

6389 ORDINANCE NO. 6389

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, REPEALING AND REPLACING CHAPTER 2, ARTICLE XX, OF THE SONOMA COUNTY CODE, ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section 1. Article XX of Chapter 2 of the Sonoma County Code governing campaign contribution limits is repealed in its entirety, and reenacted to read as follows:

Article XX. Campaign Contribution Limits.

Sec. 2-300. Intent and purpose.

The purpose of this article is to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in County elections, while preserving an orderly political forum in which individuals may express themselves effectively. The provisions of this Chapter are necessary and proper to prevent corruption or the appearance of corruption, to ensure adequate disclosure of the true sources of financial support in County elections, to provide for full and fair enforcement of laws governing campaign contributions, and to maintain public trust in governmental institutions and the electoral process.

Sec. 2-301. Relation to Political Reform Act of 1974.

This article is intended to supplement the Political Reform Act of 1974. Unless a word or term is specifically defined in this article, or the contrary is stated or clearly appears from the context, words and terms used herein shall have the same meaning as defined or used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, and as supplemented by the Regulations of the Fair Political Practices Commission as set forth in Title 2, Division 6 of the California Code of Regulation, as the same may be, from time to time, amended.

Sec. 2-302. Definitions.

- (a) "County candidate" means any person who is a candidate for County office, or is an elective county officer whether or not that elective county officer is a candidate for reelection. "County candidate" includes any person running to replace an incumbent in a recall election for County office.
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- (b) "Candidate controlled committee" means any committee controlled directly or indirectly by a candidate or that acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if the candidate, the candidate's agent or any other committee controlled by the candidate has a significant influence on the actions or decisions of the committee.
 - (c) "County election" means any primary election, general (runoff) election, special election or recall election for County office.
 - (d) "County office" means the office of county supervisor, assessor, auditor-controller, county clerk, recorder, treasurer-tax collector, district attorney, sheriff-coroner, and superintendent of schools, including a consolidation of two or more offices.
 - (e) "Election cycle" means the applicable period as set forth in Section 2-305 of this article.
 - (f) "Elective county officer" means any person who holds an elective County office, including a person appointed to fill a vacant elective County office.
 - (g) "Indebted former candidate" means a person, other than an elective county officer, who was a candidate for a county office at any county election and who has campaign debt remaining from such election after expiration of the election cycle for the county office for which he or she was a candidate.
 - (h) "Independent expenditure" means an expenditure made by any person, including a payment of public moneys by a state or local governmental agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.
 - (i) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

Sec. 2-303. Contribution limitations.

- (a) County Candidates. Except as otherwise provided in this section, no person shall make, and no county candidate or treasurer of any controlled committee of any county candidate shall solicit or accept, any contributions which would cause the total amount contributed by such person to such candidate or to his or her controlled committee, to exceed three thousand five hundred dollars (\$3,500.00) during any election cycle for any county office. No contributions shall be accepted by any candidate before the beginning of the election cycle related to the election for which the person is a candidate. Contributions accepted for campaign expenses and for officeholder expenses shall be aggregated for purposes of the limitation set forth in this section.
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- (b) Elective County Officers With Outstanding Debt From Prior Election. No person shall make, and no elective county officer, or treasurer of any controlled committee of any elective county officer, shall solicit or accept, any contributions for the purpose of retiring outstanding debt from a prior county election which would cause the total amount contributed by such person to such elective county officer or to his or her controlled committee, to exceed three thousand five hundred dollars (\$3,500.00) for the election in which the outstanding debt was incurred, regardless of when the contribution(s) is made or received. This restriction shall not apply to indebted former candidates who are not elective county officers.
 - (c) Recall Elections. The contribution limitations set forth in Section 2-303(a) shall also apply to any candidate controlled committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of an elective county officer, and to contributions received by such elective county officer, during a recall election cycle as defined in Section 2-305 of this article.
 - (d) Candidate's Personal Funds. The provisions of this section shall not apply to a county candidate's contribution of his or her personal funds to his or her own controlled committee. Contributions by the spouse of a county candidate from such spouse's separate property shall be subject to the contribution limitations set forth in Section 2-303(a).
 - (e) Special Circumstances Permitting Increased Contribution Limits. In any election cycle where independent expenditures totaling more than ten thousand dollars (\$10,000.00) are made to support or oppose any candidate for county office, the three thousand five hundred dollars (\$3,500.00) limit imposed by this section shall be increased to seven thousand dollars (\$7,000.00) for all candidates running for the same seat. In such an instance, no person shall make, and no county candidate, elective county officer or treasurer of any controlled committee of any county candidate or elective county officer shall solicit or accept, any contributions which would cause the total amount contributed by such person to such candidate or to his or her controlled committee, to exceed seven thousand dollars (\$7,000.00).
 - (f) Escalator. Contribution limits shall be increased biannually using the change in California Consumer Price Index for All Urban Consumers for the Bay Area, rounded up to the nearest \$100, with the first escalation to take place on January 1, 2025.

Sec. 2-304. Outstanding debt retirement and reporting.

- (a) Any elective county officer or indebted former candidate, or any controlled committee of any such officer or candidate, accepting any contribution(s) for the purpose of retiring outstanding debt from a prior county election and required by state law to report such contributions on appropriate Schedules and Forms provided by the Fair Political Practices Commission, shall, at the time required for the reporting of such contributions on the appropriate Schedules and in addition to any other reporting requirements under state
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law, clearly designate on said Schedules which contributions were received for the purpose of retiring outstanding debt and for which prior county election such contributions were received.

- (b) Any contribution accepted for the purpose of retiring outstanding debt from a prior county election shall be expended to reduce or retire said outstanding debt no later than 30 days of receipt or the end of the reporting period in which such contribution was accepted, whichever is later. The application of any contribution to retire outstanding debt from a prior county election (i.e., repayment of outstanding loans and payment of accrued expenses) shall be itemized and identified on the appropriate Schedules and Forms provided by the Fair Political Practices Commission.
- (c) No elective county officer or indebted former candidate, or any controlled committee of any such officer or candidate, shall use any contributions received for the purpose of retiring outstanding debt from a prior county election for any purpose other than for the retirement of outstanding debt remaining from the prior county election for which such contribution was received.

Sec. 2-305. Election cycles.

- (a) **Primary Elections.** For purposes of any primary election for any county office, the term "election cycle" as used in this article shall mean the period commencing on the day after a primary election for such county office, and ending on the day of the next primary election for the same county office. In the event there is a runoff election, the primary "election cycle" for the next primary election shall commence on the day after the runoff election and end on the day of the next primary election for the same county office. Notwithstanding the preceding sentences, following a special election for any county office, the "election cycle" for the next primary election for said county office shall commence on the day following said special election and shall end on the day of the next primary election for the same county office.
 - (b) **General (Runoff) Elections.** For purposes of any runoff election for any county office, the term "election cycle" as used in this article shall mean the period commencing on the day after the primary election for such county office and ending on the day of the runoff election.
 - (c) **Special Elections.** For purposes of any special election for any county office, the term "election cycle" as used in this article shall mean the period commencing on the date a special election is called by the board of supervisors and ending on the day of the special election.
 - (d) **Recall Elections.** For purposes of any recall election of any elective county officer, the term "election cycle" as used in this article shall mean the period commencing on either the date a committee is formed pursuant to the Political Reform Act in support of a recall election or the date the county registrar of voters approves a recall petition for circulation
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and gathering of signatures, whichever occurs earlier, and ending on the day the first of the following events occur:

- (1) The time provided by law for the gathering of signatures on recall petitions expires without sufficient recall petition signatures having been filed with the county registrar of voters to require a recall election;
- (2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act;
- (3) The date the recall election is held.

Sec. 2-306. Aggregation of contributions.

For purposes of the contribution limitations contained in this article, the following provisions shall apply:

- (a) All contributions made by a sponsored committee to a county candidate or to an elective county officer (or to a committee controlled by such candidate or officer) shall be combined with those contributions made during the same election cycle by the sponsor(s) of the committee. Consistent with the definition and use of the terms "sponsored committee" and "sponsor" in the Political Reform Act, the term "sponsor" shall not include individuals.
 - (b) Contributions received from the following combinations of individuals and entities must be aggregated to determine the cumulative amount of contributions received from a contributor:
 - (1) Contributions from an individual who makes contributions from personal funds and who also has sole authority to direct and control contributions made from other funds;
 - (2) Contributions from business entities in a parent-subsidary relationship and business entities with the same controlling owner (more than fifty percent (50%)), unless the entities act completely independently in their decisions to make contributions;
 - (3) Contributions from any number of entities or committees if the same person or a majority of the same persons in fact directs and controls the contributions each entity makes. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on whether the candidate or candidates received contributions.
 - (c) Contributions by a married person shall be treated as the separate contributions of such person and shall not be aggregated with any contributions of the spouse of such person.
 - (d) Contributions by children under eighteen (18) years of age shall be treated as contributions by their parent(s) or legal guardian(s), one-half to each parent or
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guardian unless only one (1) parent or guardian has legal custody of such child in which event any such contributions shall be attributed solely to the custodial parent.

Sec. 2-307. Multiple campaign committees.

- (a) A county candidate shall have no more than one (1) controlled committee for each county office for which such individual is a candidate or is an elective county officer and such controlled committee shall have only one (1) bank account out of which all qualified campaign and officeholder expenses related to that county office shall be made.
- (b) A county candidate and county officers may establish a candidate controlled ballot measure committee.
- (c) This section does not prevent a county candidate or an elective county officer from establishing another controlled committee solely for the purpose of running for a state, federal, city or other elective county office, or for opposing his or her recall.

Sec. 2-308. Loans to county candidates and their controlled committees.

- (a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this article.
- (b) Personal loans from a County candidate to the candidate's own controlled committee shall not be subject to the contribution limitations of this article. A County candidate shall not charge interest on any loan the candidate made to the candidate's own controlled committee.
- (c) The proceeds of a loan made to a county candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this article if the loan is made directly to the candidate. The guarantors of such a loan shall remain subject to the contribution limits of this article.
- (d) Extensions of credit (other than loans pursuant to Section 2-308(b)) for a period of more than thirty (30) days are subject to the contribution limitations of this article.
- (e) This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

Sec. 2-309. Funds, property, goods or services received by officials treated as contributions.

Any funds, property, goods or services, other than government funds, received by elective county officers which are used, or intended by the donor or by the recipient to be used, for expenses (including legal expenses) related to holding public office, shall be considered campaign contributions and shall be subject to the contribution limitation of Section 2-303. Reimbursement for travel expenses related to holding public office shall be excluded from the provisions of this section. Nothing in this section is intended to abrogate the limitations and

disclosure obligations placed on travel payments under the Political Reform Act and other state law.

Sec. 2-310. Disclosure requirements.

- (a) Contributions shall be disclosed in compliance with applicable state law.
- (b) Any advertisement supporting or opposing a county candidate, initiative, referendum, or recall shall contain the disclosures required by state law. In addition, any independent expenditure advertisement supporting or opposing a county candidate that is sent by mail shall also include the required disclosures on the outside of the envelope, if one is used. The disclosures included on outside of the envelope shall be displayed in the same manner as required for disclosures included on the mailing itself. Notwithstanding state law, the independent expenditure communication shall disclose the committee's top three contributors, regardless of whether they have made cumulative contributions of fifty thousand dollars (\$50,000) or more to the committee.
- (c) A committee formed pursuant to Section 82013 of the Government Code, or any successor statute thereto, that pays for the circulation of a county initiative, referendum, or recall petition shall disclose its top contributors pursuant to Section 107 of the Elections Code, or any successor statute thereto.

Sec. 2-311. Reporting of cumulative contributions.

Contributions received by any candidate-controlled committee from any contributor during a reporting period which have a cumulative total of one hundred dollars (\$100.00) or more when added to all other contributions received from such contributor during the same election cycle shall be itemized on the committee's campaign statement for the reporting period. to the campaign statement shall include the individual contribution amounts received during the reporting period, the total amount received during the calendar year and the total cumulative amount received during the election cycle. The term election cycle as used in this section shall mean the period described in Section 2-305.

Sec. 2-312. Reporting of late contributions.

Any contribution(s) of five hundred dollars (\$500.00) or more, including contributions aggregated pursuant to Section 2-306, that are received by a county candidate, his or her controlled committee or a committee formed or existing primarily to support or oppose a county candidate, shall be reported by the recipient of the contribution(s) within twenty-four (24) hours if the contribution(s) were made or received before the date of the election at which the county candidate is to be voted on, but after the closing date of the last campaign statement required to be filed before the election.

Sec. 2-313. Notice of independent expenditures.

Notice of independent expenditures, made by any person in support of or in opposition to any county candidate in the amount of one thousand dollars (\$1,000.00) or more during an election cycle, shall be provided in compliance with applicable state law.

Sec. 2-314. Enforcement of chapter.

- (a) **No Criminal Penalties.** Notwithstanding any other provision of the Sonoma County Code, any violation of any provision of this article shall be enforceable solely as provided in this section.
- (b) **Civil Liability.** Any person who knowingly and willfully violates or otherwise fails to comply with any provision or requirement of this article shall be liable to the county of Sonoma in a sum not to exceed the following amount for each such violation:
 - (1) For the making or accepting of any contribution in excess of the applicable contribution limits specified in this article, a sum equal to three (3) times the amount by which the contribution exceeds the applicable contribution limit, or the sum of twenty-five hundred dollars (\$2,500.00), whichever is greater, for each violation.
 - (2) For any other violation of this article, the sum of five hundred dollars (\$500.00) for each violation.
- (c) **Right to Cure Unknowing Violation.** In the event a candidate accepts a contribution and then becomes aware it is in violation of the contribution limit, that violation by the candidate may be excused, and will not be deemed "knowing and willful," if the candidate returns the contribution or contributes it to the county general fund within fourteen (14) days of becoming aware of the violation.
- (d) **Debt Owing to County.** Any amount due from any person pursuant to subsection (b) of this section shall be a debt due and owing upon demand to the general fund of the county of Sonoma.
- (e) **Civil Action to Collect Debt and Obtain Other Relief.** The District Attorney or County Counsel of the County of Sonoma may file and prosecute a civil action in superior court, to recover any amount(s) due and owing to the County of Sonoma by any person pursuant to this section, or to enjoin any violation or otherwise compel compliance with the requirements of this article. The District Attorney or County Counsel may delegate the authority to file and prosecute a civil action pursuant to this section to other independent counsel.

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- (f) Limitation of Actions. No civil action shall be brought under the provisions of this section unless said action is filed within two (2) years following the date of such violation.
- (g) Remedial Measures. If the district attorney determines or believes that any person (the target party) has violated any provision of this article, the district attorney may, at his or her sole discretion, advise the target party of remedial measures which may be taken by the target party to avoid possible civil action (the "remedial measures"). Such remedial measures may, but need not necessarily, include the payment of a civil fine to the county. Nothing contained herein shall be deemed to require the district attorney to offer remedial measures to any target party. In the event the target party is offered and timely performs such remedial measures to the satisfaction of the district attorney, the district attorney shall advise the target party (and any person who, in writing, informed or complained to the district attorney concerning any such violation), in writing, that the alleged violation has been resolved (the letter of resolution) and, in such event, no civil action shall thereafter be filed or maintained relating to such alleged violation of this article.

Sec. 2-315. Effective Date.

This ordinance shall take effect on January 1, 2023, and shall apply to all elections conducted after that effective date.

Section II. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section III. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the 9th day of August, 2022, and finally passed and adopted this 30th day of August, 2022, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Aye Rabbitt: Aye Coursey: Aye Hopkins: Aye Gore: Aye

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.



Chair, Board of Supervisors
County of Sonoma

ATTEST: *Sheryl Bratton*

by: Nolle Francis
Sheryl Bratton,
Clerk of the Board of Supervisors