



Administrative Report

N.2., File # 22-3849

Meeting Date: 4/5/2022

To: MAYOR AND CITY COUNCIL

From: ELEANOR MANZANO, CITY CLERK
ATTORNEY
TO THE CITY MANAGER

MICHAEL W. WEBB, CITY
ELIZABETH HAUSE, ASSISTANT

TITLE

DISCUSSION AND POSSIBLE ACTION ON A REPORT REGARDING UPDATES TO THE CAMPAIGN FINANCE ORDINANCE AND ENFORCEMENT OPTIONS

EXECUTIVE SUMMARY

One of the Objectives within the Strategic Plan is a report to the City Council on possible updates to the City's Campaign Finance Ordinance and a review of enforcement options. The report provides three enforcement options for City Council discussion and consideration:

- 1) Assign investigatory duties of the Ordinance to the Redondo Beach Police Department; 2) Contract with an outside consultant to provide investigation services; or
- 3) Rescind the City's Ordinance, thereby making State limits on city campaign donations applicable to all candidates for elective office within Redondo Beach and passing investigatory duties to the Fair Political Practices Commission (FPPC).

Prosecution responsibility would remain with the City Attorney's Office for any cases referred under all three options. From an objectivity and consistency of enforcement and an overall operational efficiency standpoint the City Manager, City Clerk, and the City Attorney unanimously recommend the City Council pursue option 3.

BACKGROUND

The City's Campaign Finance Ordinance (RB Ordinance 3184-18 - Exhibit A) was adopted on January 8, 2019, and placed limits on the amount donors may contribute to political campaigns in municipal elections for the positions of Mayor and City Council. At the time of Ordinance adoption there were no State limits on the amount of political donations that applied to city elections. However, later that year, in October 2019, Assembly Bill 571 was enacted to amend the California Political Reform Act, creating campaign contribution limits (\$4,900 per election) for elective offices not covered by local ordinance (effective January 1, 2020, operative January 1, 2021). For the City of Redondo Beach, this includes the offices of the City Attorney, City Clerk, City Treasurer and the School Board. Table 1 below shows current campaign contribution limits which is a mix of those set by Ordinance 3184-18 and AB 571.

Table 1

| Office | Regulatory Document | Campaign Contribution Limits |
|----------------|---------------------|------------------------------|
| Mayor | O 3184-18 (CRB) | \$2,700.00 |
| City Council | O 3184-18 (CRB) | \$1,050.00 |
| City Attorney | AB 571 (CA) | \$4,900.00 |
| City Clerk | AB 571 (CA) | \$4,900.00 |
| City Treasurer | AB 571 (CA) | \$4,900.00 |
| School Board | AB 571 (CA) | \$4,900.00 |

One important provision of AB 571 is that the FPPC is not responsible for the administration or enforcement of any city's local campaign finance ordinance if it differs from the limit set forth in AB 571. As an example of this, prior to the adoption of AB 571, the FPPC had investigated and referred to the Torrance City Attorney for criminal prosecution an allegation that a candidate had violated the City of Torrance contribution limits. This method of processing allegations changed with the adoption of AB 571. The Redondo Beach City Council was advised of this change last year and a Budget Response Report (BRR #58, Exhibit B) was prepared by then City Manager Joe Hoefgen and City Clerk Eleanor Manzano. The BRR presented options for investigation of alleged violations of campaign contributions. No action was taken by the City Council at that time.

The City's Campaign Finance Ordinance provides for enforcement only through criminal prosecution, rather than less punitive potential administrative or civil sanctions, stating "Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor" (Section 2-2.309). However, the enforcement of the Ordinance requires two separate actions take place: investigation and then - if findings deem it appropriate - prosecution.

Currently, the City's Campaign Finance Ordinance does not specify the method of investigation nor has a method of investigation been established since its adoption. By contrast, under California's regulations (specifically Government Code § 11180 and 11181), the State has vested investigatory authority in the Fair Political Practices Commission (FPPC) for violations of the Political Reform Act. For prosecution, the Political Reform Act provides that "(i)n any case in which a district attorney could act as the civil or criminal prosecutor under the provisions of this title, the elected city attorney of any charter city may act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city." As such, candidates for the offices of City Attorney, City Clerk, City Treasurer and the School Board operate under a clearly-defined and established enforcement framework, whereas candidates for the offices of Mayor and City Council do not.

There are three options available to the City in the pursuance of investigations of alleged violations of the local Ordinance:

1. Assign investigation duties to the Redondo Beach Police Department, with criminal prosecution falling under the purview of the City Attorney's office.
2. Contract with an outside consultant to provide investigation services, with prosecution falling under the purview of the City Attorney's office.
3. Rescind the City's Ordinance, thereby passing investigatory duties to the FPPC. Should FPPC findings deem a violation was committed, enforcement may take place administratively,

civily, or by referral for criminal prosecution to the City Attorney.

1. Redondo Beach PD Investigation, City Attorney Criminal Prosecution

Under this option, the Redondo Beach Police Department would undertake investigatory responsibility. This new assignment would require the institution of a formal investigatory framework, the establishment of a specialized unit, and training of officers assigned to the unit. Although feasible, the installation of this enforcement program would take time and continual assessments would need to occur to ensure the efficiency and efficacy of the unit. What should also be considered with this option is the prospective repercussions of having an otherwise un-politicized arm of the City's administration lead investigations of elected officials.

Once an investigation is complete, should a violation be found, the case would be referred to the City Attorney's office for prosecution.

2. External Consultant Investigation, City Attorney Criminal Prosecution

Under this enforcement option, the City would retain the services of a consultant to perform investigations. Once an investigation is complete, should a violation be found prosecution of the case would be referred to the City Attorney's office.

The cost of this option is largely based on the number of claims filed as well as the extent of investigation demanded by the allegations, and is therefore difficult to estimate. Based on comparable service contracts currently in place, preliminary cost estimates indicate a potential rate of \$15,000-\$30,000 per investigation. Staff contacted surrounding cities with this particular investigatory framework in place and inquired about costs incurred. Thus far, these cities have not retained consultant services for violation investigations.

3. Rescind City Ordinance, FPPC Assumes Investigative Responsibility, City Attorney Criminal Prosecution

Under this option, the City would rescind its Campaign Finance Ordinance, thereby defaulting to the State's Political Reform Act for campaign financing parameters and the FPPC for investigation. Should FPPC findings deem a violation was committed, enforcement may take place administratively, civilly, or - for the most egregious violations - by referral for criminal prosecution by the City Attorney. This option would have the benefit of candidates for all elected positions in the City being under the same regulatory and enforcement framework. Also, the investigation would be done by an independent State Agency with extensive experience in doing these types of investigations. A review of the FPPC's authority and methodology is attached to this report (Exhibit D).

The Council should decide which of the three options it prefers.

1) If the Council prefers the first option, the City Manager can task the Police Chief with undertaking investigatory responsibility of any future allegations regarding violation of the City's Campaign Finance Ordinance. Under this option further budget/organizational assessment will be needed to determine what specific PD personnel would be directed to campaign investigative efforts and the impact that allocation of resources would have on current Department services.

2) If the Council prefers the second option, the City Manager will return with a list of outside consultants who can perform investigations of any future allegations regarding violation of the City's

Campaign Finance Ordinance.

3) If the Council prefers the third option, the City Attorney will return with an item to rescind the City's Ordinance at a future City Council Meeting, thereby defaulting to the State's Political Reform Act for campaign financing parameters and the FPPC for investigation for all candidates for elective office in the City.

Given the adoption of AB 571 and the recent implementation of State campaign limits for local elective offices it is the unanimous recommendation of the City Manager, City Clerk, and the City Attorney that the City Council pursue option 3.

COORDINATION

The City Clerk's office, City Manager's office and City Attorney's office collaborated on the development of this administrative report.

FISCAL IMPACT

Option 1 would incur additional staff and training costs for Police Department personnel assigned to the investigation of allegations of violations of the City's Campaign Finance Ordinance. This cost has not yet been determined. Option 2 would incur approximately \$15,000-\$30,000 in consultant fees per investigation, though the ultimate fiscal impact is difficult to determine as it is dependent on the number and scope of future complaints. Option 3 would pass all investigation costs to the FPPC.

APPROVED BY:

Mike Witzansky, City Manager

ATTACHMENTS

Exhibit A: City Ordinance 3184-18

Exhibit B: Budget Response Report #58

Exhibit C: FPPC 2021 Contribution Limits Sheet

Exhibit D: FPPC Presentation on Investigation and Enforcement Methodology

ORDINANCE NO. 3184-18

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF REDONDO BEACH, CALIFORNIA, AMENDING TITLE
2, CHAPTER 2 OF THE REDONDO BEACH MUNICIPAL
CODE REGARDING CAMPAIGN CONTRIBUTION LIMITS
FOR ELECTIONS**

WHEREAS, the problem of campaign expenditures has become a serious reality of American politics and campaigns in the City of Redondo Beach are not excepted; and

WHEREAS, incidental to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over elected officials; and

WHEREAS, it is important to place reasonable and enforceable limits on the amounts that persons may contribute to political campaigns in municipal elections for the prevention of corruption and the appearance of corruption spawned by the real or imagined coercive influence of large financial contributions on candidates' positions and on their actions if elected to office.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 2, Chapter 2, Sections 2-2.301 through 2-2.309 of the Redondo Beach Municipal Code are hereby added to read as follows:

"Chapter 2 ELECTIONS

2-2.301 Purpose

It is the intent of the City Council in enacting this Article to place realistic and enforceable limits on the amounts persons may contribute to political campaigns in municipal elections. The City Council finds that the provisions of this Article are necessary to prevent the actuality or appearance of corruption in the election process.

2-2.302 Definitions

Unless otherwise defined in this chapter, words and phrases used hereinafter shall have the same meaning as defined in the Political Reform Act of 1974 which is codified in Title 9 of the California Government Code as it now exists or may hereafter be amended.

2-2.303 Campaign contribution limits: Candidates for City Council

For general municipal and runoff elections, no person shall make to any candidate for City Council or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than One Thousand dollars (\$1000.00) for the

general municipal election and One Thousand dollars (\$1000.00) for the runoff election. The One Thousand dollar (\$1000.00) limit specified above shall be adjusted in June of every odd numbered year commencing in 2019 for changes in the consumer price index for the Los Angeles Area, CPI-U rounded to the nearest \$50.00. Nothing herein shall be construed to restrict a candidate from contributing his or her own funds or assets to his or her campaign.

2-2.304 Campaign contribution limits: Candidates for Mayor

For general municipal and runoff elections, no person shall make to any candidate for any of the office of Mayor or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than Two Thousand, Five Hundred dollars (\$2,500.00) for the general municipal election and Two Thousand, Five Hundred dollars (\$2,500.00) for the runoff election. The Two Thousand, Five Hundred dollar (\$2,500.00) limit specified above shall be adjusted in June of every odd numbered year commencing in 2019 for changes in the consumer price index for the Los Angeles Area, CPI-U rounded to the nearest \$50.00. Nothing herein shall be construed to restrict a candidate from contributing his or her own funds or assets to his or her campaign.

2-2.305 Loans

- (1) 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 Chapter.
- (2) Every loan to a candidate's controlled committee shall be by written agreement.
- (3) Notwithstanding any other provision of this Section 2-2.306, a candidate for City Council shall not loan to his or her campaign, funds in excess of Fifteen Thousand dollars (\$15,000.00) in a general municipal election and Fifteen Thousand dollars (\$15,000.00) in a runoff election.
- (4) Notwithstanding any other provision of this Section 2-2.306, a candidate for Mayor shall not loan to his or her campaign, funds in excess of Twenty-Five Thousand dollars (\$25,000.00) in a general municipal election and Twenty-Five Thousand dollars (\$25,000.00) in a runoff election.
- (5) Nothing herein shall be construed to restrict a candidate from contributing his or her own funds or assets to his or her campaign.

2-2.306 Prohibition on nonelection cycle contributions

No candidate or the controlled committee of such a person shall accept any contribution except during the election cycle in which the candidate or officeholder intends to run for or be a write-in candidate for the office for which the contribution is made. Election cycle means that period commencing with January 1 of the even numbered year immediately preceding the general municipal election for that office and ending six (6) months after the general municipal election. For a special election, the

election cycle commences with the declaration of a vacancy in an elective office and ends six (6) months after the special election date.

2-2.307 Return of contributions

A contribution will not be considered to be received or accepted if it is not negotiated or deposited, and in addition it is returned to the donor within fourteen (14) days of receipt.

2-2.308 Family Contributions

Contributions from spouses shall be treated as contributions by separate persons and shall not be aggregated. Contributions by children under the age of eighteen (18) years of age shall be treated as contributions by their parents (or legal guardians) and attributed one-half (1/2) to each parent (or legal guardian) or the total amount to a single parent (or legal guardian).

2-2.309 Violations; Misdemeanor

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor."

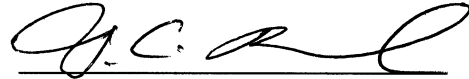
SECTION 2. EXEMPT FROM CEQA. The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (Cal. Pub. Regs. Code Section 15000, et seq.) because the only potential physical effect on the environment that could foreseeably result from its implementation is a reduction in environmental impacts associated with vehicle traffic including, but not limited to, traffic congestion and greenhouse gas emissions. Such a reduction in the use or operation of an existing City street or property is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, Section 15301. This ordinance, therefore, is an action that does not have the potential to cause significant effects on the environment.

SECTION 3. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 4. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 8th day of January, 2019.


Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:


Michael W. Webb, City Attorney


Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. 3184-18 was duly introduced at a regular meeting of the City Council held on the 18th day of December, 2018, and was duly approved and adopted at a regular meeting of said City Council held on the 8th day of January, 2019, by the following roll call vote:

AYES: NEHRENHEIM, LOEWENSTEIN, HORVATH

NOES: GRAN, EMDEE

ABSENT: NONE

ABSTAIN: NONE



Eleanor Manzano, CMC
City Clerk

CITY OF REDONDO BEACH BUDGET RESPONSE REPORT #58

June 15, 2021

Question:

What are possible options for investigating financial violations related to campaign contributions?

Response:

City Ordinance 3184-18 (attached) was adopted on January 18, 2019 to “place realistic and enforceable limits on the amounts persons may contribute to political campaigns in municipal elections” to “prevent the actuality or appearance of corruption in the election process” of which the ordinance limits are imposed on candidates for the positions of Mayor and City Council. Subsequently, Assembly 571 was enacted to amend the Political Reform Act in October 2019, and effective January 1, 2020 affecting campaign contribution limits for elective offices not covered by local ordinance. This statute was not in place when the City Council enacted our ordinance. The FPPC advises they conduct investigations only on alleged state law campaign finance violations not covered by City Ordinance (City Attorney, City Clerk, City Treasurer, and School Board) and advised that local ordinances are to be investigated by the local jurisdiction.

Due to the fact that the City Attorney’s Office would handle the prosecution of violations as misdemeanors, they cannot also conduct the investigations leading to prosecution. California City Clerks for cities with campaign finance ordinances were queried for methods of violation investigations. Of the five responses received, the method of investigations ranged from in-house code enforcement to outside contracted investigation firms. Two of the five cities that responded have a City Council-appointed ethics boards/commission that review alleged violations that work in concert with outside firms.

| CITY | METHOD OF INVESTIGATION |
|--------------|--|
| Berkeley | Our Fair Campaign Practices Commission was created specifically to enforce the campaign finance ordinance. City Attorney’s Office supports the commission and does the investigative work. |
| Chula Vista | Our Board of Ethics appoints a panel of outside attorneys to review complaints. |
| Rohnert Park | We currently use our code compliance department to enforce the ordinance. |
| Sacramento | We have an Ethics Commission that oversees campaign finance and the evaluator/investigator (attorney) is hired by them by RFQ process. |

| | |
|--------------|---|
| Santa Monica | Complaints received by City Clerk who works with my City Attorney's Office to send a letter to the filer. Works with the Attorney's Office to bring the filer into compliance, fine or refer them to the District Attorney's Office. (But the District Attorney's Office has indicated they can't file such cases.) |
|--------------|---|

In summary, because the City of Redondo Beach has its own local campaign contribution limits applicable to the Mayor and City Council campaigns, the FPPC will not investigate violations for these campaigns. Should the City Council wish to allocate funds to retain outside investigators/counsel to investigate Mayor/Council campaign violations, it is difficult to estimate a dollar amount to deal with an unknown number of violations that may be alleged. However, if pressed for a placeholder dollar amount, staff would suggest \$50,000 should the City Council wish to allocate some resources. Another possible alternative could be to rescind ordinance 3184-18 which would enable the FPPC to investigate alleged campaign violations of State law.

Attachment A: Ordinance 3184-18

Attachment B: Campaign Contribution Limits current summary

ORDINANCE NO. 3184-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, AMENDING TITLE 2, CHAPTER 2 OF THE REDONDO BEACH MUNICIPAL CODE REGARDING CAMPAIGN CONTRIBUTION LIMITS FOR ELECTIONS

WHEREAS, the problem of campaign expenditures has become a serious reality of American politics and campaigns in the City of Redondo Beach are not excepted; and

WHEREAS, incidental to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over elected officials; and

WHEREAS, it is important to place reasonable and enforceable limits on the amounts that persons may contribute to political campaigns in municipal elections for the prevention of corruption and the appearance of corruption spawned by the real or imagined coercive influence of large financial contributions on candidates' positions and on their actions if elected to office.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 2, Chapter 2, Sections 2-2.301 through 2-2.309 of the Redondo Beach Municipal Code are hereby added to read as follows:

"Chapter 2 ELECTIONS

2-2.301 Purpose

It is the intent of the City Council in enacting this Article to place realistic and enforceable limits on the amounts persons may contribute to political campaigns in municipal elections. The City Council finds that the provisions of this Article are necessary to prevent the actuality or appearance of corruption in the election process.

2-2.302 Definitions

Unless otherwise defined in this chapter, words and phrases used hereinafter shall have the same meaning as defined in the Political Reform Act of 1974 which is codified in Title 9 of the California Government Code as it now exists or may hereafter be amended.

2-2.303 Campaign contribution limits: Candidates for City Council

For general municipal and runoff elections, no person shall make to any candidate for City Council or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than One Thousand dollars (\$1000.00) for the

general municipal election and One Thousand dollars (\$1000.00) for the runoff election. The One Thousand dollar (\$1000.00) limit specified above shall be adjusted in June of every odd numbered year commencing in 2019 for changes in the consumer price index for the Los Angeles Area, CPI-U rounded to the nearest \$50.00. Nothing herein shall be construed to restrict a candidate from contributing his or her own funds or assets to his or her campaign.

2-2.304 Campaign contribution limits: Candidates for Mayor

For general municipal and runoff elections, no person shall make to any candidate for any of the office of Mayor or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than Two Thousand, Five Hundred dollars (\$2,500.00) for the general municipal election and Two Thousand, Five Hundred dollars (\$2,500.00) for the runoff election. The Two Thousand, Five Hundred dollar (\$2,500.00) limit specified above shall be adjusted in June of every odd numbered year commencing in 2019 for changes in the consumer price index for the Los Angeles Area, CPI-U rounded to the nearest \$50.00. Nothing herein shall be construed to restrict a candidate from contributing his or her own funds or assets to his or her campaign.

2-2.305 Loans

- (1) 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 Chapter.
- (2) Every loan to a candidate's controlled committee shall be by written agreement.
- (3) Notwithstanding any other provision of this Section 2-2.306, a candidate for City Council shall not loan to his or her campaign, funds in excess of Fifteen Thousand dollars (\$15,000.00) in a general municipal election and Fifteen Thousand dollars (\$15,000.00) in a runoff election.
- (4) Notwithstanding any other provision of this Section 2-2.306, a candidate for Mayor shall not loan to his or her campaign, funds in excess of Twenty-Five Thousand dollars (\$25,000.00) in a general municipal election and Twenty-Five Thousand dollars (\$25,000.00) in a runoff election.
- (5) Nothing herein shall be construed to restrict a candidate from contributing his or her own funds or assets to his or her campaign.

2-2.306 Prohibition on nonelection cycle contributions

No candidate or the controlled committee of such a person shall accept any contribution except during the election cycle in which the candidate or officeholder intends to run for or be a write-in candidate for the office for which the contribution is made. Election cycle means that period commencing with January 1 of the even numbered year immediately preceding the general municipal election for that office and ending six (6) months after the general municipal election. For a special election, the

election cycle commences with the declaration of a vacancy in an elective office and ends six (6) months after the special election date.

2-2.307 Return of contributions

A contribution will not be considered to be received or accepted if it is not negotiated or deposited, and in addition it is returned to the donor within fourteen (14) days of receipt.

2-2.308 Family Contributions

Contributions from spouses shall be treated as contributions by separate persons and shall not be aggregated. Contributions by children under the age of eighteen (18) years of age shall be treated as contributions by their parents (or legal guardians) and attributed one-half (1/2) to each parent (or legal guardian) or the total amount to a single parent (or legal guardian).

2-2.309 Violations; Misdemeanor

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor."


SECTION 2. EXEMPT FROM CEQA. The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (Cal. Pub. Regs. Code Section 15000, et seq.) because the only potential physical effect on the environment that could foreseeably result from its implementation is a reduction in environmental impacts associated with vehicle traffic including, but not limited to, traffic congestion and greenhouse gas emissions. Such a reduction in the use or operation of an existing City street or property is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, Section 15301. This ordinance, therefore, is an action that does not have the potential to cause significant effects on the environment.

SECTION 3. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 4. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 8th day of January, 2019.


Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:


Michael W. Webb, City Attorney


Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. 3184-18 was duly introduced at a regular meeting of the City Council held on the 18th day of December, 2018, and was duly approved and adopted at a regular meeting of said City Council held on the 8th day of January, 2019, by the following roll call vote:

AYES: NEHRENHEIM, LOEWENSTEIN, HORVATH

NOES: GRAN, EMDEE

ABSENT: NONE

ABSTAIN: NONE



Eleanor Manzano, CMC
City Clerk

CAMPAIGN CONTRIBUTION LIMITS

| <u>Contest</u> | <u>Contribution Limits – per Election</u> | <u>Personal Loans</u> |
|---------------------|---|-----------------------|
| Mayor | \$2,550.00 | \$25,000 |
| City Council | \$1,000.00 | \$15,000 |
| City Attorney | \$4,700.00 (thru 12/31/20) \$4,900.00 (eff. 1/1/2021)* | \$100,000 |
| School Board Member | \$4,700.00 (thru 12/31/20) \$4,900.00 (eff. 1/1/2021)* | \$100,000 |

BACKGROUND:

- On January 8, 2019 the City Council adopted Ordinance No. 3184-18 regarding Campaign Contribution limits for Candidates for Mayor and for City Council, which are to be adjusted every June of odd-numbered years commencing June 2019 subject to Los Angeles Area Consumer Price Index (CPI-U).
- Effective January 1, 2020, California Assembly Bill 571 came into effect, which amends Government Code sections pertaining to campaign contribution limits that apply to elective offices that do not have limits under City ordinance. Therefore, contribution limits for the Offices of City Attorney, City Clerk, City Treasurer, and School Board are subject to the state law.

See Section 17 for Full Text of California Government Code 85300 – 85321 (Article 3 of Chapter 5, Title 9 of Political Reform Act). Assembly Bill 571 adds or amends Government Code Sections 85301, 85305-85307, and 85315-85318.

*Effective January 1, 2021, per the FPPC, the adjusted total Campaign Contribution limit for these offices is \$4900.00. If a single contributor gives \$4700 up to December 31, 2020, they may only give an additional \$200 on or after January 1, 2021.

California Fair Political Practices Commission

California State Contribution Limits

(Effective January 1, 2021 - December 31, 2022)

Candidates seeking a state office and committees that make contributions to state candidates are subject to contribution limits from a single source. Beginning January 1, 2021 a state campaign contribution limit will by default apply to city and county candidates when the city or county does not have laws addressing a contribution limit on such candidates. (Sections 85301 - 85303.) Contributions from affiliated entities are aggregated for purposes of the limits. (Regulation 18215.1.) The chart below shows the current limits per contributor for state offices and city and county candidates when the city or county does not have laws addressing a contribution limit on such candidates. The primary, general, special, and special run-off elections are considered separate elections. Contribution limits to candidates apply to each election. Contribution limits to officeholder and other committees apply on a calendar year basis. Contact your city or county about contribution limits for local offices, state campaign contribution limit will by default apply to city and county candidates when the city or county does not have laws addressing a contribution limit on such candidates.

Contribution Limits to State and Local* Candidates Per Election

| Candidate or Officeholder | Contributor Sources | | |
|---|---|--|-----------------|
| | Person (individual, business entity, committee/PAC) | Small Contributor Committee (see definition on page 2) | Political Party |
| City and County Candidates subject to Section 85301 (d) | \$4,900 | \$4,900 | \$4,900 |
| Senate and Assembly | \$4,900 | \$9,700 | No Limit |
| CalPERS/CalSTRS | \$4,900 | \$9,700 | No Limit |
| Lt. Governor, Secretary of State, Attorney General, Treasurer, Controller, Supt. of Public Instruction, Insurance Commissioner, and Board of Equalization | \$8,100 | \$16,200 | No Limit |
| Governor | \$32,400 | \$32,400 | No Limit |

*State campaign contribution limit will by default apply to city and county candidates when the city or county does not have laws addressing a contribution limit on such candidates

Contributions to Other State Committees Per Calendar Year

| Committee | Contributor Sources | |
|---|---|--|
| | Person (individual, business entity, committee/PAC) | |
| Committee (Not Political Party) that Contributes to State Candidates (PAC) | \$8,100 | |
| Political Party Account for State Candidates | \$40,500 | |
| Small Contributor Committee | \$200 | |
| Committee Account NOT for State Candidates (Ballot Measure, PAC, Political Party) | No Limit* | |

*State committees (including political parties and PACs) may receive contributions in excess of the limits identified above as long as the contributions are NOT used for state candidate contributions. (Regulation 18534.)

Contributions to State Officeholder Committees Per Calendar Year

| Committee | Contributor Sources | |
|---|---|----------------------------|
| | Any Source (Person, Small Contributor Committee or Political Party) | Aggregate From All Sources |
| Senate and Assembly | \$4,000 | \$67,300 |
| CalPERS/CalSTRS | \$4,000 | \$67,300 |
| Lt. Governor, Secretary of State, Attorney General, Treasurer, Controller, Supt. of Public Instruction, Insurance Commissioner, and Board of Equalization | \$6,700 | \$134,600 |
| Governor | \$26,900 | \$269,300 |

California Fair Political Practices Commission

California State Contribution Limits

(Effective January 1, 2021 - December 31, 2022)

The contribution limits are effective for elections held between January 1, 2021 and December 31, 2022. (Regulation 18545.) These limits do not apply to contributions made to elections in previous years. Such contributions are subject to the limits in place for that year see previous charts.

Legal Defense Funds

Contributions raised for a legal defense fund are not subject to contribution limits or the voluntary expenditure ceiling. However, a candidate or officeholder may raise, in total, no more than is reasonably necessary to cover attorney's fees and other legal costs related to the proceeding for which the fund is created. (Section 85304; Regulation 18530.4.)

Recall Elections

A state officeholder and city or county officeholder subject to Section 85301 (d) who is the subject of a recall may set up a separate committee to oppose the qualification of the recall measure and, if the recall petition qualifies, the recall election. Neither contribution limits nor voluntary expenditure ceilings apply to the committee to oppose the recall that is controlled by the officeholder who is the target of the recall attempt. Candidates running to replace an officeholder who is the target of a recall are subject to the contribution limits and the expenditure limits applicable to the election for that office. (Section 85315; Regulation 18531.5.)

Ballot Measure Committees

Contributions to ballot measure committees controlled by a candidate for elective state office or a candidate for elective city or county office subject to Section 85301 (d) are not limited.

Contributions from State Candidates and Candidates subject to Section 85301 (d)

A state candidate or candidate for elective city or county office subject to Section 85301 (d) may not contribute more than \$4,900 to a committee controlled by another state candidate or candidate for elective city or county office subject to Section 85301 (d) (This limit applies on a per election basis and includes, in the aggregate, contributions made from the candidate's personal funds and from campaign funds. (Section 85305; Regulation 18535.) This limit does not apply to a committee controlled by a state candidate or a committee controlled by a candidate for elective city or county office subject to Section 85301 (d) to oppose his or her recall or their contributions made to a legal defense fund established by a candidate for elective state office or candidate for elective city or county office subject to Section 85301(d). It also does not apply to contributions made by a candidate for elective state office or a candidate for elective city or county office subject to Section 85301 (d) to a ballot measure committee controlled by another state candidate or candidate for elective city or county office subject to Section 85301 (d). Please note there are certain rules applicable to use of funds held by state officeholder committees (See Regulation 18531.62.)

Communications Identifying State Candidates

Any committee that makes a payment or a promise of payment totaling \$50,000 or more for a communication that:

1. Clearly identifies a state candidate; but
2. Does not expressly advocate the election or defeat of the candidate; and
3. Is disseminated, broadcast, or otherwise published within 45 days of an election, may not receive a contribution from any single source of more than \$40,500 in a calendar year if the communication is made at the behest of the candidate featured in the communication. (Section 85310.)

Officeholder Committees

Officeholder contributions must be cumulated (in full) with any other contributions from the same contributor(s) for any other future elective state office or elective city or county office subject to Section 85301 (d) for which the officeholder maintains a controlled committee during the term of office in which the contribution is received. Contributions to candidates for future elections and to their officeholder account are cumulated for purposes of contribution limits. (Regulation 18531.62.)

Contributions from State Lobbyists

A state lobbyist may not contribute to a state officeholder's or candidate's committee if the lobbyist is registered to lobby the agency of the elected officer or the agency to which the candidate is seeking election. The lobbyist also may not contribute to a local committee controlled by any such state candidate. (Section 85702; Regulation 18572.) In addition, effective January 1, 2015, lobbyists and lobbying firms may no longer take advantage of the \$500 or less home/office fundraiser exception that is available to other individuals and entities. (Section 82015(f).)

Local Elections

Many cities and counties have local contribution limits and other election rules. "Local Campaign Ordinances" are listed on the FPPC's website. Check with your city or county about contribution limits for local elections. A State campaign contribution limit will by default apply to city and county candidates when the city or county does not have laws addressing a contribution limit on such candidates.

Definitions

Person: 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. (Section 82047.)

Small Contributor Committee: Any committee that meets all of the following criteria:

- (a) The committee has been in existence for at least six months.
- (b) The committee receives contributions from 100 or more persons.
- (c) No one person has contributed to the committee more than \$200 per calendar year.
- (d) The committee makes contributions to five or more candidates. (Section 85203; Regulation 18503.)

Political Party Committee: The state central committee or county central committee of an organization that meets the requirements for recognition as a political party under Elections Code Section 5100. (Section 85205.)

FAIR POLITICAL PRACTICES COMMISSION



Mission of the Commission

- The mission of the Fair Political Practices Commission is to promote the integrity of state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying and conflict of interest laws.
- Advice, Train and Educate - Legal and Education Divisions
- Audit, Investigate, and Prosecute - Enforcement Division

Enforcement Division Mission

To fairly, effectively and efficiently enforce the provisions of the Political Reform Act.

Enforcement Division

- 30 Employees
- 9 Attorneys
- 9 Investigators
- 8 Specialists
- 4 Support Staff

Enforcement Under the PRA

- “In enacting the Political Reform Act, the people find and declare that previously laws regulating political practices have suffered from inadequate enforcement by state and local authorities.” (Gov’t Code § 81001(h))
- “Adequate enforcement mechanisms should be provided to public officials and private citizens in order that the Political Reform Act will be vigorously enforced.” (Gov’t Code § 81002(f))

Duty to Investigate

- “Upon the sworn complaint of any person or on its own initiative, the Commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action.” (Gov’t Code § 83115)
- “...the Commission may make investigations and audits with respect to any reports or statements required by this title.” (Gov’t Code § 90003)

Administrative Investigations

- Gov't Code § 11180 authorizes investigations and prosecutions concerning “all matters relating to the business activities and subjects under the jurisdiction of the department” including “violations of any law.”
- Gov't Code § 11181 provides that in connection with investigations, the department head may “issue subpoenas for the . . . production of papers, books, accounts, documents . . . and testimony in an inquiry, investigation, hearing or proceeding pertinent or material thereto in any part of the state.”
 - FPPC has administrative subpoena power through this section and from within the Act itself (Gov't Code § 83118)

Administrative Investigations

(cont.)

The California Supreme Court stated in *Brovelli v. Superior Court of Los Angeles County* (1961) 56 Cal.2d 524, 529:

“As has been said by the United States Supreme Court, the power to make administrative inquiry is not derived from a judicial function but is more analogous to the power of a grand jury, which does not depend on a case or controversy in order to get evidence but can investigate **‘merely on suspicion that the law is being violated, or even just because it wants assurance that it is not.’**” (*United States v. Morton Salt Co.*, 338 U.S. 632, 642-643.)
(emphasis added)

What the Commission Enforces

- Financial Reporting by Public Officials (SEIs)
- Conflicts-of-Interest for Public Officials (GC 87100 & 1090)
- Gifts and Honoraria
- Post-Governmental Employment (State & Local)
- Mass Mailings & Advertising Disclosure
- Campaign Finance and Reporting
- State Lobbying

Enforcement Options

Most violations of the Act can be prosecuted three ways:

- Administrative
- Civil
- Criminal

Administrative Prosecution

- Most common type of FPPC action
- Can seek penalties of up to \$5,000 per violation
 - More for certain advertising violations
- Statute of Limitations – 5 years
 - Can be tolled with a PC Report, tolling agreement, or if intent to conceal
- Applicable to all violations of Act
- Faster and more efficient resolution than civil court

Civil Prosecution

- Can be initiated by FPPC, private citizens, Attorney General or District Attorneys (Gov't Code § 91001)
- FPPC – State or any State agency, or local with written DA permission
- Attorney General – FPPC only
- District Attorneys – Any other agency
- Private Citizens – Must request action from DA, FPPC or AG first.
 - 120 days to respond.

Criminal Prosecution

- Must knowingly or willfully violate Act (Gov't Code § 91000)
- Violations are misdemeanors
- Statute of Limitations – 4 years
- If convicted, can't be candidate or lobbyist for four years
 - Judge may waive this, but must do so explicitly
 - Violation of this is a felony

Sources of Cases

Enforcement cases are initiated by:

1. Complaints (Sworn, Non-sworn or Anonymous)
2. FPPC SEI Unit and filing officer referrals
3. Audits and audit referrals
4. Media reports
5. Staff-initiated investigations
6. Tips
7. Referrals from law enforcement agencies

Cases, Complaints and Referrals

2016 (Election year)

- 1,180 Complaints
- 350 Referrals
- 1,530 Total

2017 (Non-election year)

- 564 Complaints
- 1,616 Referrals
- 2,180 Total

Intake

- All complaints and referrals go through the intake process to determine whether Enforcement should open a case.
- In determining whether to open a case, intake staff review the complaint or referral, any additional information provided by the complainant, publicly available information, and any material submitted by the subject of a complaint.
- If the Intake staff determines sufficient evidence is present to suggest a violation may have occurred then a case is opened.

Intake Timeline

(Regulation 18360)

- Sworn Complaints:
 - Within 3 days, respondent is sent a copy of the complaint
 - Enforcement staff has 14 days to send investigate/won't investigate letter/need more time letter to complainant with a copy to respondent (Gov't Code § 83115)
- Commission-initiated cases (includes everything else):
 - No legally-mandated deadlines
 - Letter of Inquiry sent when appropriate
 - Generally, 10 days to respond
- Enforcement sends respondents notice of allegations against them 5 days prior to disclosure to the public/media.

Investigations

- Investigators and attorneys work together to gather the evidence to prove or disprove violations occurred. Auditors and other staff assist with these investigations.
- FPPC has subpoena power but must seek voluntary compliance prior to issuing subpoena unless:
 - Bank/business records
 - Threat of record destruction
- Executive Director authorizes issuance of administrative subpoenas if:
 - Records are material to the matter, and
 - the ED reasonably believes the person has the information under their control.

Audits

- The PRA requires the FPPC perform audits of the candidates and their committees for State Controller, Public Employees Retirement Board and State Board of Equalization
- FTB performs all other statutorily required audits
- FPPC has the authority to perform discretionary audits
- Contract with County of San Bernardino
- Auditors also routinely assist with complicated campaign investigations

Types of Resolutions

- **No Action closure letter** – If there is insufficient evidence to prosecute a case and no further information would be helpful or informative. (318)
- **Advisory letter** – If there is insufficient evidence to prosecute a case but the person complained about appears to need information about the Act to ensure future compliance. (17)
- **Warning letter** – If a violation of the Act is found but the seriousness of the offense is low, public harm is minimal, or other mitigation is found so that a monetary fine is not warranted. (505)
- **Stipulation** – negotiated settlement. (Mainline (66)/Streamline (262))
- **Default judgment** – Respondent does not participate in settlement or administrative hearing process. (12)
- **Administrative Law Judge Decision** – The decision is issued after an administrative hearing conducted pursuant to the Administrative Procedures Act. The decision must be approved by the Commission before being final. (1)
- **Civil action** – Judgment issued by a superior court. (0)

Streamline Program

- 77% of all cases prosecuted with fines go through the streamline program.
- Commission approved (May 2015): lower fines based on a formula for violations involving small amounts of contributions rec'd or expenditures made as well as SEI non-filing and SEI non-reporting.
- Commission will start discussions regarding modifying the program to change the fine amounts and possibly add additional violations, like advertising and recordkeeping violations.

Mainline Settlements

- Work with respondent (or counsel) to negotiate a mutually agreeable result, which must include:
 - An admission of violations,
 - Agreement on relevant facts, and
 - Public disclosure of any previously undisclosed information.
- “Settlement is the offspring of compromise; the question we address is not whether the final product could be prettier, smarter or snazzier, but whether it is fair, adequate and free from collusion.” (*Hanlon v. Chrysler Corp.*, (1998) 150 F.3d 1011, 1027.)

Penalties

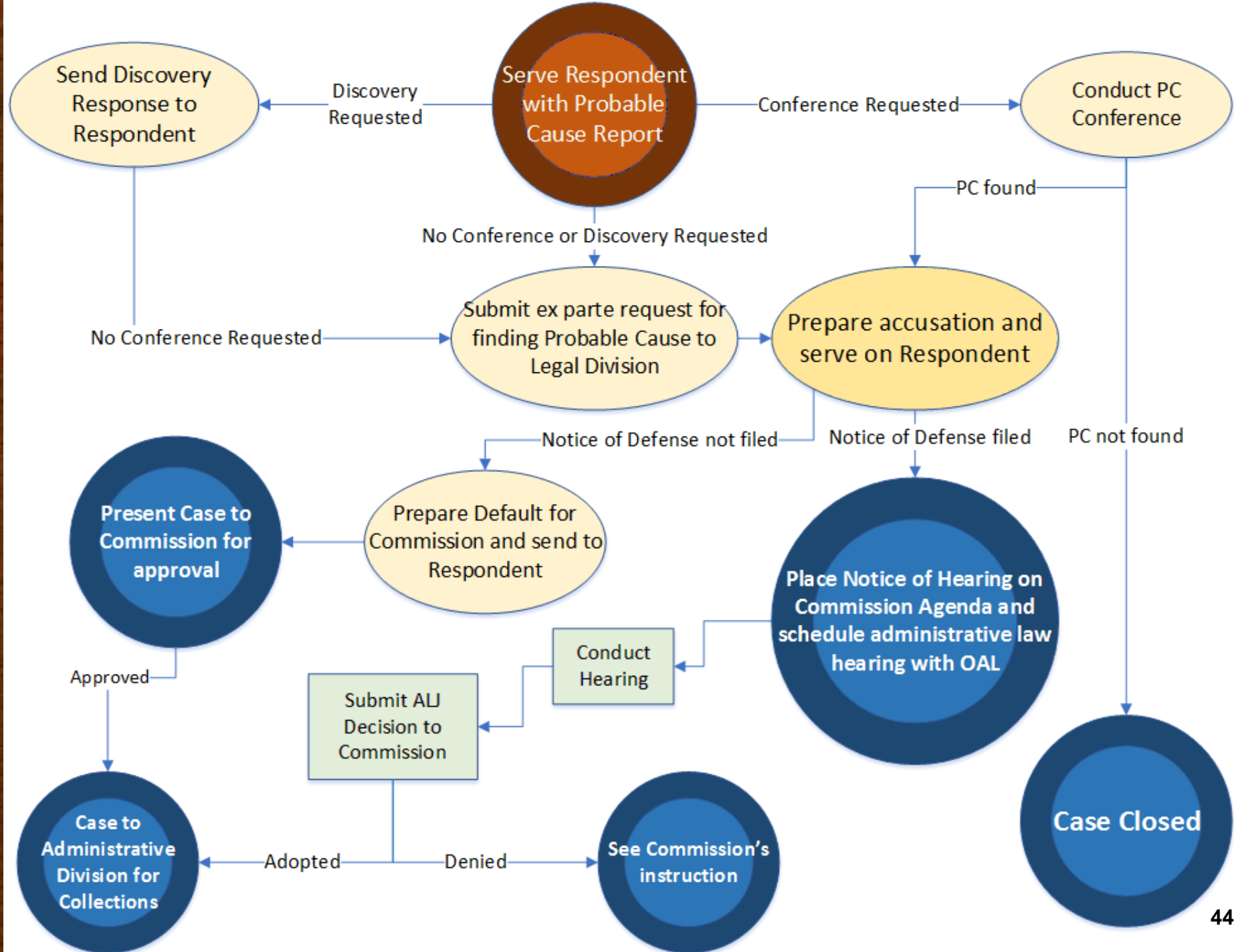
Recommended penalties determined by:

- Prior similar cases
- Commission Direction
- Factors set forth in Regulation 18361.5, subdivision (d):
 - the seriousness of the violations;
 - the presence or lack of intent to deceive the voting public;
 - whether the violation was deliberate, negligent, or inadvertent;
 - whether the Respondent demonstrated good faith in consulting with Commission staff; and
 - whether there was a pattern of violations.
- Public harm

Approval of Penalties

All penalties are approved by Commission

- 3 votes are required to approve or reject
- Can accept or reject stipulated agreements
- Enforcement cannot discuss facts not included in stipulations, except otherwise public information
- For defaults, Enforcement can discuss facts and penalty and Commission can unilaterally change the proposed penalty



Probable Cause

- Probable Cause Report. Enforcement Division files a probable cause report by serving it on the respondent. The respondent has the right to submit written argument, request discovery of evidence, and request a hearing at which respondent may submit evidence, including witness testimony.
- Probable Cause Conference. A neutral hearing officer determines whether there is sufficient evidence to lead a reasonable person to believe, or entertain a strong suspicion, the respondent violated the PRA. Respondent may request that an ALJ act as hearing officer for a probable cause hearing.

Administrative Hearings

- Administrative Hearing. If a hearing officer finds probable cause, the hearing officer orders the Enforcement Division to issue an Accusation and the case proceeds to administrative hearing pursuant to the California Administrative Procedures Act. Hearings may be conducted by the Commission, or an administrative law judge from the Office of Administrative Law. If the hearing office does not find probable cause, the case is closed.
- ALJ Finding. If an administrative law judge finds a respondent violated the PRA, the Commission may adopt or reject the ALJ's decision. The respondent may submit a brief to the Commission prior to its determination on a proposed decision.
- Further Review. Respondents have the right to request reconsideration of a decision adopted by the Commission, and may file a writ of mandate in superior court challenging a final Commission decision.