



# City of Huntington Beach

**File #:** 23-235

**MEETING DATE:** 3/21/2023

## REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Al Zelinka, City Manager

**VIA:** Travis K. Hopkins, Assistant City Manager

**PREPARED BY:** Shannon Levin, Council Policy Analyst

**Subject:**

**Campaign Contributions and Compliance with the Political Reform Act per Senate Bill 1439**

**Statement of Issue:**

The Political Reform Act of 1974 governs the disclosure of political campaign contributions, spending by candidates and ballot measure committees. It also sets ethics rules for state and local government officials that impose strict limits on decisions or votes that affect the official's financial interests. In September 2022, Senate Bill 1439 passed into law, applying campaign contribution prohibitions to state and local agencies such as city councils and boards of supervisors.

The purpose of this report is to establish procedures to ensure the City's compliance with Government Code Section 84308, generally known as the Levine Act, and facilitate the efforts of City officers, parties, participants, and agents in their efforts to comply with the act.

**Financial Impact:**

Not applicable.

**Recommended Action:**

Receive and file this report.

**Alternative Action(s):**

Do not receive and file this report, and direct staff accordingly.

**Analysis:**

In 2022, the California Legislature passed SB 1439, a bill that amended Section 84308 of the Political Reform Act ("the Act"). The changes took effect on January 1, 2023.

The amended law prohibits elected officials from taking part in a license, permit, or other entitlement for use proceeding if the official has received a contribution exceeding \$250 from a party or participant in the proceeding within the previous 12 months and in the twelve months following the

decision.

- A “party” is any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.
- A “participant” is any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use, and has a financial interest in the decision.
- The phrase “license, permit, or other entitlement for use,” means all business, trade, franchise, and land use licenses and permits and all other entitlements for use (i.e. professional, trade, and land use contracts) other than competitively bid, labor, or personal employment contracts. Amendments, extensions, and renewals of licenses, permits, or other entitlements for use are included within this definition.

This amendment to the Act applies to the City of Huntington Beach in that it requires disclosure of a contribution from a party or participant for “license, permit, or other entitlements for use” that are voted upon by the elected or appointed body. Furthermore, the elected official shall recuse him or herself from the discussion and vote with the explanation for recusal or cure the contribution by returning the funds within 30 days. The amendment also prohibits an elected official from accepting a contribution from a party or participant for twelve months prior and twelve months following the date of the final decision. If an officer accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date a final decision is rendered, the officer may cure the violation by returning the contribution, or the portion of the contribution in excess of \$250, within 14 days.

The Fair Political Practices Commission (FPPC) has determined a local elected official is not prohibited from taking part in entitlement for use proceedings based on contributions received in 2022, nor is an official prohibited from accepting contributions exceeding \$250 from parties or participants’ proceedings finalized in 2022. In essence, the clock started on January 1, 2023.

Staff recommends providing applicants with opportunities throughout these processes to disclose contributions, thereby providing time for the City’s officers to evaluate the conditions.

- Agendas may include language stating *“Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a license, permit, or other entitlement for use is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party’s agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record.”*
- Applications and contracts shall be formatted to include similar language.
- Each application or solicitation for a license, permit, or other entitlement for use subject to action by City officers shall stipulate compliance with the Act.
- Where a department identifies that a license, permit, or other entitlement for use requiring Council action is subject to the Levine Act, the department shall provide the notice of information in the staff report.
- Staff will develop a workflow to engage departments as they process subject license, permit, or other entitlement for use.
- And a rolling report may be made available for officers’ reference.

City staff is not responsible for reviewing City officer campaign filings or donor contribution records.

**Environmental Status:**

Not applicable.

**Strategic Plan Goal:**

Non Applicable - Administrative Item

**Attachment(s):**

1. Government Code Section 84308
2. Presentation: Changes to the Political Reform Act - SB1439