

OVERVIEW OF ETHICS AND CAMPAIGN-FINANCE REFORM BILLS PASSED ON JUNE 3, 2010

Campaign finance (Bill No. 100122)

- Defines “post-candidacy contribution” as contribution to a candidate, former candidate or political committee following a covered election for the purpose of paying debts incurred by or for a candidate or committee before or after any election.
- Expands definition of “post-candidacy contribution” to include contributions received by a former candidate or his/her agent for the purpose of “defraying the cost of transition or inauguration” of the candidate to City elective office.
- Adds “excess post-candidacy contribution” as a defined term.
- Allows for post-candidacy contributions, at the general campaign finance limit levels, in the period between the general election (or primary, if the candidate was not nominated) and the end of the calendar year in which the general election occurred and each year thereafter.
- Adds language providing that excess pre-candidacy contributions and excess post-candidacy contributions may not be used for: (1) transition or inauguration expenses; or (2) retiring debt that was incurred to (i) influence the outcome of an already completed covered election or (ii) cover transition or inauguration expenses related to an already completed covered election.
- Adds language clarifying that “doubling” provision does not apply to post-candidacy contribution limits.
- Adds language requiring former candidates and treasurers of political committees to file reports of post-candidacy contributions and expenditures made to retire debt or for inauguration and transition expenses.

Litigation fund (Bill No. 100124)

- Authorizes separate litigation fund that “may be used solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of the candidate’s election campaign or arising directly out of the candidate’s participation in the election (such as a recount proceeding), including, but not limited to, an investigation or enforcement action initiated by the Board of Ethics with respect to the conduct of the candidate’s campaign.”

- Separate contribution limits apply to fund.
- Reporting required.
- After election (or after last proceeding), remaining funds must be returned to contributors.
- Adds language indicating that doubling of general contribution limits under “millionaire’s provision” does not double contribution limits for litigation fund.
- Adds language providing that candidates may make expenditures (other than of excess pre-candidacy contributions) from their candidate political committees for litigation purposes.
- Adds language providing that contributions from a candidate’s personal resources or from his/her candidate political committee (other than of excess pre-candidacy contributions) to the litigation fund are uncapped.

Penalties for ethics-related and campaign finance-related violations (Bill No. 100125)

- Combines all penalties in one section.
- For failure to file campaign finance reports, fine would be \$250 per day for each day report is not filed up to \$2,000, with additional penalty of \$1,000 for each additional month report is not filed.
- For excess contributions, fine capped at three times the excess contribution with a \$2,000 max. Recipient can avoid penalty by voluntarily returning excess contribution to donor within fifteen (15) days .
- Specifies that violation of Code provisions requiring attendance at annual ethics training and distributing ethics code is subject to a penalty of up to \$250.
- Implements “sliding scale” under which baseline penalty for violations of ethics code or campaign-finance law is \$1,000, but can be reduced to \$250 or increased to \$2,000 based on specific factual findings of mitigating or aggravating factors.
 - **Mitigating factors:** good faith effort to comply; prompt corrective action; prompt self-reporting; and other factors to be determined by regulation
 - **Aggravating factors:** intent (meaning violator acted knowingly and not by mistake or accident or other innocent

reason); repeat violation (previously found by Ethics Board in administrative adjudication or by court to have violated same provision); obstruction of investigation; and other factors to be determined by regulation

- **Consideration of factors:** Ethics Board/court required to make factual findings re mitigating and aggravating factors
- **Reduced penalty:** \$1,000 baseline penalty reduced by \$500 if one mitigating factor present and by \$750 if more than mitigating factor present
- **Enhanced penalty:** \$1,000 baseline penalty increased by \$1,000 for each aggravating factor, but total penalty may not exceed \$2,000

Printing and distributing sample ballots (Bill No. 100126)

- Adds “sample ballot” as defined term in campaign finance law.
- Adds language clarifying that if a candidate makes an expenditure to be placed on a sample ballot listing multiple candidate names, other expenditures made by the political committee to print and distribute the sample ballot are **not** a contribution to the candidate.
- Adds language clarifying that if an individual or political committee makes an expenditure for a candidate to be placed on a sample ballot listing multiple candidate names, the expenditure is counted as a contribution to the candidate unless it is an independent expenditure and thus, by definition, not a contribution. Adds language making clear that any additional expenditure by the political committee distributing the sample ballot made to print/distribute the ballot is not counted as a contribution to the candidate.
- Adds language clarifying that a ward leader/candidate is not in violation of the “single committee rule” when he or she makes expenditures through a ward political committee for the printing/distribution of sample ballots listing the ward leader/candidate as one of the endorsed candidates either of the candidate’s party or of the candidate’s ward.

Lobbyist registration (Bill No. 100127)

- Requires registration of lobbyists and their principals and reporting of expenditures made by lobbyists.

- Expands the definition of “administration action” to include drafting RFPs, RFQs, and contract specs; soliciting and awarding City contracts; soliciting and awarding grants, loans, or agreements involving City funds; and making determinations about zoning or land use, the acquisition or disposition of City-owned land, and applications for licenses, permits, franchises, concessions, or other permissions.
- Registration changed from every-two-years to annual.
- Extends implementation date from July 1, 2010 to July 1, 2011.
- Requires electronic filing of registration statements and expense reports.
- Adds language stating that attorneys are subject to the bill to the extent permissible under the applicable Pennsylvania Rules of Professional Conduct.
- Requires expense reports to include additional identifying information (bill number, etc.) re matter being lobbied.
- Adds language providing that when amounts paid for gifts, hospitality, transportation, or lodging given to City officials or employees or their immediate families, is reimbursed by the recipient, the expense report must list both the expenditure and the reimbursement.
- Expands the definition of “unlawful act” under the chapter to include making a material misstatement or omission on a registration statement or expense report required to be filed under the chapter.
- Consolidates provisions re enforcement, hearings, and penalties.
- Removes distinction between negligent and intentional violations.
- Removes provision requiring third-party audits every other year.
- Adds language specifying that the safe harbor based on reliance on an advisory opinion issued by Ethics Board only is available for the party to whom the opinion was issued.
- Registration fee changed to \$500.
- Requires registrants to participate in training conducted by Board of Ethics regarding lobbyist registration/regulation, Ethics Code, etc.