



COUNTY of VENTURA

Board of Supervisors

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March 28, 2023

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Subject: Second Public Hearing on Adoption of an Ordinance of the County of Ventura Repealing the Ventura County Campaign Finance Reform Ordinance

RECOMMENDED ACTIONS:

That our Board:

1. Open a public hearing, and at the close of the public hearing, adopt the attached ordinance repealing Article 6 of Chapter 2 of Division 1 of the Ventura County Ordinance Code entitled "Ventura County Campaign Finance Reform," as codified in sections 1261 through 1307 by Ordinance Nos. 4510 and 4546 with such repeal to take effect thirty days thereafter.
2. Direct the Clerk of the Board to publish the ordinance pursuant to the Government Code.

DISCUSSION:

On March 14, 2023, in agenda item 44, the majority of our Board voted to introduce the attached ordinance repealing the Ventura County Campaign Finance Reform Ordinance. Today's agenda item is the second step required under state law in that repeal process.

The State of California's Political Reform Act ("Act"), and the campaign finance structure that was created by the Act, is followed by more than half (33) of the State's 58 counties, and 299 of the State's 482 cities. Our staff research indicates that, where data is available, the counties that follow their own local campaign finance ordinances have exponentially more independent expenditure committees in comparison to counties that adopt and follow the State's Political Reform Act. This illustrates that when contribution limits and other restrictions outside of the State's Political Reform Act are imposed, Independent Expenditure Committees are formed to get around the contribution limits and restrictions of a local ordinance.

Our County has lacked, and continues to lack, the resources to evaluate the totality of the Ventura County Campaign Finance Reform Ordinance ("Campaign Ordinance") with the regularity required as determined by opinions of Federal courts. The State of California's budget allocation for the Fair Political Practices Commission ("FPPC") changes each year to allow the resources

needed for oversight and enforcement activities. The Governor's budget for the FPPC in 2022-2023 fiscal year is \$15,877,000.

The original purpose of the Ventura County Campaign Finance Reform Ordinance, as adopted in 2003 in Ordinance No. 4280, was to "promote public trust," "reduce the appearance of corruption, and to prevent individuals or organizations from using their financial strength to corrupt Ventura County government by creating political debts through contributions or expenditures that allow them to control or unduly influence elected officials." The Campaign Ordinance has been amended several times over the past twenty years with the most recent amendments by Ordinance Nos. 4510 and 4546, in 2017 and 2019, respectively. The current version of the Ventura County Campaign Finance Reform Ordinance is set forth in sections 1261 through 1307 of the Ventura County Ordinance Code.

When the Campaign Ordinance was initially adopted, there were no campaign contribution limits in State law applicable to local City and County elections, nor many applicable campaign finance rules. That has since changed. Several State laws (e.g., Assembly Bill 571, Senate Bill 1439) have been passed providing a framework to ensure public trust and prevention of corruption in local elections – rendering our Ordinance as redundant, unneeded bureaucracy to the State's law. With Assembly Bill 571 and Senate Bill 1439, discussed below, and with other laws the California State legislature has purposely established a path for counties and cities to improve political finance transparency. The State of California maintains a large department of experts, the FPPC, that consistently review livable wages, the consumer price index, inflation, the everchanging landscape of financial transactions (e.g., digital currency and payments) and enforcement. Cities and Counties that avail themselves of the State's oversight fall under the FPPC enforcement jurisdiction. The FPPC maintains public records of campaigns, complaint investigation and enforcement actions against candidates, committees, and contributors.

Ventura County's public trust and transparency of contributions must be maintained but can be challenged largely because the existing Campaign Ordinance's language mandates low contribution limits. Because of the low limits, independent expenditure committees are formed by members of the public that cannot coordinate with candidates. These independent committees form because candidate committees cannot fundraise what is needed to effectively reach the constituency of their district using modern, effective marketing methods while allowing the capacity to pay their workers a livable wage. The Independent Expenditure Committees prevent financial transparency of funds raised as the Independent Expenditure Committee's contributions and expenditures do not show up on a candidate's required filings. Finally, other Counties throughout the State of California have chosen not to implement their own campaign finance ordinance in favor of the State's requirements, which continue to ensure public transparency and the promotion of public trust.

Senate Bill 1439 –Protections Against “Pay-to-Play” Decision-making

The Levine Act, a part of the Political Reform Act, prohibits officials of any State or local government agency who have received a contribution of \$250 or more from an applicant or affiliated party in the previous 12 months from voting on the applicant’s matter—whether it be a contract, a permit or other entitlement—if the official knows or has reason to know that the applicant or participant has a financial interest in the matter. Before enactment of SB 1439, these prohibitions did not apply to elected officials sitting in their elected capacity.

With the adoption of SB 1439, effective January 1, 2023, the provisions of the Levine Act now apply to elected officials sitting in their elected capacity. Specifically, elected members of boards of supervisors and other local bodies who have received a campaign contribution of more than \$250 from a party or participant (such as an applicant or contractor) within the past 12 months are prohibited from participating in matters involving certain contracts, permits and other entitlements if the board member knows or has reason to know that the party or participant has a financial interest in the matter. This is noticed on Board agendas and members of the Board of Supervisors who have received, and applicants, contractors or their agents who have made, campaign contributions totaling more than \$250 to a Board member since January 1, 2023, are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount of the campaign contribution and identify the recipient Board member and may be made either in writing to the Clerk of the Board of Supervisors prior to the subject hearing or by verbal disclosure at the time of the hearing. If a Board member received such a campaign contribution, the Board member must also recuse themselves from participating in the agenda item. For this reason, SB 1439 acts as a check to ensure that campaign contributions do not sway the decision-making process, and SB 1439 helps promote public trust.

Assembly Bill 571 – State Campaign Laws Now Apply to Counties

Effective January 1, 2021, AB 571 made clear that State campaign contribution limits will by default apply to city and county candidates when the city or county has not already enacted a contribution limit. This clarity establishes requirements for city and county candidates that previously did not exist which likely was a contributing factor to the establishment of our Campaign Ordinance.

If our Board repeals the Campaign Ordinance, candidates for County elected office (Assessor, Auditor-Controller, Board of Supervisors, Clerk-Recorder, County Superintendent of Schools, District Attorney, Sheriff, and Treasurer-Tax Collector) will no longer be subject to the Campaign

Ordinance but will instead be subject to all the campaign limits and restrictions that were enacted in AB 571 included in the Political Reform Act in State law – essentially the same campaign rules as candidates for State offices. Specifically, candidates for County elected office will be subject to campaign contributions limits of \$5,500 per person, small contributor committee, and political party per election (Government Code section 85301(d). FPPC Regulation section 18545(a)(9)). This amount will be reviewed and adjusted each year, if necessary, by the FPPC under Government Code section 83124. Additionally, the Political Reform Act has provisions addressing the following campaign issues which will apply to County elections:

- Contribution limits to other candidates
- Transfers of campaign funds
- Limitations on loans
- Contribution limits for recall elections
- Contributions after the election
- Carry-over contributions
- Contributions for general elections before primary elections

More information about these provisions may be found on the FPPC's website at www.fppc.ca.gov.

The above list is not intended to be an exhaustive list of all the provisions of the Political Reform Act that will apply to County elections if the Campaign Ordinance is repealed but is being provided to show that there will be numerous restrictions and transparency points in place for County elections to continue to promote the public trust and prevent corruption in our local elections. Candidates for County elected office will simply be subject to the same rules as elections for State candidates. County candidates will also be subject to all campaign finance reporting requirements of State law – again, the same campaign finance report requirements for elections for State candidates. Additionally, if the County's Campaign Ordinance is repealed, the FPPC will have enforcement authority over all County office campaigns. The FPPC has several mechanisms in place to receive, review and enforce complaints and breaches of California's Political Reform Act. Enforcement through this State entity, arguably experts in the field, instead of a local enforcement entity, will also ensure transparency and unbiased enforcement.

Livable Wage

The existing Ventura County Campaign Finance Ordinance mandates abnormally low contribution rates while the cost of living, goods, and services outpace fundraising capability. Because of this, a candidate committee is often unable to fundraise and expend the resources needed to pay a livable wage to campaign workers while marketing the candidate's candidacy to the public. Candidate campaigns then must rein in the cost while leveraging their grassroots

capabilities. However, some supporters are often not content with a partial marketing campaign which causes the creation of Independent Expenditure Committees that operate separately from the candidate.

Transparency of Support from Independent Expenditure Committees

Over the years, several Independent Expenditure Committees have been created that have spent hundreds of thousands of dollars in support of candidates. These committees fill the gap in marketing due to the inability of campaign committees to fundraise due to the Campaign Finance Ordinance. Independent Expenditure Committees are committees that are not allowed to coordinate with a candidate or a candidate's controlled committee. Independent Expenditure Committees have unlimited fundraising and spending potential.

Elimination of redundant, bureaucratic red tape in the interest of consistency with the State's established law is in the best interest of the voters and transparency of political campaigns.

As stated above, repeal of the Campaign Ordinance is a two-step process. The first hearing was held on March 14, 2023, and today, March 28, 2023, is the second hearing. If our Board adopts this ordinance today, the repeal will take effect within thirty days. Once effective, the Campaign Ordinance will no longer be in effect nor apply to campaigns for the following elective County offices: Assessor, Auditor-Controller, Board of Supervisors, Clerk-Recorder, County Superintendent of Schools, District Attorney, Sheriff, and Treasurer-Tax Collector. All such offices will be subject to the campaign finance restrictions set forth in State law.

This letter, attachments and the proposed amendment to the ordinance have been reviewed by County Counsel.

Sincerely,



Janice Parvin
Supervisor, 4th District



Jeff Gorell
Supervisor, 2nd District

Attachments

- Ordinance Repealing Campaign Finance Ordinance
 - California Political Reform Act
 - AB 571 Fact Sheet
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