#52
6/18/13

ORDINANCE NUMBER O- 20270 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 02 2013

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 29 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.2934 AND 27.2937 RELATING TO THE CITY OF SAN DIEGO ELECTION CAMPAIGN CONTROL ORDINANCE

WHEREAS, pursuant to San Diego Municipal Code section 26.0414, the City of San Diego Ethics Commission has the responsibility of regularly reviewing the City's Election Campaign Control Ordinance (ECCO), and proposing updates to these laws to the City Council for its approval; and

WHEREAS, on January 20, 2012, the United States District Court issued what amounted to a final ruling in the *Thalheimer v. City of San Diego* litigation, striking down the City's $1,000 limit per election on contributions from political parties to City candidates; and

WHEREAS, the Court stated that the City may adopt a new limit only if the City demonstrates that it has seriously considered the balance of: "(1) the need to allow individuals to participate in the political process by contributing to political parties that help elect candidates with (2) the need to prevent the use of political parties to circumvent contribution limits that apply to individuals"; and

WHEREAS, during March and April 2012, the Ethics Commission undertook a comprehensive analysis of the subject of what limits, if any, are appropriate to impose on political party contributions to City candidates, including: (1) input from Thad Kousser, an Associate Professor of Political Science at the University of California, San Diego, concerning the pros and cons of enacting a limit on political party contributions; (2) the applicable

constitutional tests, and comparisons with the limits in place in other jurisdictions; (3) input from representatives of the Republican Party of San Diego County, the California Republican Party, the San Diego County Democratic Party, and California Common Cause; (4) input from members of the public; (5) input from the Ethics Commission's general counsel regarding relevant constitutional requirements; (6) a review of historical data concerning contributions made by political parties to City candidates in the 2010 election cycle and the 2012 primary; (7) a discussion of the unique accounting rules imposed on political parties that make tracking individual contributions virtually impossible; and (8) a discussion of attribution reporting in the context of California Government Code section 81009.5(b)'s preemption of any local laws imposing additional filing obligations on political parties; and

WHEREAS, after evaluating the applicable facts and laws and considering the requisite balancing test, on April 20, 2012, the Ethics Commission voted to recommend that the City amend ECCO to impose a political party contribution limit of $3,000 per election for district candidates and a political party contribution limit of $12,000 per election for City-wide candidates, and to require that these limits serve as aggregate limits for contributions from all levels (i.e., national, state, local) of a political party; and

WHEREAS, on May 16, 2012, the City Council's Committee on Rules, Open Government, and Intergovernmental Relations (Rules Committee), considered the amendments proposed by the Ethics Commission as well as the balancing test for political party contributions required by the Court's January 20, 2012 ruling, and unanimously agreed to forward the Ethics Commission's recommendations to the full City Council; and,

WHEREAS, following a recommendation by the Office of the City Attorney, the matter of political party campaign contribution limits was referred back to the Rules Committee in

Spring 2013 to consider additional facts related to unlimited political party contributions to candidates in the June 2012 primary and November 2012 general City-wide elections; and

WHEREAS, on May 15, 2013, the Rules Committee considered: (1) a report dated May 6, 2013 from the Ethics Commission that set forth the facts and evidence considered by the Commission in making its recommendations; (2) a report dated May 1, 2013 from Thad Kousser, an Associate Professor of Political Science at the University of California, San Diego, concerning the pros and cons of enacting a limit on political party contributions; (3) a report dated May 1, 2013 from Richard Hasen, a Chancellor's Professor of Law and Political Science at the University of California, Irvine, concerning the setting of fair and constitutional limitations on political party campaign contributions to candidates; and (4) facts and other evidence presented at the Rules Committee meeting; and

WHEREAS, the Rules Committee applied the balancing test for political party contributions required by the Court's January 20, 2012 ruling, and voted to forward the matter to the full City Council with the recommendation that the City adopt a $10,000 contribution limit per election for district candidates, and a $20,000 limit per election for City-wide candidates; and,

WHEREAS, on May 16, 2013, the Ethics Commission voted unanimously to support the $10,000/$20,000 limits described above for political party contributions to City candidates; and

WHEREAS, based on additional legal analysis, it is now recommended that the City Council repeal the City's attribution rules for political party contributions, which allowed political parties to make contributions to City candidates only by using funds collected from, and attributable to, individuals in amounts that do not exceed the City's individual contribution limit; and

WHEREAS, the City Council has considered the facts and evidence described herein and other evidence presented at the Council meeting regarding the imposition of limits on political party contributions to City candidates, and has independently conducted the requisite balancing test between the associational rights of political parties and the governmental interest in preventing circumvention of the City's individual contribution limits; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 7, Division 29 of the San Diego Municipal Code is hereby amended by amending sections 27.2934 and 27.2937 to read as follows:

§27.2934 Contribution Limitations for Political Party Committees

(a) [No change in text.]

(b) It is unlawful for a political party committee to make, or for a *candidate* or *controlled committee* to solicit or accept, a *contribution* that would cause the total amount contributed by all local, state, and federal committees of the same political party to the *candidate* and the *candidate's controlled committee* to exceed $10,000 for any *City Council* district *election* or to exceed $20,000 for any *election* for the office of Mayor or City Attorney.

(c) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

§27.2937 Indexing of Campaign Contribution Limits

(a) The *contribution* limits set forth in sections 27.2934, 27.2935, and 27.2965 shall be adjusted on a biennial basis in accordance with this section, commencing as follows:

(1) Adjustments for the *contribution* limits applicable to *elections* for a *City Council* district office, as set forth in section 27.2935(a), shall commence in 2011.

(2) Adjustments for the *contribution* limits applicable to *elections* for the office of Mayor or City Attorney, as set forth in section 27.2935(a), shall commence in 2015.

(3) Adjustments for the limits applicable to *contributions* from political party committees to *candidates*, as set forth in section 27.2934(b), shall commence in 2015.

(4) Adjustments for the *contribution* limit applicable to *professional expense committees,* as set forth in section 27.2965(c), shall commence in 2011.

(b) through (e) [No change in text.]

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Catherine Bradley
Catherine Bradley
Deputy City Attorney

CMB:sc
05/20/2013
Or.Dept:Ethics Commission
Doc No. 555605_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at its meeting of JUN 18 2013.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 7/2/13
(date)

_____
BOB FILNER, Mayor

Vetoed: _____
(date)

_____
BOB FILNER, Mayor

Passed by the Council of The City of San Diego on JUN 18 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	☑	☐	☐	☐
Kevin Faulconer	☑	☐	☐	☐
Todd Gloria	☑	☐	☐	☐
Myrtle Cole	☑	☐	☐	☐
Mark Kersey	☑	☐	☐	☐
Lorie Zapf	☐	☐	☑	☐
Scott Sherman	☐	☑	☐	☐
David Alvarez	☑	☐	☐	☐
Marti Emerald	☑	☐	☐	☐

Date of final passage JUL 02 2013.

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By _____, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUN 04 2016, and on JUL 02 2013.

I FURTHER CERTIFY ~~that said ordinance was read in full prior to its~~ final passage.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20270