# SECTION THREE

CAMPAIGN REFORM
(HBMC Chapters 2.06, 2.07)

GIFTS TO PUBLIC OFFICIALS
(California Government Code Section 89503)

GIFTS AND HONORARIA
(Fair Political Practices Commission, January, 2015)

# CAMPAIGN REFORM
# (HBMC Chapters 2.06, 2.07)

## Chapter 2.06 CAMPAIGN DOCUMENTS

### 2.06.010 Findings and Purpose

The City Council finds and declares as follows:

A. Elections are susceptible to the dissemination of campaign literature known as "hit pieces." These documents are sent to voters in the later stages of a campaign, typically contain personal attacks on candidates or the proponents/opponents of measures and frequently misrepresent a candidate's position on issues or the true impact of a measure.

B. Prompt public disclosure of the contents of last-minute campaign documents including hit pieces will allow for the discussion of important issues and the conduct of fair elections by: (1) offering the candidate attacked an opportunity to accurately represent his or her position on issues; (2) offering opponents or proponents the opportunity to respond to statements about a measure that are untrue or believed to be untrue; and (3) providing an opportunity for a candidate, proponent or opponent to disavow the contents of any campaign document that he or she believes represents an unfair, untrue or improper attack on any person.

C. The requirement for prompt disclosure of last-minute campaign documents is content neutral, serves compelling municipal interests in fair elections and full discussions of relevant issues, and is the least intrusive method available to further these interests. (3978-6/13)

### 2.06.020 Definitions

For the purposes of this chapter, the following terms shall have the meaning specified in this section:

"**Campaign document**" means any writing or document which supports, opposes or relates to any candidate or measure.

"**Candidate**" means any individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials for the City of Huntington Beach.

"**Distributing**" or "**distribution**" shall mean mailing via United States mail or passing out any campaign document to any person.

"**Measure**" means any initiative, referendum, Charter amendment or other proposition which is listed on the ballot for any general or special municipal election and which is being voted on only in the City of Huntington Beach.

"**Person**" includes any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (3978-6/13)

### 2.06.030 Filing

Any person distributing 1,000 or more substantially similar campaign documents within 30 days of any general or special municipal election shall, within one business day of first distribution, transmit two copies of the campaign document to the City Clerk for the City of Huntington Beach. (3978-6/13)

### 2.06.040 Public Record

Campaign documents filed with the City Clerk shall be a matter of public record. The City Clerk shall make available, upon the request of any person appearing at the office of the City Clerk during normal business hours, a copy of campaign documents filed with the City Clerk. (3978-6/13)

### 2.06.050 Penalties

Any violation of this chapter shall be punishable by:

A. **Administrative Citation**. Violation of this chapter is subject to the issuance of an administrative citation under the provisions of Chapter 1.18 of this code. An operator may be cited for violations occurring on the premises in their presence or for knowingly permitting violations of this chapter.

B. **Civil Action**. The City Attorney may institute an action in any court of competent jurisdiction, including an action to abate a nuisance, to restrain, enjoin, or abate the condition(s) found to be in violation of the provisions of this chapter, as provided by law.

C. It shall be a violation of this chapter for any principal, including but not limited to any operator, to permit, procure, counsel or assist any agent of that principal, including but not limited to an employee or independent contractor, to violate any provision of this chapter. (3978-6/13)

## Chapter 2.07 CAMPAIGN REFORM

### Note

* **Note**: §§ 2.07.060, 2.07.110, 2.07.120, 2.07.160—2.07.210 and 2.07.250 repealed by Ord. 3803-7/08.

### 2.07.010 Name

This chapter shall be known and may be cited as the "City of Huntington Beach Campaign Reform Law." (3220-1/94)

### 2.07.020 Purpose

The purpose of this chapter is to ensure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of City candidates. To achieve such purpose, this chapter is designed to reduce the influence of large contributions, to ensure that multiple contributions in excess of the contribution limits do not originate from the same source of funds, to ensure that individuals and interest groups continue to have a fair and equal opportunity to participate in electing City candidates, and to maintain public trust in governmental institutions and the electoral process. (3220-1/94)

### 2.07.030 Relation to Political Reform Act of 1974

This chapter is intended to supplement the Political Reform Act of 1974. Unless the term is specifically defined in this chapter, or the contrary is stated or clearly appears from the context, words and phrases shall have the same meaning as when they are used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, as the same may be, from time to time amended. (3220-1/94)

### 2.07.040 Definitions

"**City candidate**" means any person who is a candidate for City Council, City Clerk, City Treasurer, or City Attorney of the City of Huntington Beach.

"**Elective City officer**" means any person who is Mayor, a member of the City Council, City Clerk, City Treasurer, or City Attorney of the City of Huntington Beach.

"**Electronic filing**" means the submission of required campaign statements and reports in an electronic format approved by the Secretary of State and the City Clerk.

"**Non-elected City official**" means any person who is a member of a City of Huntington Beach board, committee, or commission, and who is not elected to that position.

"**Person**" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (3220-1/94, 4009-4/14)

**2.07.050 Campaign Contribution Limitations**

No person shall make to any City candidate or the controlled committee of any such City candidate, and no such candidate or committee shall accept from any such person, a contribution or contributions totaling more than $500.00 in a City Council, City Clerk, City Treasurer, or City Attorney election cycle. Thereafter said contribution limitations shall increase by the October consumer price index (CPI) of Los Angeles, Long Beach, and Anaheim areas, rounded to the nearest $10.00, effective at the beginning of each new election cycle. (3220-1/94, 3599-2/03, 3803-6/08)

**2.07.070 Election Cycle**

A. **City Council, City Clerk, City Treasurer, and City Attorney Elections**. For purposes of the limits of this chapter, as applied to elections for City Council, City Clerk, City Treasurer, and City Attorney, the final date for contributions shall be December 31st of the year in which the election for the open position was held. Contributions made after the final date shall be deemed contributions for the next election cycle. Notwithstanding the foregoing, contributions made after the final date to an elected councilmember who is ineligible for a further consecutive term, shall be deemed a contribution for the most recent election cycle in which such councilmember was eligible, and such contributions shall be subject to all other limitations and regulations in effect during said election cycle.

B. **Examples of the Election Cycle**. January 1, 1987, to December 31, 1990, was the "election cycle" for the 1990 election. Pursuant to this section, the four-year period for purposes of applying the interpretation of the Campaign Ordinance Election Cycle 2.07.070(A) shall be as follows:

1. **Example 1**.

1992 Election Cycle - Three Council Seats and City Clerk and City Treasurer: January 1, 1989 - December 31, 1992.

a. The "last election" was November 1988.

b. December 31, 1988, was the last or final date for receipt of campaign contributions for the 1988 election.

c. January 1, 1989, began the election cycle for the 1992 election.

d. December 31, 1992, ended the election cycle for the 1992 election.

2. **Example 2**.

1994 Election Cycle - Four Council Seats and City Attorney: January 1, 1991 - December 31, 1994.

a. The "last election" was November 1990.

b. December 31, 1990, was the last or final date for receipt of campaign contributions for the 1990 election.

c. January 1, 1991, began the election cycle for the 1994 election.

d. December 31, 1994, ends the election cycle for the 1994 election.

3. **Example 3**.

1996 Election Cycle - Three Council Seats and City Clerk and City Treasurer: January 1, 1993 - December 31, 1996.

a. The "last election" was November 1992.

b. December 31, 1992, was the last or final date for receipt of campaign contributions for the 1992 election.

c. January 1, 1993, began the election cycle for the 1996 election.

d. December 31, 1996, ends the election cycle for the 1996 election.

C. **Recalls**. For purposes of the limits of this chapter, campaign contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election or after the City Clerk has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur:

1. The recall proponents fail to return signed petitions to the City Clerk within the time limits set forth in the California Elections Code.

2. All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act.

3. Ten days after a recall election has been held. (3220-1/94, 3749-9/06, 3830-5/09)

### 2.07.080 Prohibition on Multiple Campaign Committees

A City candidate or an elective City officer shall have no more than one campaign committee which shall have only one bank account out of which all qualified campaign and office holder expenses related to that City office shall be made. This section does not prevent a City candidate or an elective City officer from establishing another campaign committee solely for the purpose of running for a state, federal, local, or other City office. This section also does not prevent an elective City officer from establishing another campaign committee solely for the purpose of opposing his or her own recall. (3220-1/94)

### 2.07.090 Prohibition on Transfers

A. No funds may be transferred into any City candidate or elective City officer's campaign committee from any other campaign committee controlled by a candidate (including said City candidate) or by an elective City officer (including said elective City officer).

B. No City candidate and no committee controlled by a City candidate or elective City officer shall make any contribution to any other City candidate running for office or to any committee supporting or opposing a City candidate for elective City office, nor to any committee supporting or opposing a recall of an elective City officer. This section shall not prohibit a City candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective City office.

The provision of this section shall not apply to the candidate or elected officer who forms a new committee for purposes of reelection to the same office and, to close out the prior committee,

transfers the money or debt from the prior committee to the new committee and, in so doing, complies with all regulations of the Political Reform Act of 1974, and as amended. (3220-1/94)

### 2.07.100 Loans to City Candidates and Elective City Officers and Their Controlled Committee

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 chapter.

B. Every loan to a City candidate or elective City officer or their controlled committees shall be by written agreement which shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

C. The proceeds of a loan made to a City candidate or elective City officer 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 chapter if the loan is made directly to the City candidate or elective City officer or his or her controlled committee. The guarantors of such a loan shall remain subject to the contribution limits of this chapter.

D. Extensions of credit (other than loans pursuant to subsection C of this section) for a period of more than 30 days are subject to the contribution limitations of this chapter.

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.

F. The monetary limitations or provisions of this section shall not apply to a candidate's loan of his or her personal funds to his or her own campaign committee.

G. No City candidate and no committee controlled by a City candidate or elective City officer shall make any contribution to any other City candidate running for office or to any committee supporting or opposing a City candidate for elective City office, nor to any committee supporting or opposing a recall of an elective City officer. This section shall not prohibit a City candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective City office. (3220-1/94)

### 2.07.130 Transmittal of Campaign Contributions in City Office Buildings

A. No person shall receive or personally deliver or attempt to deliver a contribution in any office which the City owns or for which the City pays the majority of the rent where the business of the City is conducted.

B. For purposes of this section:

1. "Personally deliver" means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary, other than the United States mail.

2. "Receive" includes the receipt of a campaign contribution delivered in person. (3220-1/94, 3803-6/08)

### 2.07.140 Disclosure of Occupation and Employer

No campaign contribution shall be deposited into a campaign bank account of a City candidate or elective City officer unless the disclosure information required by the Political Reform Act, including

the name, address, occupation and employer of the contributor, or, if self-employed, name of business, is on file in the records of the recipient of the contribution. This information is to be reported on each campaign statement required to be filed by the Political Reform Act. (3220-1/94)

### 2.07.150 Reporting of Cumulative Contributions

A cumulative contribution for each contributor shall be based on an election cycle and shall be reported on each campaign statement required to be filed by the Political Reform Act. (3220-1/94)

### 2.07.155 Requirement to File Statements and Reports Electronically

A. An elective City officer, City candidate, committee, or other person required to file campaign statements or reports under this chapter and Title 9, Chapter 14 of the California Government Code (commencing with Section 84100), who receives contributions totaling $1,000.00 or more, or makes expenditures totaling $1,000.00 or more, in a calendar year must submit all campaign statements and reports as an electronic filing. Once an elective City officer, City candidate, committee or other person is required to submit campaign statements or reports as an electronic filing, that elective City officer, City candidate, committee or other person shall continue to use electronic filing until the committee has officially terminated or the elective City officer, City candidate or other person has no further filing obligations.

1. An elective City officer, City candidate, committee, or other person that must file pursuant to this chapter, but has not met the $1,000.00 threshold, may submit required statements or reports as an electronic filing or in paper format.

2. In any instance in which the original campaign statement, report, or other document is required to be filed with the Secretary of State and a copy of that campaign statement, report or other document is required to be filed with the City of Huntington Beach, the copy may be submitted as an electronic filing. (4009-4/14)

### 2.07.165 Filing Procedures

A. Electronic filing procedures shall be administered in accordance with Government Code Section 84615 as may be amended from time to time.

B. Notwithstanding any other provision of law, any campaign statement, report or other document submitted as an electronic filing shall serve as the filing of record and shall not be required to be filed with the City Clerk in paper format. (4009-4/14)

### 2.07.175 Statements and Reports—Signature and Verification Requirements

Campaign statements and reports filed under this chapter shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete. A campaign statement or report filed by a committee shall be signed and verified by a responsible officer of the organization or by an attorney or a certified public accountant. Every person who signs or verifies any campaign statement or report required to be filed under this chapter which contains material which he or she knows to be false is guilty of perjury. For a campaign statement or report submitted as an electronic filing, a secure electronic signature shall meet the requirements of this section. (4009-4/14)

### 2.07.220 Applicability of Other Laws

Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state or jurisdiction. (3220-1/94)

### 2.07.230 Severability

If any provisions of this chapter, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this chapter are severable. (3220-1/94)

### 2.07.240 Interpretation of Chapter

This chapter should be liberally construed to accomplish its purposes. (3220-1/94)

### 2.07.260 Effective Date

The provisions of this chapter shall become effective upon adoption, pursuant to Huntington Beach City Charter Section 500(e)(1). (3220-1/94)

**GOVERNMENT CODE - GOV**

**TITLE 9. POLITICAL REFORM [81000 - 91014]**

*( Title 9 added June 4, 1974, by initiative Proposition 9. )*

**CHAPTER 9.5. Ethics [89500 - 89522]**

*( Chapter 9.5 added by Stats. 1990, Ch. 84, Sec. 13. )*

**ARTICLE 2. Gifts [89503- 89503.]**

*( Article 2 added by Stats. 1990, Ch. 84, Sec. 13. )*

**89503.**

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars ($250).

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars ($250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election, after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars ($250) if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

(e) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(f) Beginning on January 1, 1993, the commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars ($10).

(g) The limitations in this section are in addition to the limitations on gifts in Section 86203.

*(Amended by Stats. 1996, Ch. 1056, Sec. 2. Effective January 1, 1997.)*

# Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

*A Fact Sheet For*

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

**California Fair Political Practices Commission**

**Toll-free advice line: 1 (866) ASK-FPPC**
**Email advice: advice@fppc.ca.gov**
**Web site: *www.fppc.ca.gov***

**January 2015**

# Introduction

The Political Reform Act[1] (the "Act") imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,[2] excluding judges;[3]
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
- Candidates[4] for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. You should not, however, rely on the fact sheet alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. You may also be subject to local restrictions on gifts, honoraria, or travel.

**Enforcement**

**Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as $5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)**

[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

[2] Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

[3] The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

[4] For purposes of the gift limit and honoraria prohibition, you become a "candidate" when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you have terminated your campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

# Gifts

### Limitations

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept gifts from any single source totaling more than $460 in a calendar year. (Section 89503.)[5]

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept gifts from any single source totaling more than $460 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests (Form 700). (Section 89503(c).)

### What is a "Gift"?

A "gift" is any payment or other benefit provided to you that confers a personal benefit for which you do not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, you have "received" or "accepted" a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

### Gifts to Family Members

Under certain circumstances, a gift to an official's family member* is considered a gift to the official. (Regulation 18943.) Anything given to a family member is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

*For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of his or her own support.

[5] The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2015-2016, the gift limit is $460. (Section 89503; Regulation 18940.2.) Gifts from a single source aggregating to $50 or more must be disclosed, and gifts aggregating to $460 or more during any 12-month period may subject an official to disqualification with respect to the source. (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on your Form 700 are not subject to the $460 gift limit but still may subject you to disqualification.

**Source of Gift**

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, you must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

**Gifts from Multiple Sources**

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls or where the individual directs the payment of the gift must be aggregated as one source in complying with the reporting and limit requirements. For example, separate gifts from J.R. Ewing and Ewing Oil Company would be treated as if from one source if J.R. owns more than a 50 percent interest in the company unless the making of the gift was determined by someone else in the company. In that case, the gift from Ewing Oil would be aggregated with any gifts made by that individual. (Regulation 18945.1.) Group gifts, where you received a single gift from multiple donors (such as a retirement gift from coworkers) need not be reported unless any person contributes $50 or more to the total cost of the gift. In that case, you would only report each of those persons. (Regulation 18945.2.)

**Valuation of Gifts**

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

**General Gift Exceptions**

| Form 700 Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| No | No | No | No |

1. Items that are returned (unused) to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)

2. Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)

3. Gifts from your spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.

4. Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

"Informational material" may also include scale models, pictorial representations, maps, and other such items. However, if the item's fair market value is more than $460, you have the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging.

Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)) and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. Personalized plaques and trophies with an individual value of less than $250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers' game, so long as the official's agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under "Gifts Exceptions Requiring Alternate Reporting.")

9. Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)

15. Certain payments for travel as discussed below in the "Travel Payments Exceptions" section.

16. Subject to certain conditions, items provided to a government agency and used by officials in the agency for agency business. This may include passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under ""Gift Exceptions Requiring Alternate Reporting.") Contact the FPPC for detailed information.

17. Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by your employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

18. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

19. Items awarded in an employee raffle, received by the agency from an agency employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

20. Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

**Limited Gift Exceptions**

| Form 700 Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| No | No | No | No |

1. Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual's home when the individual or a member of his or her family is present. (Regulation 18942(a)(7).) For this exception to apply, the official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official's position and the hospitality must be provided as part of that relationship. Generally, this means functions like children's birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

2. Gifts commonly exchanged between an official and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

3. Reciprocal exchanges between an official and another individual that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is $460 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

4. Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner has certain business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

5. Acts of Human Compassion. Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942

(a)(18)(B).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

6. Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

7. Benefits received from an individual where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

**Gift Exceptions Requiring Alternate Reporting**

| Form 700 Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| Yes - As Income | Yes | No | No |

A prize or award received in a bona fide contest or competition, or game of chance. **Note: Unlike the other exceptions, payments that fall into this exception must be reported as income if valued at $500 or more.** To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

| Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| Yes - On 801 or 802 | No | No | No |

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

**Form 801**: This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual's statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

**Form 802**: This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

| Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| Yes - Form 803 Behested Payment | No | No | No |

Generally, payments made at the behest of an official that do not confer a personal benefit on an official such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature, are not gifts. However, when a local elected officer is making the behest, in some cases these payments may be considered "behested payments" under Section 82015(b)(2)(B)(iii) and (b)(3) and require disclosure by that elected officer.

**Form 803**: Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, a local elected official may ask a third party to contribute funds to a school in her district, or to a job fair or health fair. Generally, a donation will be "made at the behest" if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by his or her agent or employee. A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting. Behested payments totaling $5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official's agency within 30 days of the date of the payment(s). (Section 82015; Regulation 18215.3.)

**Very Limited Gift Exception**

| Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| Yes - ½ value as gift | Yes | No | No |

Wedding gifts are not subject to the $460 gift limit. However, wedding gifts are reportable, but for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

# Honoraria

**The Prohibition**

Local officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of local agencies who file statements of economic interests (Form 700) under the agency's conflict of interest code ("designated employees") may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the "disclosure category" portion of the conflict of interest code. (Section 89502.)

**What is an "Honorarium"?**

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.):

**Honoraria Exceptions that also apply to gifts and income**

1. An honorarium that you return (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. An honorarium that is delivered to the official's local agency within 30 days for donation to the agency's general fund and for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. A payment that is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

- You may not make the donation a condition for your speech, article, or attendance;
- You may not claim the donation as a deduction for income tax purposes;
- You may not be identified to the non-profit organization in connection with the donation; and
- The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)

4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Any payment, unless specified otherwise, exempted under any of the "Gift Exceptions" listed above.

6. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

7. Reimbursements for reasonable travel expenses provided to you by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

**Honoraria Exceptions where the payment may still be considered income (or gifts, if consideration of equal or greater value is not provided by the official)**

1. Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which he or she gives a speech, participates in a panel or provides a similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

2. Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 –18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89506(d)(2).) See discussion under "Travel Payments" below.

4. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable as a gift or income and, if a gift, subject to the gift limit. (Sections 89501(c) and 89506.) See discussion under "Travel Payments" below.

# Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for his or her travel, that payment is a reportable gift or income under the Act. The term "travel payment" includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act's $460 gift limit. If the payment is income, it may, in some cases, be an honorarium. And whether a payment is a gift or income, the official may be required to disqualify him or herself from any decision that will have a foreseeable materially financial effect on the source.

**Certain Travel Payments are not a Gift, Income or Honorarium**

| Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| No | No | No | No |

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act's gift limits or the honorarium ban.

1. A payment for travel from a source that is not reportable on the official's statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official's agency.

2. A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)

3. A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)

4. Travel payments provided to the official by any state, local, or federal government agency as part of the official's employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.

5. Travel for Official Agency Business (Regulation 18950.1). Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a "personal benefit" to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.

6. A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

**Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the $460 Gift Limit or Honoraria Ban of the Act.**

| Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| Yes | Yes | No | No |

1. Travel Subject to Section 89506(a). Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either

(a.) In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately proceeding, the day of, and the day immediately following the speech and the travel is within the United States, or

(b.) Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

These payments are still reportable on the Form 700 and may create a conflict of interest issue for the official.

| Reporting | C/I § 87100 | Honoraria Ban | $460 Gift Limit |
|---|---|---|---|
| Yes - as Income | Yes | No | No |

1. Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.) **These payments may be reportable as income to the official.**

# Loans

Personal loans received by certain local officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

**Limitations on Loans from Agency Officials, Consultants, and Contractors**

If you are a local elected officer or an official specified in Section 87200 (see page 2), you may not receive a personal loan that exceeds $250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds $250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to your official status. (Section 87460(c) and (d).)

**Loan Terms Applicable Only to Elected Officials**

In addition to the limitations above, if you are a local elected officer, you may not receive a personal loan of $500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

**The following loans are not subject to these limits and documentation requirements**:

1. Loans received by an elected officer's or candidate's campaign committee.

2. Loans received from your spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.

3. Loans made, or offered in writing, prior to January 1, 1998. (Sections 87460 and 87461.)

**Loans as Gifts**

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

- The date the loan was made;
- The date the last payment of $100 or more was made on the loan; or
- The date upon which you have made payments aggregating to less than $250 during the previous 12 months. (Section 87462.)

**The following loans will not become gifts:**

1. A loan made to an elected officer's candidate's campaign committee. This loan would, however, be a campaign contribution. Consult the FPPC campaign manual for local candidates (Manual 2) for more details.

2. A loan described above on which the creditor has taken reasonable action to collect the balance due.

3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)

4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

5. A loan that would not be considered a gift as outlined earlier in this fact sheet (e.g., loans from certain family members). (Section 87462.)