



CITY COUNCIL AGENDA REPORT

City of Anaheim OFFICE OF CITY ATTORNEY

DATE: JUNE 21, 2022

FROM: OFFICES OF CITY ATTORNEY AND CITY CLERK

SUBJECT: AN ORDINANCE OF THE CITY OF ANAHEIM ADDING NEW SECTIONS AND AMENDING VARIOUS SECTIONS OF CHAPTER 1.09 OF TITLE 1 OF THE ANAHEIM MUNICIPAL CODE RELATNG TO CAMPAIGN REFORM

ATTACHMENT (Y/N): YES **ITEM #** 14

ACTION:

That the City Council introduce an ordinance adding new sections and amending various sections of Chapter 1.09 of Title 1 of the Anaheim Municipal Code relating to Campaign Reform, the key provisions of which would establish recusal rules for elected members of the City Council when they receive campaign contributions from parties who have matters before the Council, and that place time limits and/or disclosure requirements on campaign fundraising and debt retirement.

DISCUSSION:

At the May 24, 2022 Council meeting, Council Member Moreno requested an ordinance amending the City's campaign reform provisions in order to strengthen the City's current policies. At the June 7, 2022 Council meeting, the Council discussed the matter, Council Member Valencia requested that a provision be added requiring the disclosure of contribution(s) totaling \$250 or more during the fundraising period, and the item was continued to the June 21, 2022 meeting.

The proposed ordinance would make a number of changes to the City's Campaign Reform laws, codified in Chapter 1.09 of Title 1 of the Anaheim Municipal Code. The following is a summary of the changes contained in the proposed ordinance:

New Section 1.09.051 – Recusal for Actions Involving Campaign Contributors: This new section, modeled after the "Levine Act" set forth in California Government Code Section 84308, requires Council Members (including the Mayor) to recuse themselves from any action taken by the City that would impact a third party who contributed more than \$250 to that Member's election campaign within the preceding 12 months. A recused Council Member would also be prohibited from making, participating in, or in any way attempting to use his or her official position to influence the decision impacting or involving a campaign contributor. Furthermore, for the 12 months following a final decision by the City (increased from the 3 month period mandated in the Levine Act), a Council Member may not accept, solicit, or direct a contribution from the party or any participant who was impacted by that decision.

Unlike the Levine Act, this new section would also apply if the third party made a contribution of over \$250 to an independent committee which expressly advocates for the election of the Council Member, if the Member has actual knowledge of such contribution.

The section further provides the Council Member must disclose if he or she has received any contributions of more than \$250, or has actual knowledge of such a contribution to an independent committee supporting the election of the Council Member, from the party or participant within the preceding 12 months.

If a Council Member receives a contribution which would otherwise require a recusal, he or she may return the contribution, or that portion over \$250, within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving or impacting the third party.

Unlike the Levine Act, this section would contain a provision allowing members of the public to challenge action allegedly taken in violation of the recusal requirements. This new section is modeled after the Brown Act's provisions for these types of challenges, specifically California Government Code Section 54960.1. Specifically, any interested person claiming that a Council Member did not comply with the recusal requirements shall make a written demand of the City Council to cure or correct the action alleged to have been taken in violation of this section within 30 days from the date the action was taken. The City would have an opportunity to cure or correct the alleged action, or to inform the interested party in writing of its decision not to cure or correct the challenged action, at which point the interested party would have an opportunity to challenge the action in court.

Consistent with the Levine Act, Council Members need not recuse themselves from actions involving low bid, labor, or personal employment contracts regardless of whether they received campaign contributions from parties involved in those actions. However, this section would require participating Council Members to disclose on the record before voting that he or she has received a contribution of more than \$250 from the party or participant to that type of contract.

Furthermore, the proposed ordinance requires the party to a proceeding involving a license, permit, or other entitlement for use to disclose on the record of any contribution of more than \$250 made within the preceding 12 months to any Council Member or committee in support of a Council Member.

New Sub-Section 1.09.050.060 – Contribution Limitations: Current law places no time limit when campaign contributions may be solicited or accepted. This new sub-section provides that a City candidate or a controlled committee for such candidate shall only solicit and accept contributions from one year immediately preceding the general municipal election for the office sought through no more than 180 days after the date of the election. The sub-section further provides that after a date of the election, no City

candidate or controlled committee shall solicit or accept a contribution that exceeds the net debts outstanding from the election.

New Sub-Section 1.09.050.070—Disclosure Requirements: This provision requires a candidate or controlled committee to submit a disclosure report within 24 hours of receiving any contribution(s) that total \$250 or more during the reporting period. This is similar to state law, except that the contribution level is lower (the state law threshold is \$1,000) and the requirement applies to any contribution accepted during the fundraising period (whereas state law requires disclosure of contributions received within 90 days of the election);

Amended Section 1.09.058 – Debt Retirement and Reporting: This section provides that a City candidate or a controlled committee for such candidate shall only solicit and accept contributions for the purpose of retiring outstanding debt from one year immediately preceding the general municipal election for the office sought through no more than 180 days after the date of the election. No later than 180 days after the election for the office sought, the candidate must retire all campaign related debts. The proposed section provides further than an indebted former candidate whom, or a controlled committee for such candidate which, as of the effective date of this section, has outstanding debt from a prior city election must repay or forgive the debt and the committee be dissolved no later than January 8, 2023 (180 days from the date of adoption, if adopted). Current law places no time limit on how long such contributions may be solicited and accepted or repaid and on how long committees may stay open.

The proposed ordinance amending the relevant sections of Anaheim Municipal Code Chapter 1.09 are attached, along with a redlined version detailing the changes to the Code. If introduced, the ordinance will return for Council adoption at the July 12 Council meeting.

IMPACT ON BUDGET:

There is no impact on the City’s budget.

Respectfully submitted,

Respectfully submitted,

Robert Fabela
City Attorney

Theresa Bass
City Clerk

Attachments:

1. Ordinance
2. AMC Chapter 1.09 Campaign Reform (redlined)
3. Comparison Levine Act v. Proposed Ordinance – Recusal for Conflict of Interest