

Memorandum

TO: Elections Commission

FROM: Lisa Herrick

**SUBJECT: Nonprofit Organizations –
Lobbying Regulations**

DATE: February 3, 2010

On December 15, 2009, the City Council reviewed the Mayor's memo dated December 14, 2009, in which, among other things, he recommended narrowing the City's current lobbyist registration exemption for 501(c)(3) nonprofit organizations. Specifically, the recommendation would require registration for a 501(c)(3) organization engaged in lobbying activity if it is "controlled" by another entity which is required to register under the lobbying ordinance. The definition of control proposed in the Mayor's memo is:

- a. The other entity directly or indirectly appoints or selects members of the Board of Directors, officers or employees of the nonprofit; or
- b. The same person or organization manages or directs the nonprofit and the other entity; or
- c. The other entity and the nonprofit commingle assets, employees or expenses.

This recommendation was referred to the Elections Commission and the people who participated in the Mayor's Ethics Review Panel on October 13, 2009.

As directed by the City Council, we have reviewed and prepared a summary of the laws in other California jurisdictions to determine whether their lobbying provisions apply to nonprofit organizations. A table is attached for your review.

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City Attorney

By 
LISA HERRICK
Sr. Deputy City Attorney

COMPARISON OF LOBBYING LAWS – ORGANIZATION / IN-HOUSE LOBBYISTS

	San Jose	Los Angeles	San Diego	San Francisco
Registration Threshold	10 hours within 12 consecutive months	30 compensated hours within 3 consecutive months ¹	10 contacts within 60 calendar days	Receives or is promised consideration of \$3,000 or more within 3 consecutive calendar months for lobbyist services, and, on behalf of persons providing the economic consideration, makes any contact with an officer of the City and County. ²
Requirement for Nonprofit Organizations	Compensated officers or employees of a nonprofit organization with tax exempt status under Section 501(c)(3) of the Internal Revenue Code whose attempts to influence governmental action are on behalf of the organization are exempt from registration.	501(c)(3) organizations that receive government funding and provide direct representation services to indigent persons free of charge are exempt from registration. This exemption also applies to the employees of those organizations while engaged in official duties. However, the exemption does not extend to an attempt to influence a decision regarding funding that an organization seeks from the city on its own behalf. ³	Must register as lobbyist if threshold is met.	Must register as lobbyist if threshold is met.

¹ The Los Angeles Ethics Commission proposes to change the definition of “lobbyist” to 5 direct communications in a calendar quarter (for in-house lobbyists) for the purpose of lobbying. “Lobbying” is proposed to be defined as engaging in direct communication for the purpose of attempting to influence a municipal decision on behalf of another person for compensation. The Commission also proposes to define “lobbying organization” be defined as an entity whose officers and employees have collectively engaged in 5 direct communications in a calendar quarter for the purpose of lobbying on the entity’s behalf. These organizations would qualify as lobbying entities independently of their in-house lobbyists.

² Effective January 1, 2010.

³ The Los Angeles Ethics Commission has also recommended a change to the current nonprofit exemption, expanding the current exemption to any 501(c)(3) organization that provides basic life assistance (food, shelter, child care, health, legal, vocational relief, and other similar social services) directly to disadvantaged individuals, either free of charge, at a below-market rate, or based on an individual’s income or ability to pay. However, the Commission has also recommended that the exemption not apply when an organization is seeking funding, property, or a permit from the city on its own behalf.

COMPARISON OF LOBBYING LAWS – ORGANIZATION / IN-HOUSE LOBBYISTS

	Fresno	Long Beach	Sacramento	Oakland
Registration Threshold	Within 10 days of being employed to perform lobbying services	N/A – no lobbying regulations at this time.	100 hours within 3 consecutive months	Before influencing any proposed or pending governmental action as a salaried employee, officer or director of any corporation, organization or association
Requirement for Nonprofit Organizations	A person who is a member or employee of any nonprofit organization when representing such nonprofit organization for the sole purpose of promoting the interest of the nonprofit is exempt from registration, unless the employee is engaged primarily in lobbying services for the nonprofit organization.	N/A – no lobbying regulations at this time.	Must register as lobbyist if threshold is met.	Must register as lobbyist if threshold is met.