

PROP C: EXPENDITURE LOBBYISTS BALLOT MEASURE (NOVEMBER 2015)
San Francisco Human Services Network

Summary:

- Placed on the ballot by majority vote of the Ethics Commission
- Requires anybody that spends \$2,500 in one month on grassroots lobbying (urging other persons to communicate directly with city officials to influence legislative or administrative action) to register as an expenditure lobbyist, file lobbying reports, and pay a \$500 registration fee.
- Maintains current nonprofit exemption as contact lobbyist, but not as expenditure lobbyist
- Examples of expenditures that would require nonprofits to register would include \$2,500 spent on media, advertising, public relations, polling, research, investigations, reports, studies, turnout...

Concerns re: the impact of Prop C on nonprofits and community advocacy:

- What is the problem? Not nonprofit and community advocacy!
 - Proponents' well-intentioned goal is to disclose expenditures by lobbyists who may be motivated by conflict of interest such as personal financial gain.
 - Nonprofits educate, advocate, and promote advocacy by clients and community on issues central to their mission, a public purpose – such as investment in housing, healthcare, services and the arts.
 - Nonprofit and community advocacy takes place at public hearings and in public squares, not in back-room deals.
 - Nonprofits have a long history of successful public interest advocacy for significant social, environmental, economic and cultural changes to address community needs (civil rights, homeless and safety net programs, health care, HIV/AIDS, etc.).
 - City public policies benefit from nonprofits' expertise and from ensuring a voice for the public and particularly for vulnerable populations; otherwise, these points of view would not be included.
 - Proponents cite their desire to regulate astro-turf organizations created by corporations to give a false appearance of "grassroots" appeal. However, regulating nonprofits is unnecessary. Instead, corporations can be required to disclose donations to nonprofits for lobbying purposes.
- Chilling effect on nonprofit and community advocacy
 - Misconceptions and complex rules already deter nonprofits from engaging in any lobbying – particularly small organizations that don't have attorneys to help them.
 - Many nonprofits don't understand the extent to which regulations allow them to lobby, and many Boards don't permit organizations to lobby.
 - Nonprofits fear that becoming a registered lobbyist will lead to increased IRS scrutiny, and that foundations will hesitate to fund them.

- \$2,500 is an absurdly low threshold that does not increase with inflation. For example, a full-page ad in the S.F. Chronicle is \$60,000, so a few column inches would force an unwary advocate to become a registered lobbyist.
 - The ballot measure does not address small, unincorporated nonprofits that operate under a fiscal agent. Fiscal agents will be the responsible party, and are likely to place strict limits on lobbying by the projects they sponsor.
 - Nonprofits' response to this ballot measure is that they will not register, but will reduce their advocacy to ensure they don't exceed the threshold.
 - In 2014, these concerns led the San Francisco Board of Supervisors to exempt nonprofits from registering as contact lobbyists.
- Inappropriate to charge nonprofits a \$500 fee in order to participate in the legislative process
 - Significant hurdle for small organizations organizing and exercising their rights to speak for clients and community.
 - Disempowers low income and vulnerable populations.
 - A poorly worded provision requires the Ethics Commission to waive fees for full-time employees of nonprofits, but not for the organization itself or for nonprofits that don't even have staff, such as volunteer neighborhood and community groups. This provision makes no sense in the context of expenditure lobbying by an organization.
- Nonprofit lobbying is already regulated by federal and state laws
 - This measure introduces burdensome, unnecessary and potentially duplicative requirements.
 - The federal government requires nonprofits to report their lobbying expenditures, and the state requires nonprofits to report their lobbying on state legislation.
 - As the Alliance for Justice said when the Board of Supervisors passed its contact lobbying amendments in 2014, "Adding the burden of yet more registration and reporting onto nonprofits, even when well-intentioned, may have the effect of driving nonprofits out of public policy debates. The more complex the law, the more confusing the rules, the more likely that too many nonprofits will decide lobbying just is not worth it: not worth the cost of compliance and not worth the risk of failing to comply."
- San Francisco can develop a better Ordinance through the Board of Supervisors
 - The Ethics Commission placed their measure on the ballot at a little-noticed June 2015 meeting, without notice to nonprofits and other community advocates.
 - Lobbying rules are very technical and complex, and don't lend themselves well to a ballot measure.
 - The measure makes it almost impossible to address unintended consequences or change flaws without returning to the ballot.
 - Should this measure fail at the ballot, the Board of Supervisors can address these issues through a more open, transparent process, with full public hearings and input from all affected San Francisco stakeholders (as they did with direct lobbying).