by the candidate or committee in payment for such goods or services of both.

G. OFFICIAL DUTIES

SEC. 32.930. DUTIES OF REGISTRAR OF VOTERS.

In addition to other duties required of him under the terms of this chapter, the Registrar of Voters of the County shall:

(a) Supply appropriate forms and manuals prescribed by the California Fair Political Practices Commission. These forms and manuals shall be furnished to all candidates and committees, and to all other person required to report.

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.

(c) Notify promptly all person and known committees who have failed to file a document in the form and at the time required by state law.

(d) Report apparent violations of this chapter and applicable state law to the Enforcement Authority.

(e) Compile and maintain a current list of all statements or parts of statements filed with his office pertaining to each candidate and each measure.

(f) Cooperate with the Enforcement Authority in the performance of the duties of the Enforcement Authority as prescribed in this chapter and applicable state laws.

SEC. 32.931. ENFORCEMENT AUTHORITY -- DUTIES, COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS.

(a) The Enforcement Authority shall enforce the provisions of this chapter.

(b) Any person who believes that a violation of any portion of this chapter has occurred may file a complaint with the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this chapter has occurred, it shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this chapter has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

(c) The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this chapter and may demand and be furnished records of campaign contributions and expenses at any time.

(d) The Enforcement Authority shall determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this chapter.

H. PENALTIES, VIOLATIONS AND CONSTRUCTION

SEC. 32.932. PENALTIES.

Any person who knowingly or willfully violates any provisions of this chapter is guilty of a misdemeanor. In addition to any other penalty provided by law, any willful or knowing failure to report contributions, done with intent to mislead or deceive, shall be punishable by a fine of not less than five hundred dollars (\$500).

SEC. 32.934. RULES OF CONSTRUCTION.

This chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this chapter which does not directly affect the jurisdiction of the County to control campaign contributions and expenditures shall avoid the effect of this chapter.

SEC. 32.935. SEVERABILITY.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this chapter, or the application thereof to any person, if for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter or its application to other persons. The Board of Supervisors hereby declares that it would have adopted this chapter, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions, or the application thereof to any person, be declared invalid or unconstitutional.

PASSED, APPROVED and ADOPTED this 7th day of August 2001.