

SPECIAL BULLETIN

Los Angeles City Ethics Commission

200 N. Spring Street • City Hall – 24th Floor, Suite 2410 • Los Angeles, CA 90012
(213) 978-1960 / Fax (213) 978-1988 – Website: <http://ethics.lacity.org>
Whistleblower Hotline: (213) 978-1999 or (800) 824-4825

CITY COUNCIL VOTES TO REPEAL CITY'S CONTRIBUTION LIMITS TO INDEPENDENT EXPENDITURE COMMITTEES

LAMC § 49.7.24 No Longer Enforceable

in Wake of Long Beach Decision by Ninth Circuit Court of Appeals

On June 22, 2010, the Los Angeles City Council voted to repeal section 49.7.24 of the Los Angeles Municipal Code (LAMC). This section of law prohibits any person or committee who makes independent expenditures supporting or opposing a City candidate from accepting contributions in excess of the \$500 limit set forth in the City Charter. Previously, at its June 8, 2010 meeting, and in accordance with the advice and recommendation of the City Attorney's Office, the City Ethics Commission adopted a resolution stating that it would no longer enforce LAMC section 49.7.24 or Charter sections 470(c)5 and 803(b)4. These actions were based on the recent Ninth Circuit Court of Appeals decision in *Long Beach Chamber of Commerce v. City of Long Beach*, a case testing a provision of Long Beach law that limits contributions to persons making independent expenditures.

The Ninth Circuit ruled that, in light of the recent United States Supreme Court decision in *Citizens United v. Federal Election Commission*, contribution limits for persons or committees that make independent expenditures are unconstitutional, as applied to the Long Beach Chamber of Commerce political action committees, because the City of Long Beach could not demonstrate that independent expenditures lead to quid pro quo corruption or the appearance of such corruption. The court found that persons making independent expenditures are too remotely connected to candidates for such corruption or the appearance of such corruption to exist. The Ninth Circuit stated that the "need for contribution limits to combat corruption or the appearance thereof tends to decrease as the link between the candidate and the regulated entity becomes more attenuated."

In a June 8, 2010 letter to the members of the City Ethics Commission, the City Attorney's Office stated that "the *Long Beach* case together with the other cases on which the Ninth Circuit relied, *Citizens United*, and the current jurisprudence in the campaign finance area, constitute compelling legal authority to conclude that a constitutional challenge to the City's contribution limits on committees making independent expenditures could not be successfully defended." In response to the compelling legal precedent, the City Ethics Commission adopted a resolution (copy attached) stating that it will not enforce LAMC section 49.7.24 or Charter sections 470(c)5 and 803(b)4 regarding independent expenditure contribution limits in City and LAUSD elections.

The City Council yesterday voted to repeal LAMC section 49.7.24. Following a second reading of the ordinance and vote to repeal, the matter will be forwarded to the Mayor's office for signature. Changes to Charter sections 470(c)5 and 803(c)4 require voter approval.

RESOLUTION

WHEREAS the Los Angeles City Ethics Commission strives to ensure that participants in City elections are informed of their rights and obligations under the City's campaign finance laws; and

WHEREAS the United States Supreme Court decided *Citizens United v. Federal Election Comm'n*, 558 U.S. ____ (2010), in a 5-4 vote on January 21, 2010, and held that the government may not restrict independent spending on the basis of a speaker's corporate identity; and

WHEREAS the Ninth Circuit Court of Appeals in *Long Beach Chamber of Commerce v. City of Long Beach*, No. 07-55691 (9th Cir. 2010), recently ruled that a Long Beach ordinance limiting contributions to committees making independent expenditures could not be applied to the Long Beach Chamber of Commerce political action committee and similarly situated parties; and

WHEREAS Los Angeles Municipal Code section 49.7.24 and Los Angeles City Charter sections 470(c)(5) and 803(b)(4) similarly limit contributions to committees that make independent expenditures with regard to City and Los Angeles Unified School District elections; and


WHEREAS the City Attorney's office has advised that *Citizens United* and *Long Beach Chamber of Commerce*, together with other recent cases, constitute compelling legal authority to conclude that a challenge to Los Angeles Municipal Code section 49.7.24 and Los Angeles City Charter sections 470(c)(5) and 803(b)(4) on constitutional grounds could not be successfully defended; and

WHEREAS the City Ethics Commission believes that, in light of this legal precedent, Los Angeles Municipal Code section 49.7.24 and Los Angeles City Charter sections 470(c)(5) and 803(b)(4) should not be enforced;

THEREFORE, BE IT RESOLVED by the City Ethics Commission that it will no longer enforce Los Angeles Municipal Code section 49.7.24, Los Angeles City Charter section 470(c)(5), or Los Angeles City Charter section 803(b)(4), which limit contributions to non-candidate committees that make independent expenditures.

BE IT FURTHER RESOLVED that all disclosure and disclaimer requirements, coordination restrictions, and candidate contribution limits in City law remain in effect and unchanged by this resolution.

I certify that this resolution was adopted by the Los Angeles City Ethics Commission on June 15, 2010, in accordance with Los Angeles City Charter section 702.



Helen Zukin, President
City Ethics Commission