

# CITY OF OAKLAND

## SUPPLEMENTAL

### *AGENDA REPORT*

**To:** Oakland City Council  
**From:** Public Ethics Commission  
Attn: Daniel Purnell 238-3593  
**Date:** January 4, 2005

**Re: A Report and Recommendation From the Public Ethics Commission To Amend Chapter 3.13 Of The Oakland Municipal Code (aka "The Limited Public Financing Act") To Provide, Among Other Things, That 1) Matching Funds Be Available Only To Candidates For City Council And The Oakland School Board; 2) The Maximum Amount Which A Candidate May Receive In Matching Funds Be Raised From 15 percent to 25 Percent Of The Voluntary Expenditure Limit; 3) Require Candidates To Collect Eligible Contributions Only From Sources Located Within The City Of Oakland; 4) Candidates May Receive An Initial Grant Of Matching Funds Upon A Determination Of Eligibility; And 5) Run-off Candidates Shall Be Limited In The Receipt Of Matching Funds.**

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#### SUMMARY

At its regular meeting of November 18, 2004, the City Council Rules and Legislation Committee considered a series of proposed amendments from the Oakland Public Ethics Commission ("Commission") pertaining to the Limited Public Financing Act. A copy of the November 18 staff report and "redline" version of the proposed amendments are attached to this supplemental report as exhibits.

At the November 18 meeting, the Rules Committee voted to forward the Commission's proposed amendments to the City Council. The Rules Committee also directed Commission staff to draft several alternative amendments for the City Council to consider in addition to those proposed by the Commission. Those alternative amendments would:

- 1) make matching funds available only to candidates for district City Council races (and to candidates for the Oakland School Board only after the state terminates its administration of the Oakland Unified School District)

Item: \_\_\_\_\_  
ORA/Council  
1/4/05

- 2) raise the maximum amount a district candidate can receive in matching funds to 30 percent of the candidate's voluntary expenditure ceiling
- 3) require candidates to file completed campaign statements as a condition of eligibility
- 4) permit candidates to receive lump-sum payments of matching funds upon reaching specific contribution thresholds
- 5) prohibit candidates from submitting cash, money orders or bank checks as matchable contributions
- 6) require candidates to return any matching funds that were received from a contribution that was later returned to the original donor
- 7) provide specific definitions for contributions originating from within the City of Oakland

## **FISCAL IMPACT**

Under current law, the City will be required to appropriate into a special fund an amount of money sufficient to fund all candidates for city office eligible to receive public matching funds for the 2006 election cycle. The City offices involved in the next election will be the offices of Mayor, City Auditor, City Council districts 2, 4 and 6, and School Board districts 2, 4 and 6.

Under current law, total program costs for the June, 2006, election are expected to range between \$398,625 and \$239,175, depending on the funding scenarios selected. These figures do not include money for any run-off races which are currently funded under the program. See Chart No. 1 in the attached November 18 staff report.

Under the Commission's proposal to fund only City Council candidates, including the at-large seat, at 25 percent of the candidate's voluntary expenditure ceiling, costs for the June, 2006, election are anticipated to range between \$185,626 and \$111,375. See Chart No. 2 in the attached November 18 staff report.

Under the alternative proposal from the Rules Committee, in which the at-large seat would not be eligible for matching funds and district candidates would be entitled to receive 30 percent of their voluntary expenditure ceiling in matching funds, costs are anticipated to range between \$222,750 and \$178,200. See following Chart No. 3:

Item: \_\_\_\_\_  
ORA/Council  
1/4/05

**CHART NO. 3  
 FUNDING SCENARIOS UNDER RULES COMMITTEE PROPOSAL**

<b>JUNE 2006 RACES (05-06 Budget)</b>	<b>Maximum Public Matching Funds Available (30%)</b>	<b>2 Candidates Receiving 100% &amp; 1 Candidate receiving 50%</b>	<b>2 Candidates Receiving 100%</b>	<b>1 Candidate Receiving 100% and 1 receiving 50%</b>
CC Dist 2	\$28,500.00	\$71,250.00	\$57,000.00	\$42,750.00
CC Dist 4	\$30,600.00	\$76,500.00	\$61,200.00	\$45,900.00
CC Dist 6	\$30,000.00	\$75,000.00	\$60,000.00	\$45,000.00
	<b>TOTAL COST</b>	<b>\$222,750.00</b>	<b>\$178,200.00</b>	<b>\$133,650.00</b>

(\*) Based on January 2004 expenditure ceilings.

The fiscal impact of the Rules Committee proposal would reduce general fund expenditures by approximately 44 percent of forecasts under current law. All amounts discussed above will need to be applied to the FY 2005-07 Budget Development Process within the General Purpose Fund.

**KEY ISSUES AND IMPACTS OF RULES COMMITTEE PROPOSALS**

**A. Proposal To Limit Public Matching Funds To Candidates For District City Council And The Oakland School Board**

The Commission's proposed amendment would limit eligibility to those candidates running for City Council, including the at-large seat. It would permit candidates for the Oakland School Board to become eligible once the state ends its administration of the Oakland school district pursuant to the conditions specified in SB 39. See "redline" Section 3.13.060(A).

Under the alternative proposed by the Rules Committee, only district City Council candidates would be eligible for matching funds. (School Board candidates would still be eligible after the state ends its administration of the school district.) The text of the Rules Committee proposal is as follows:

Section 3.13.060(A): The Oakland City Council shall appropriate to the Election Campaign Fund, under the City's current two year budget cycle, an amount sufficient to fund all candidates eligible to receive limited matching funds for the following City offices: ~~City Councilmember-at-large~~, District City Councilmember and School Board Director. Notwithstanding this or any other provision of law, this Act shall not apply to

Item: \_\_\_\_\_  
 ORA/Council  
 1/4/05

the elected office of School Board Director until the first election after the Oakland Unified School district regains all of its rights, duties and powers upon the completion of the conditions set forth in 2003 Cal. Stats., Chapter 14, Section 5(e).

**B. Proposal to Raise The Maximum Amount A District Candidate May Receive In Matching Funds To 30 Percent Of A Candidate's Voluntary Expenditure Ceiling**

The Commission's proposed amendment would raise the maximum amount a candidate could receive in matching funds from 15 percent to 25 percent of the voluntary expenditure ceiling. See "redline" Section 3.13.110(B).

The Rules Committee proposes that by eliminating the at-large seat, the available amount of matching funds could be increased from the proposed 25 percent of a candidate's voluntary expenditure ceiling to 30 percent. The text of the Rules Committee proposal is as follows:

Section 3.13.110(B): The total amount of public funds allocated to each candidate shall not exceed ~~twenty-five (25)~~thirty (30) percent of the voluntary expenditure ceiling per election for the office being sought.

**C. Proposal To Require Candidates To File Completed Campaign Statements As A Condition Of Eligibility**

The Rules Committee expressed a desire that all candidates file completed campaign statements as a condition of receiving matching funds. The text of the Rules Committee proposal is as follows:

Section 3.13.080(G): The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time matching funds are payable. All candidates receiving matching funds shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received matching funds.

**D. Proposal To Permit Candidates To Receive Lump-Sum Payments Of Matching Funds Upon Reaching Specific Contribution Thresholds**

The Commission's proposed amendment would provide eligible candidates with an initial lump-sum grant totaling 20 percent of the amount they are ultimately allocated

Item: \_\_\_\_\_  
ORA/Council  
1/4/05

to receive immediately upon their certification of eligibility. Thereafter a candidate would receive matching funds according to the existing dollar-for-dollar formula. The grants represent an accelerated payment of matching funds and do not represent a new or additional grant of money. See redline Section 3.13.110(D).

The Rules Committee expressed concern that a 20 percent grant represented too much money for candidates who had only collected the minimum 5 percent threshold amount in contributions in order to qualify for matching funds. The Rules Committee proposes that district candidates receive half of the proposed grant (approximately \$2,500) upon meeting the minimum 5 percent eligibility threshold and the second half of the proposed grant upon receiving contributions totaling 10 percent of the candidate's voluntary expenditure ceiling. The text of the Rules Committee's proposal is as follows:

Section 3.13.110(E): ~~D.E.~~ Upon certification of a candidate's eligibility, the candidate shall receive an initial lump-sum payment representing ~~twenty~~ten percent of the total amount of available matching funds for which he or she is allocated to receive. ~~Thereafter, a certified~~An eligible candidate shall receive ~~matching funds~~a second lump-sum payment in according to the formula contained in Section 3.13.110(A), an amount equal to the initial lump-sum payment upon demonstration that he or she has received and deposited contributions totaling at least ten percent of the expenditure ceiling for the office being sought and which contributions originate from donors whose principal residence or primary place of doing business is located within the City of Oakland. Any lump-sum payment made pursuant to this section shall be inclusive of, and shall not cause a candidate to exceed, the total amount of available matching funds he or she is allocated to receive.

#### **E. Proposal To Prohibit Candidates From Submitting Cash, Money Orders Or Bank Checks As Matchable Contributions**

The Commission proposes that matching funds be issued for contributions made with a money order or bank check if the contribution is less than \$100 and the candidate provides reasonable proof that the contributor used his or her own funds to purchase the financial instrument. See redline Section 3.13.080(G).

The Rules Committee expressed concern over matching potentially fraudulent contributions, especially for contributions made by money orders or bank checks in which the name of the donor is not indicated on the check and whose funds are not drawn from the account of the donor. The Rules Committee proposes to delete the Commission's proposal in redline Section 3.13.080(G) and alternatively provide that

Item: \_\_\_\_\_  
ORA/Council  
1/4/05

only contributions made with so-called "two party" checks be eligible for matching funds. The text of the Rules Committee proposal is as follows:

Section 3.13.040: For purposes of this Act, contributions shall be "matchable contributions" only if they are: 1) the first \$100 or less of a contribution received and deposited by the candidate for the office being sought from each contributor to the candidate or the candidate's controlled ~~committee and committee~~, 2) received no more than one-hundred eighty (180) days before the date of the election, and 3) made on a financial instrument containing the name of the donor, the name of the payee and drawn on the account of the donor.

**F. Proposal To Require Candidates To Return Any Matching Funds That Were Based On A Returned Contribution**

The Rules Committee sought a provision that would prohibit a candidate from obtaining matching funds from contributions that were later returned to the donor. The text of the Rules Committee's proposal is as follows:

Section 3.13.110(D): D. In the event matching funds are paid to a candidate based on a contribution that is returned to the donor for any reason, the candidate shall return to the Public Ethics Commission the amount received in matching funds based on the returned contribution no later than seven business days after the contribution is returned to the donor.

**G. Proposal To Further Define "Principal Residence" And "Primary Place Of Doing Business"**

The Rules Committee sought further clarification of the Commission's proposal that matchable campaign contributions originate from donors whose "principal residence" or "primary place of doing business" is located within the City of Oakland. See redline Sections 3.13.080(C) and 3.13.110(A).

The terms "principal residence" and "primary place of doing business" are terms used by the California Political Reform Act but which the Act does not specifically define. Commission staff notes that the term "principal residence" has a corresponding definition under the California Elections Code and that the term "primary place of doing business" is defined for both incorporated and non-incorporated entities in the California Code of Civil Procedure and Corporations Code. The proposed text of these two definitions are taken closely from the relevant Elections and Corporations Code:

Item: \_\_\_\_\_  
ORA/Council  
1/4/05

Section 3.13.040: For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.

### **SUSTAINABLE OPPORTUNITIES**

Not applicable.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

Not applicable.

### **RECOMMENDATION AND ACTION REQUESTED:**

The Oakland Public Ethics Commission recommends that the City Council adopt the amendments it initially proposed to the Limited Public Financing Act as contained in the attached redline. The City Council Rules and Legislation Committee recommends that the City Council consider the alternative proposals contained in this staff report.

Respectfully submitted,

Daniel D. Purnell, Executive Director  
Public Ethics Commission

FORWARDED TO THE OAKLAND CITY COUNCIL

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Item: \_\_\_\_\_  
ORA/Council  
1/4/05