

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

ORDINANCE NO. 4468

**AN ORDINANCE OF THE COUNTY OF SAN JOAQUIN, CALIFORNIA ADOPTING
TITLE 7, DIVISION 1, CHAPTER 7 OF THE SAN JOAQUIN COUNTY CODE
PERTAINING TO LOBBYIST REGISTRATION AND REPORTING**

The Board of Supervisors of the County of San Joaquin, California, ordains as follows:

Title 7, Division 1, Chapter 7 of the San Joaquin County Code pertaining to Lobbyist Registration and Reporting is hereby adopted as follows:

LOBBYIST REGISTRATION AND REPORTING

DEFINITIONS

The following phrases, whenever used in this Chapter, shall be construed as defined in this section:

A. "Official action" means:

(1) the proposal, drafting, development, consideration, amendment, enactment or defeat of any rule, regulation, policy, or other action in any proceeding that will apply generally to a group or class of persons;

(2) any decision to initiate, defend, appeal, or take any other action regarding, litigation by or against the County of San Joaquin or any official or employee of the County of San Joaquin;

(3) the proposal, drafting, development, consideration, amendment, enactment or defeat of any County ordinance, expenditure, budget, or the components thereof;

(4) the consideration or re-consideration of the granting or denial of any permit, grant, license, franchise or other entitlement;

(5) the awarding, granting or denial of any County contract for the purchase or sale of property, goods or services by the County or any agency of the County; and

(6) the awarding, granting or denial of any County contract with any public employee bargaining unit.

B. "County Official" includes a member of the board of supervisors, the sheriff, the assessor-recorder-county clerk, the treasurer-tax collector, the district attorney, the auditor-controller, a county planning commissioner, and any other county officer or employee whose duties are not primarily clerical or ministerial.

C. "Influencing official action" means promoting, supporting, influencing, modifying, opposing, or delaying any administrative, legislative, or quasi-judicial action of any

County Official, including but not limited to, soliciting county contracts or funds, by any means, including but not limited to, the provision or use of information, statistics, studies or analyses.

- D. "Lobbyist" means any individual who is employed, contracts or otherwise receives compensation of \$500 or more in any calendar month, other than reimbursement for reasonable travel expenses, to communicate directly, or through agents, employees or subcontractors, with any County Official for the purpose of influencing official action, if a substantial or regular portion of the activities for which he or she receives such compensation is for the purpose of influencing official action.

Provided, however, a Lobbyist shall not include:

(1) An elected or appointed public official or public employee when acting in his or her official capacity as an elected or appointed public official or public employee;

(2) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge official action provided that such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging official action other than to appear before the board of supervisors or a county commission in support of or in opposition to such action;

(3) A person whose attempts to influence official action are limited solely to actions taken as an attorney or advocate representing a party to an administrative or quasi-judicial proceeding the decision of which is reviewable by a court pursuant to Code of Civil Procedure Section 1094.5; or

(4) Agents or employees of tax-exempt organizations.

- E. "Lobbying Firm" means an individual Lobbyist or a corporation, partnership, a limited liability company, labor organization, labor union or any other business entity that employs, or is controlled or managed by a Lobbyist.
- F. "Lobbyist Employer" means a person or entity, other than a Lobbying Firm, who, for economic consideration other than reimbursement for reasonable travel expenses, either employs one or more Lobbyists or contracts for the services of a Lobbyist or Lobbying Firm, for the purpose of influencing official action.
- G. "Activity expense" means any expense incurred or payment made by a Lobbyist, Lobbying Firm, or Lobbyist Employer or arranged by a Lobbyist or Lobbying Firm, which benefits in whole or in part any County Official or a member of the immediate family of a County Official, regardless of whether the expense or payment is reimbursed by the person on whose behalf the county lobbying services are performed. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation, but do not include campaign contributions.

H. "Campaign contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected County Official is a campaign contribution to the candidate, committee or elected County Official unless full and adequate consideration is received for making the expenditure. All campaign contributions must be reported as required by law.

(1) The term "campaign contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(2) The term "campaign contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(3) The term "campaign contribution" does not include:

- a. Amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution;
- b. A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500.00 or less; or
- c. Volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

I. "Gift" shall be defined as set forth in the Political Reform Act, Government Code Section 81000 et seq., and the regulations adopted thereunder; except that the exclusion for campaign contributions shall be defined and governed as set forth in this Chapter. Gifts shall be reported as required by the Political Reform Act and regulations adopted thereunder.

J. "Lobbying activities" means any oral, written or electronic communication to a County Official, made directly or indirectly, for the purpose of persuading or influencing official actions or decisions of any County Official. Provided, however, lobbying activities shall not include:

(1) A request for information or inquiry about the facts or status of any matter when the request is not made to attempt to influence official action, or

- (2) A written comment filed in the course of a public proceeding or any other communication that is made on the record at a public meeting, or
- (3) A written communication as a petition for official action and required to be a public record pursuant to county procedures provided it is publicly recorded and disclosed before the vote or action, or
- (4) A written response to a request by a County Official or other county employee for specific information, or
- (5) A communication made by an elected County Official or county employee acting in his or her official capacity, or
- (6) A response to a public notice soliciting communications from the public and directed to a County Official or other county employee specifically designated in the notice to receive such communications, or
- (7) A communication by an attorney or advocate made solely in connection with his or her duties representing a party to an administrative or quasi-judicial proceeding the decision of which is reviewable by a court pursuant to California Code of Civil Procedure Section 1094.5.
- (8) A written communication applying for a county grant or responding to a county solicitation for goods or services.

Any other term not defined by this section but defined in the California Political Reform Act (Title 9 of the California Government Code) or the California Code of Regulations enacted thereto, shall govern the interpretation of this Chapter.

REGISTRATION AND ANNUAL REPORTING

- A. Within ten (10) days of becoming engaged as a Lobbyist on a matter to be considered by a County Official, and annually thereafter, the Lobbyist shall register as such with the Clerk of the Board (COB) and file the necessary completed Registration Form supplied by the COB.
- B. The Registration Form supplied by the COB shall require the Lobbyist to disclose all the following:
 - (1) The full name, business address, telephone number and e-mail address of the Lobbyist;
 - (2) The full name, business address, telephone number and e-mail address of each Lobbyist, employer, person or entity that has contracted for the services of the retained Lobbyist to conduct lobbying activities on its behalf.
- C. An Amendment to Registration Form must be completed and filed by the Lobbyist with the COB within ten (10) days of any change in the accuracy of the information reported on the Registration Form, including, but not limited to, any termination of services by the Lobbyist and the addition or loss of any Lobbyist employer.

- D. Within ninety (90) days from the operative date of this Chapter, Lobbyist reports shall be made available for public inspection on the county's website.

PROHIBITED ACTS

No Lobbyist or Lobbying Firm shall:

- A. Do anything with the purpose of placing any County Official under personal obligation to the Lobbying Firm, or the Lobbyist's or the firm's employer. However, nothing in this subdivision shall be construed to prohibit a County Official from conducting personal, non-county related business with any business entity on terms that are available to members of the public when such terms are offered in the normal course of business by the business entity and are offered without regard to the County Official's status.
- B. Deceive any County Official or any County Official's staff with regard to any material fact pertinent to any pending or proposed legislative, administrative, or quasi-judicial action.
- C. Cause or influence the introduction of any legislative, administrative, or quasi-judicial action for the purpose of thereafter being employed to secure its passage or defeat.
- D. Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative, administrative, or quasi-judicial action or to cause any communication to be sent to any County Official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.
- E. Represent, either directly or indirectly, that the Lobbyist or Lobbying Firm can control the official action of any County Official.

FILING FEES

- A. Each Lobbyist, Lobbying Firm, and/or Lobbyist Employer shall pay a filing fee when filing or renewing a Registration Form pursuant to this Chapter according to the following fee schedule:

Initial Registration	Annual Renewal of Registration
\$75.00	\$50.00

- B. Fees associated with the Registration and Reporting of Lobbyist(s), Lobbyist Firm(s), and Lobbyist Employer(s) are levied for the purpose of covering the cost of administering this Chapter.

FILING ENFORCEMENT

- A. If a Lobbying report is filed after its due date, the Clerk of the Board shall impose the following penalties:

(1) Written warning letter sent to the filer for filings made within the first two (2) weeks after the due date of the filing;

(2) Twenty five dollars (\$25) per week for the next two (2) weeks after the due date of the filing;

(3) Fifty dollars (\$50) per week for the next two (2) weeks if the filing is not made within four (4) weeks after the due date;

(4) Seventy five dollars (\$75) per week until the date that the filer comes into compliance with the provisions of this Chapter or the date that any other penalties are imposed by the Board of Supervisors or the Clerk of the Board as provided for in this Chapter, whichever occurs first, if the filing is not made within six (6) weeks after the due date.

A penalty imposed under this subsection (A) shall not exceed five hundred dollars (\$500).

ENFORCEMENT

A. Each person or entity who applies for a county contract, permit, grant, license or franchise shall, as a part of the application for such contract, permit, grant, license or franchise, certify that the applicant is familiar with the requirements of this Chapter, and that all persons acting on behalf of the applicant have complied therewith and will continue to comply therewith throughout the application process. A person or entity who seeks a contract, permit, grant, license or franchise from the county shall be disqualified therefrom if any Lobbyist, Lobbying Firm, Lobbyist Employer or other person or entity acting on behalf of the person or entity seeking the contract, permit, grant, license or franchise fails to comply with the provisions of this Chapter.

B. Any person may file a charge with the County Administrator or his/her designee that any Lobbyist, Lobbying Firm, Lobbyist Employer or other person or entity has violated any provision of this Chapter.

C. The County Administrator or his/her designee is delegated the authority to investigate any charge that a person or entity has violated this Chapter, and to receive evidence and make determinations as to violations of this Chapter. Upon receiving a charge that a person or entity has violated this Chapter, the County Administrator or his/her designee shall give such person or entity reasonable notice of the charge and an opportunity to present information in response thereto. The County Administrator or his/her designee shall make a determination as to the accuracy of the charge and shall present this determination along with the reasons for the determination to the Board of Supervisors ("Board") or if the Board so orders, to an Administrative Law Judge ("ALJ"). If the County Administrator or his/her designee's determination is that a violation of this Chapter has occurred and the Board of Supervisors or the ALJ agrees, the Board may impose the following sanctions:

(1) Each person who has failed to comply with the requirements of this Chapter shall be refused permission to address the Board of Supervisors or any county commission, except on his or her own behalf, during such period as such failure to comply with this Chapter continues, including any failure to satisfy any other penalties imposed under this Chapter;

(2) Each person or entity on whose behalf the Lobbyist, Lobbying Firm, Lobbyist Employer or other person or entity acted in violation of this Chapter shall be denied the county contract, permit, grant, license or franchise which was the objective of the lobbying activities performed in violation of this Chapter for the greater of the following periods:

- a. Twelve (12) months from the final determination that a violation has occurred; or
- b. Upon the next date in which a county contract, permit, grant, license or franchise may become available.

(3) Each person or entity who has failed to comply with the requirements of this Chapter shall be liable in a civil action brought by the county for an amount up to five thousand dollars (\$5,000) for each such failure to comply.

(4) The registration of each Lobbyist, Lobbying Firm or Lobbyist Employer who fails to comply with the requirements of this Chapter shall be terminated. Such Lobbyist, Lobbying Firm or Lobbyist Employer shall be required to pay all fees required by this Chapter and satisfy all other penalties imposed under this Chapter, and shall not be permitted to again register as a Lobbyist, Lobbying Firm or Lobbyist Employer as follows:

- a. A person or entity determined to be a first-time violator of this Chapter shall be prohibited from again registering for a period of up to three (3) months following the Board's or ALJ's approval of the termination of the registration;
- b. A person or entity determined to have previously violated this Chapter shall be prohibited from again registering for a period of up to six (6) months following the Board's or ALJ's approval of the termination of the registration;
- c. A person or entity determined to have previously violated this Chapter on two (2) or more occasions shall be prohibited from again registering for a period of up to twelve (12) months following the Board's or ALJ's approval of the termination of the registration.
- d. In addition to the penalties set forth in this Chapter, any violation of this Chapter shall be subject to an administrative fine of up to five thousand dollars (\$5,000), and a noncompliance fee of up to five thousand dollars (\$5,000). Any administrative fines or noncompliance fees shall be issued pursuant to the provisions of this Chapter. The County Administrator or his/her designee shall be designated as the enforcement officer for determination and imposition of the administrative fines and noncompliance fees to be issued and for providing representation, either directly or in conjunction with other county departments, on behalf of the County before the Board or an ALJ as provided for in this Chapter.
- e. The Board of Supervisors may, in its discretion, waive any penalties provided for in this Chapter, in whole or in part, if it determines that there was no willful

violation of this Chapter and enforcement of the penalties would not further the purposes of this Chapter.

- D. The County Administrator or his/her designee may develop rules for the administration of this Chapter. Such rules shall be presented to the Board of Supervisors and shall become effective if approved by a majority vote of the Board; and
- E. The regulations imposed by this Chapter are enacted pursuant to California Government Code Section 25207.1.

SEVERABILITY

The provisions of this ordinance are severable. If any provision of this ordinance or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

OPERATIVE DATE

The provisions of this ordinance shall become operative on September 17, 2015. This ordinance shall take effect and be in full force thirty (30) days from and after its passage and before the expiration of fifteen (15) days after the passage thereof, shall be published once in an adjudicated newspaper in the County of San Joaquin.

PASSED AND ADOPTED this 18 day of August 2015, by the following vote of the Board of Supervisors, to wit:

AYES: Winn, Bestolarides, Miller

NOES: Elliott, Villapudua

ABSENT: None

ABSTAIN: None

ATTEST: MIMI DUZENSKI
Clerk of the Board of Supervisors
Of the County of San Joaquin,
State of California


KATHERINE M. MILLER
Chair of the Board of Supervisors
County of San Joaquin,
State of California



By 
Deputy Clerk