

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: 12/01/08

Reviewed by: BP

**SUBJECT:** Campaign Finance Reform Act of 1996

**REPORT BY:** Jacqueline L. Bucholz, City Clerk

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**STAFF RECOMMENDATION**

1. Adopt for Second Reading – Pass-to-Print Ordinance No. 08-011 – An Ordinance of the Albany City Council Re-enacting the Campaign Finance Reform Act of 1996.
2. That Council direct staff to return with a recommendation on the charge, general composition and timeline for a Campaign Finance Reform Act Task Force.

**BACKGROUND**

The City Council reviewed and passed for First Reading Ordinance No. 08-011 at its meeting of November 17, 2008.

**DISCUSSION**

As no changes were made to the Ordinance, it is recommended that it be approved for Second Reading.

The Social & Economic Justice Commission recommended to the Council that a Task Force be formed to review the Campaign Finance Reform Act of 1996. Council Members have indicated an interest in pursuing that recommendation.

**SUSTAINABILITY IMPACT**

None

**FINANCIAL IMPACT**

None

**Attachments:**

Ordinance No. 08-011

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**Ordinance #08-011**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL RE-ENACTING CHAPTER VII  
CITY OF ALBANY CAMPAIGN FINANCE REFORM ACT OF 1996 OF THE ALBANY  
MUNICIPAL CODE**

**WHEREAS**, the Council passed Ordinance #08-010 on August 4, 2008;

**WHEREAS**, due to questions raised about the process of adoption of Ordinance #08-010, the City Council wishes to re-enact the provisions adopted on August 4, 2008; and

**WHEREAS**, the City Council waives reading of this Ordinance.

**NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS THAT CHAPTER 7 IS HEREBY REPEALED IN ITS ENTIRETY AND IS AMENDED TO READ AS FOLLOWS:**

**Section 1:**

Chapter VII, entitled City of Albany Campaign Finance Reform Act of 1996 is hereby amended to read as follows:

**7-1 TITLE.**

This Chapter shall be known as the "City of Albany Campaign Finance Reform Act of 1996." (Ord. #96-06; Ord. #04-05, §1)

**7-1.1 Findings and Declarations.**

The people find and declare each of the following:

a. Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals, persons or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

b. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger proportions of their campaign funds from interest groups with a specific

1 financial stake in matters before the City Council. This has caused the public perception that  
2 votes are improperly influenced by monetary contributions. This perception is undermining the  
3 credibility and integrity of the governmental process.

4 c. Candidates are raising less money in small contributions and more in large  
5 individual and organization contributions. This has created the public impression that the small  
6 contributor has an insignificant role to play in political campaigns.  
7

### 8 9 **7-1.2 Intent of This Act.**

10 a. To limit the amount of money that may be contributed to each candidate for  
11 public office by any person or organization in any election;

12 b. To limit the amount of money that each candidate will spend in the course of an  
13 election campaign, by voluntary agreement; and

14 c. To provide sufficient incentives to elicit voluntary commitments from candidates  
15 that they will limit campaign expenditures.

16 d This law is enacted in accordance with the terms of Section 5 of Article XI of the  
17 Constitution of the State of California and pursuant to the police powers of the Charter of the  
18 City of Albany.

### 19 **7-2 INTERPRETATION OF THIS ACT.**

20 Unless otherwise specified, the definitions set forth in Government Code Sections 82000  
21 et seq. shall govern the interpretation of this Act, except that, for the purposes of this chapter, the  
22 word "contribution" shall be interpreted to include loans to candidates and campaigns.

### 23 **7-3 LIMITATIONS ON CONTRIBUTIONS.**

24 a. It is unlawful for a candidate, committee supporting or opposing a candidate, or  
25 person acting on behalf of a candidate or committee to solicit or accept from any other person a  
26 contribution which will cause the total amount contributed by that other person in support of or  
27 opposition to a candidate to exceed one hundred (\$100.00) dollars for any single election.

28 b. It is unlawful for any person to make to any candidate or committee supporting or  
opposing a candidate a contribution that will cause the total amount contributed by that person in

1 support of or opposition to a candidate to exceed one hundred (\$100.00) dollars for any single  
2 election, except as provided for candidates who agree to the expenditure limit ceiling.

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4 c. Nothing in this section is intended to limit the amount of his or her own money or  
5 property that a candidate may contribute to, including loan to, or expend on behalf of candidate's  
6 own campaign.

7 d. The contribution limits contained in Section 7-3b. apply to the total contributions  
8 of an person to a candidate.

9 e. Total anonymous contributions to a candidate or committee, which exceed in the  
10 aggregate two hundred (\$200.00) dollars with respect to a single election shall not  
11 be used by the candidate or committee for whom it was intended. To the extent  
12 that total anonymous contributions exceed two hundred (\$200.00) dollars, the  
13 excess shall be paid promptly from available campaign funds, if any, to the City  
14 Clerk and made payable to the City Treasurer for deposit in the General Fund of  
15 the City.

16 f. For the purposes of this Chapter, "person" means any individual, firm,  
17 partnership, joint venture, syndicate, business trust, personal trust, family trust, company,  
18 corporation, association, proprietorship, sole proprietorship, committee, labor union, or any other  
19 organization or group of person acting in concert.

#### 20 **7-4 OBLIGATION TO RETURN CONTRIBUTIONS.**

21 a. If a candidate, committee, or committee treasurer is offered a contribution the  
22 acceptance of which would constitute a violation of this Chapter, the candidate, committee or  
23 committee treasurer shall refuse the offer.

24 b. If a candidate, committee, or committee treasurer receives a monetary  
25 contribution the acceptance of which would constitute a violation of this Chapter, neither the  
26 candidate, committee, nor committee treasurer shall be subject to any penalty for receipt of that  
27 contribution if the candidate, committee, or committee treasurer:

28 1. Does not deposit the contribution into the campaign contribution checking  
account; and,

1           2.       Returns the contribution within twenty (20) business days of the calendar day the  
2 contribution was received.

3           c.       If a candidate, committee, or committee treasurer deposits into the campaign  
4 contribution checking account a monetary contribution the acceptance of which constitutes a  
5 violation of this Chapter, the candidate, committee, or committee treasurer shall within ten (10)  
6 calendar days of the date of the candidate's committee's or committee treasurer's discovery of the  
7 violation provide in writing to the City Clerk all facts pertaining to the contribution, including  
8 but not limited to:  
9

10           1.       A copy of any check(s), draft(s) or other instrument(s) by which the contribution  
11 was made; and

12           2.       If made in cash, a report of the amount and denominations of currency tendered  
13 and a legible photocopy of the bank deposit slip; and

14           3.       If by wire or other electronic fund transfer, a legible printout or photocopy of the  
15 transaction; and

16           4.       A report of the means of tender, delivery or confirmation of the contribution (e.g.,  
17 U.S. Postal Service or private mail, courier service, in person, etc.); and

18           5.       A report of the full name and street address of the contributor.

19           d.       The candidate or committee treasurer shall promptly deliver from available funds,  
20 if any, an amount equal to any monetary contribution constituting a violation of this Chapter that  
21 is deposited into the campaign contribution checking account to the City Clerk and made payable  
22 to the City Treasurer. The City Treasurer shall deposit any contribution or equivalent amount he  
23 or she receives under Section 7-4 into the City's General Fund.

## 24 **7-5 PAYMENT AND DISCLOSURE OF PAYMENT FOR GOODS AND SERVICES.**

25           a.       An expenditure is made on the date the payment is made or the date that the  
26 candidate or committee receives the goods or services, whichever is earlier.

27           b.       Every candidate and committee shall disclose expenditures in the same time and  
28 manner required by California Government Code Section 84211. An expenditure which has been  
incurred but not paid during a reporting period shall be disclosed as an accrued expense.

1 c. Each candidate or treasurer of a controlled committee that supports or opposes a  
2 candidate shall pay, or cause to be paid, each vendor upon receipt of the vendor's goods or  
3 services in whole or in part.

4 d. The treasurer of a committee that makes independent expenditures in support of  
5 or in opposition to a candidate shall pay, or cause to be paid, each vendor upon receipt of the  
6 vendor's goods or services in whole or in part.

7 e. In addition to any of other laws requiring disclosure, disclosure of payments for  
8 goods and services shall be filed with the City Clerk seven (7) days before the date of the  
9 election.

10 (Ord. #04-05, §1)

11 **7-6 VOLUNTARY AGREEMENT TO EXPENDITURE CEILING.**

12 Each candidate for office, at the time of filing his or her nomination papers, shall file a  
13 statement of acceptance or rejection of a campaign expenditure ceiling, stating that the total  
14 campaign expenditures by the candidate and the controlled committee of such candidate will not  
15 exceed a limit equal to fifty (\$0.~~7050~~) cents per registered voter, as of the most recent  
16 presidential election, the amount rounded to the nearest one hundred (\$100.00) dollars and  
17 indexed for inflation.

18 **7-7 INCENTIVES FOR AGREEMENT TO EXPENDITURE CEILING.**

19 Each candidate for office filing a statement of acceptance of the campaign expenditure  
20 ceiling and agreement not to accept more than twenty-five (25%)~~ten (10%)~~ percent of her/his  
21 campaign funds from persons residing in communities other than Albany, California shall not be  
22 subject to the obligations in Section 7-5 and the restrictions in Section 7-3 and shall be subject to  
the following restrictions:

23 a. *Contribution Limit.* No person shall make to the candidate and the controlled  
24 committee of such a candidate, and the candidate and the candidate's controlled committee shall  
25 not accept from each such person, a contribution or contributions totaling more than two hundred  
26 fifty (\$250.00) dollars for each election in which the candidate is on the ballot or is a write-in  
candidate.

27 (Ord. #96-06; Ord. #04-05, §1)

1 **7-8 DUTIES OF THE LOCAL FILING OFFICER.**

2 The City Administrator shall assign duties, as appropriate, for the implementation of this  
3 Chapter, including but not limited to the following:  
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5 a. Adjustment of the expenditure ceilings and contribution limitations in January of  
6 even-numbered years to reflect any increase or decrease in the Consumer Price Index and in the  
7 number of registered voters in the City of Albany. Such adjustments in dollar figures shall be  
8 rounded off to the nearest hundred for the limitations on contributions and the expenditure  
9 ceiling.

10 b. Prescription of the necessary forms for filing the appropriate statements.  
11 (Ord. #96-06; Ord. #04-05, §1)  
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13 **7-9 CRIMINAL MISDEMEANOR ACTIONS.**

14 Any person who violates any provision of this Act is guilty of a misdemeanor. Any person  
15 who causes any other person to violate any provision of this Act, or who aids and abets any other  
16 person in the violation of any provision of this Act, shall be liable under the provisions of this  
17 section. Prosecution for violation of any provision of this Act shall be commenced within four (4)  
18 years after the date on which the violation occurred. (Ord. #96-06; Ord. #04-05, §1)

19 **7-11 APPLICABILITY OF OTHER LAWS.**

20 Nothing in this Act shall exempt any person from applicable provisions of any other laws  
21 of this State or jurisdiction, except this act shall supersede Government Code Section 85300.  
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23 **Section 2: Publication**

24 This ordinance shall be published in a newspaper of general circulation in the City of  
25 Albany, which said newspaper is designated for that purpose, or it shall be posted in three  
26 locations.

26 **Section 3: Severability**

27 If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason  
28 held to be invalid, such decision shall not affect the validity of the remaining portions of the

1 ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the  
2 fact that any one or more sections, subsections, sentences, clause or phrases be declared invalid.

3 **Section 4: Effective Date**

4 This ordinance shall become effective 30 days on or after its final passage and adoption.

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7 Date:

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Mayor Robert S. Lieber

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