



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: September 21, 2010
To: Honorable Mayor & City Council
From: City Attorney
Subject: Disclosure Requirements Regarding Donations to Committees Supporting or Opposing Local Ballot Measures

INTRODUCTION

Councilmember Mirisch has expressed an interest in promoting the disclosure of information regarding donations to committees that support or oppose local ballot measures. Coordinating with Councilmember Mirisch, we have developed a list of measures for City Council consideration that seek to increase the transparency of financing of local ballot measure campaigns. Craig Steele of our office, who is an experienced election law attorney, will be present at Tuesday's study session to discuss these measures and answer any questions from councilmembers.

DISCUSSION

POSSIBLE NEW REGULATIONS

California's Political Reform Act (the "Act") generally requires campaign committees to disclose contributions and expenditures. The Act also regulates disclosures in advertisements that support or oppose a particular candidate or ballot measure. Under the Act, local governments may adopt additional regulations not in conflict with the Act.

Pursuant to our discussions with Councilmember Mirisch, we have developed the following list of possible additional measures that could be implemented by the City of Beverly Hills.

1. Lower the threshold for disclosing significant funders of committees supporting ballot measures and require that such disclosures in advertisements supporting or opposing ballot measures are of a minimum font size or, in the case of broadcasts, a minimum duration.

State law currently requires that advertisements sponsored by ballot measure committees identify those persons who contributed \$50,000 or more to the committee. At present, state law only requires that the advertisement disclose the two highest donors. The Act also prescribes the minimum font size and location of disclosure statements in written advertisements.

You may be familiar with these types of disclosures on statewide initiative mailers. This disclosure would typically read as follows for a hypothetical Measure A:

“Paid for by the Committee in Favor of Measure A, with major funding by XYZ Corporation and Joseph A. Jones.”

The City could lower the \$50,000 threshold for identifying significant donors in advertisements. It would appear reasonable to believe that the threshold for a “significant” donation to a local election would be much lower than the threshold for a significant donation to a statewide election.

The City could also increase the number of significant donors that would be identified. For example, the City may want the top three or four significant donors identified. Additionally, the City could increase the minimum font size or duration requirement beyond that required by State law.

2. Lower the minimum monetary threshold under which a recipient or donor of campaign funds becomes a committee.

California law states that person(s) who receive more than \$1,000 in contributions or who expend \$1,000 in a calendar year constitute a “committee” for the purposes of the Act’s filing and disclosure requirements. The City might consider lowering the \$1,000 threshold under which a recipient or spender of campaign funds becomes a “committee,” which may have the effect of increasing the number of political participants who are required to register and report.

3. Require more frequent filings of campaign disclosure statements by committees that support or oppose ballot measures, and post those disclosure statements on-line.

State law requires that committees supporting or opposing ballot measures file campaign disclosure statements at certain intervals of time. Cities that have additional reporting dates may require pre-election reports more frequently as the election date comes closer. This type of measure allows voters to more frequently monitor and more closely track the expenditures made during a campaign. Also, these reports may be posted on line after they are filed so that the electorate has quick and easy access to the reports.

4. Require each advertisement supporting or opposing a local ballot measure to contain the full title of the ballot measure, as it will appear on the ballot.

As described above, State law requires that advertisements supporting or opposing local ballot measures contain certain information, including the committee that paid for the advertisement and the names of significant donors to the committee. Under State law, an advertisement regarding an initiative measure may refer to the measure by any name and need not use the name that will appear on the ballot. The City may require that the advertisement contain the full title of the ballot measure as it will appear on the ballot. Please note that the official title of an initiative, as it will appear on the ballot, is drafted by the City Attorney, not the proponent of the measure.

5. Require each committee supporting or opposing a local ballot measure or candidate to disclose in advertisements that the percentage of contribution from major donors is available on line.

As explained above, State regulations currently require that advertisements disclose the identity of significant funders of the committee that pays for the advertisement. As also explained above, State regulations require filings that identify the amount contributed by significant funders of a committee. If the City Council decided to post these filings on line, then an additional measure could require that advertising not only disclose the identity of major funders of the committee, but also disclose that the amount and percentage of overall contributions made by each major funder is available on line. For example, the disclosure might read:

“Paid for by the Committee in Favor of Measure A, with major funding by XYZ Corporation and Joseph A. Jones. The amount of funding provided by XYZ Corporation and Joseph A. Jones is reported at www.beverlyhills.org/Measure A Campaign Funding Reports.”

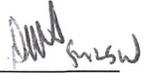
6. Hold a consultant or person responsible where that person participated in the preparation, placement or distribution of an advertisement in violation of the City’s laws.

If the City Council chooses to move forward with one or more of the measures identified above, then the City Council might also wish to consider holding consultants and others who prepare advertisements responsible for violations of the City’s campaign finance disclosure laws. These individuals would be responsible for compliance as well as the committees or others who finance the advertisements.

RECOMMENDATION

If the City Council wishes to further consider one or more of the measures described above, the Council may direct our office to prepare a draft ordinance for City Council consideration. If the City Council moves forward promptly with an ordinance, then the provisions of that ordinance would likely be in place for upcoming March, 2011 election.

Laurence S. Wiener



Approved By