

ORDINANCE NO. 8966 (NEW SERIES)
AN ORDINANCE AMENDING SECTIONS 23.101 AND 23.104
AND ADDING SECTIONS 23.109 AND 23.109.5 TO THE
SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES
RELATING TO CAMPAIGN CONTRIBUTIONS AND GIFTS
FROM COUNTY LOBBYISTS

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

Section 1. Section 23.101 of the San Diego County Code of Regulatory Ordinances is hereby amended to read:

Sec. 23.101. DEFINITIONS. Whenever in this Chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section:

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

(b)(1) The term "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 is 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 office. The following type of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective 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 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 office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications or elective 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 persons 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) The term "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 committee without payment of full and adequate consideration.

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

(6) The term "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) The term "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 five hundred dollars (\$500) or less.

(8) Notwithstanding the foregoing definition of "contribution," the term 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) The term "contribution" for purposes of this chapter does not include contributions to support or oppose ballot measures.

(c) The term "Controlled committee" means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee 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 committee.

(d) The term "County decisions" means any decision, or recommendation as to a decision, concerning any matter (other than the making of a ministerial decision), whether legislative, administrative, or quasi-judicial, which is pending before or 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 any special district; or
- (3) Any board, commission, committee or officer of such special district for decision.

(e) The term "County officer or employee" shall include all officers and employees of all special districts for which the Board of Supervisors is the governing body.

(f) The terms "elected officeholder" and "elected officer" mean a person who holds an elective County office or has been elected to a elective County office but has not yet taken office.

(g) The term "elective County office" means members of the Board of Supervisors, the Assessor/Recorder/County Clerk, the

District Attorney, the Sheriff, and the Tax Collector/Treasurer. For purposes of this chapter, the term "elective County office" does not include members of the County Board of Education.

(h) The term "firm" includes a partnership and joint venture. The term does not include a person operating as a sole proprietorship under a fictitious name.

(i) (1) The term "gift" means, except as provided in subdivision (2), 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) The term "gift" does not include:

(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 a 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 two hundred fifty dollars (\$250).

(j) The term "person" means an individual.

Section 2. Section 23.104 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

Sec. 23.104. CONTENTS OF REGISTRATION. (a) Any registration made pursuant to Section 23.102 shall be in writing, filed with the Clerk of the Board of Supervisors, signed by the registrant, or an authorized officer thereof, under penalty of perjury.

(b) The registration shall set forth the following information:

(1) Registrant's name.

(2) Registrant's business address.

(3) Name of the person, firm, corporation, or organization represented. If the registrant is employed by a company or firm that itself has been retained by a person, 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 immediate employer and the person, corporation, firm, or organization that has retained his immediate employer.

(4) Where the person registered represents a firm, corporation or organization, the names of the current officers and directors of the firm, corporation, or organization. This listing of officers and directors shall be updated annually.

(5) A list of the elective County offices 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.

Persons already registered on or before November 19, 1998, shall amend their registration to include the information required by subdivision (5) of this section no later than December 20, 1998.

Section 3. Sections 23.109 and 23.109.5 are hereby added to the San Diego County Code of Regulatory Ordinances to read as follows:

Sec. 23.109. PROHIBITED CAMPAIGN CONTRIBUTIONS. (a) No elected officeholder shall accept any campaign contribution from a person registered pursuant to this chapter where the person's registration form includes the elected office of the officeholder in the list of County offices the registrant will attempt to influence as provided under section 23.104(b)(5).

(b) No candidate for elective County office and no controlled committee of the candidate shall accept any campaign contribution from a person registered pursuant to this chapter where the person's registration form includes the elected office to which the candidate is seeking election in the list of County offices the registrant will attempt to influence as provided under section 23.104(b)(5).

(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 elected office or offices such persons will attempt to influence.

(d) Elected officeholders, candidates for elective County offices and the candidate's controlled committee may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk in determining whether campaign contributions may be accepted from any person. Acceptance of campaign contributions which would not be prohibited based on the information set forth in the Clerk's most recent list of registrants shall not constitute a violation of this section.

Sec. 23.109.5. PROHIBITED GIFTS. No elected officeholder and no candidate for elective office shall accept any gifts from persons registered pursuant to this chapter. Elected officeholders and candidates for elective County office may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk in determining whether gifts may be accepted from any person. Acceptance of gifts which would not be prohibited based on the information set forth in the Clerk's most recent list of registrants shall not constitute a violation of this section.

PASSED, APPROVED AND ADOPTED this 20th day of October, 1998.

