

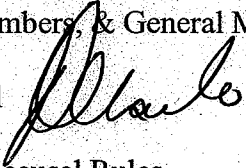
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TO: Chairman Pendergrass, Board Members, & General Manager
FROM: David C. Laredo, District Counsel 
RE: Campaign Finance Reporting & Recusal Rules

This memo addresses the Monterey Peninsula Water Management District's ("District") consideration of a campaign finance reporting policy. The Board requested this review in order to consider whether the District may wish to consider adoption of a policy to address this topic.

Campaign finance reporting provisions set by law pursuant to the California Government Code and Political Reform Act of 1974 ("PRA"), Government Code section 82000 et seq.

Pacific Grove Campaign Finance Reform Ordinance

In August 2006, the City of Pacific Grove ("City") adopted a Campaign Finance Reform Ordinance ("Ordinance") to set more stringent reporting and disclosure requirements than is required under state law. The key provisions of the City Ordinance are summarized below.

1. Contribution Limits

Contributions from non-individuals, i.e., non-natural persons such as businesses or organizations, are prohibited. Contributions from non-natural persons, regardless of form, are attributed to an individual if a filed disclosure form clearly attributes that contribution to a single named natural person. There is no corresponding prohibition under state law, and the business community initially voiced concern over such a prohibition.

A candidate may not accept a contribution exceeding \$500¹ from an individual in a single election campaign. There are no other restrictions on the amount of funds available to run a campaign.

2. Disclosure before Deposit

Contribution information, including name, address, occupation and employer, must be fully disclosed before a contribution of \$100 or more can be deposited and used by the candidate. Under state law, funds may be deposited immediately but the information must be disclosed within sixty days of receipt or the contribution must be returned.

¹ The Ordinance contains provisions to account for inflationary changes in all contribution limits.

The City requires a current campaign finance statement to be filed with the City Clerk the Friday before the date of the election.

3. Recusal

An official must recuse him or herself from making or influencing any decision which provides a Material Financial Effect ("MFE") to a contributor accumulating to \$250 or more. The contributions relate to the official's current term of office. The official may still exercise his or her First Amendment Right of free speech.

The City's recusal period is longer than the "previous twelve months" required under state law. State law also requires intent, and the official must know of the financial interest of the party and the party's contribution. Additionally, a contributor with an action pending before the official must disclose his or her contribution.

4. Exchange of Financial Advantages

No person shall contribute and no person shall deposit a contribution to an elected official's campaign which accumulates to \$250 or more following his or her participation in the making a governmental decision providing a MFE to the contributor. The MFE must not be similarly provided to the general public or a large class of persons.

The City's recusal period lasts for the entire term of office. Under state law, by contrast, contributions are prohibited only while a proceeding is pending and for the three months following the decision.

5. Private Enforcement

Any member of the public can make a complaint and file it with the City Clerk for referral to the City Attorney for investigation and enforcement. Additionally, an individual may bring a civil action to enforce the reporting or disclosure provisions.

Conclusion

Pacific Grove's adopted Ordinance holds officials to a higher standard of conduct than mandated by state law.

The District Board, by ordinance, may choose adopt some, all or other additional campaign disclosure or recusal restrictions. In the alternative, the Board may choose not to adopt these or other measures, and thereby rely entirely upon the campaign finance reporting and recusal provisions set by California law.