



COUNTY OF SAN MATEO

INTERDEPARTMENTAL CORRESPONDENCE

To: Members, Board of Supervisors
From: County Counsel
Subject: Proposed Changes to the Campaign Contribution Ordinance
Date: May 12, 2005

Background

In 1999, this Board amended Chapter 2.205 "Campaign Contribution Limits" to address the use of independent expenditures and use of surplus funds. In 2001, voter approved Proposition 34 became effective. Proposition 34 amended the California Political Reform Act (Government Code sections 85100 et seq.), to address, among other items, both the use of independent expenditures and use of surplus funds. The proposed ordinance would amend the County's ordinance to be more aligned with state law. The following is a comparison of the current campaign contribution ordinance and the proposed campaign contribution ordinance.

Independent Expenditures

The current ordinance requires the disclosure of any independent expenditure that is valued at \$1000 with respect to any election for County office. State law also requires such disclosures but the reporting deadlines differ from the current ordinance. The proposed ordinance repeals this section because it is already covered by state law. "Independent expenditure" means an expenditure that is not made in cooperation, consultation or concert with the candidate, or the candidate's campaign officers, campaign employees or volunteers. An example of an independent expenditure is a payment for an advertisement that is not made in cooperation, consultation or concert with the candidate or committee.

Surplus Funds

The County's current ordinance defines "surplus funds" as "campaign funds in excess of expenses incurred for the campaign that are remaining in the campaign account after the election." Under the County's ordinance it does not matter if the candidate became an officeholder or not. All funds leftover after the election become surplus. These funds can be used for:

- payment of outstanding campaign debts
- prorata repayment to contributors
- donations to nonprofit tax-exempt organizations
- contributions to a political party or committees, except that funds cannot be used for contributions supporting or opposing candidates for county office.

The proposed ordinance would repeal the section relating to surplus funds and state law would control. Government Code §85919 defines surplus funds as campaign funds remaining upon leaving office or at the end of the post-election period following the defeat of a candidate. Under state law, *campaign funds*, which are defined as funds remaining after the election, can be used for:

• election night celebration costs	• loans
• attorneys fees	• professional services
• reimbursements automobile expenses	• property leases
• contributions to other candidates and committees	• refunding contributions
• donations to organizations, equipment	• security systems
• fines, penalties, judgments, settlements	• tickets for entertainment, sporting events, fundraisers
• gifts	• travel
• health care benefits for employees	

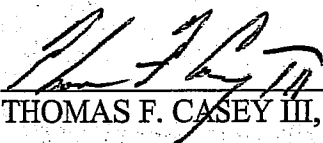
After an election, a successful candidate has the option of maintaining his or her committee and campaign bank account. An officeholder who maintains a committee may: (1) continue to receive contributions, (2) use campaign funds to offset officeholder expenses and (3) use the funds for future elections. An unsuccessful candidate may use the money remaining in the campaign fund account for a future election for either the same office or a different office; however, new bank accounts must be set up.

Under state law, *campaign funds* become *surplus funds* either (1) when the successful candidate leaves office or (2) the unsuccessful candidate does not set up a new account for a future election. Once campaign funds become surplus funds they may not be used for a future election. Surplus funds may only be spent in the following manner:

- payment of outstanding campaign debts or officeholder expenses
- refunds to contributors, donations to certain organizations
- contributions to a political party or committee so long as funds are not used to make contributions in support of or opposition to a candidate for elective office
- contributions to support or oppose any candidates for federal office, any candidate for elective office in a state other than California, or any ballot measure
- professional services or attorneys fees for which litigation arises out of campaign or election activities
- security systems

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If you have questions regarding the above, please give me a call.



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