



# Board Agenda Item 36

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DATE: December 12, 2023

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Second Hearing and Adoption of Proposed Amendment to County Ordinance Code Section 3.08.110 (Employees - Political Activity)

RECOMMENDED ACTION(S):

**Conduct second hearing and adopt an Ordinance amending Fresno County Ordinance Code Title 3 - Personnel, Chapter 3.08 - Civil Service System, Section 3.08.110 - Employees - Political Activity by deleting Subsection (A)(5) prohibiting County officers and employees from directly or indirectly soliciting political funds or contributions, knowingly, from other County officers or employees or persons on the employment list of the County and making other non-substantive revisions; and waive reading of the Ordinance in its entirety.**

Approval of the recommended action will adopt the Ordinance amending the Fresno County Ordinance Code Section 3.08.110 by deleting language that prohibits County officers or employees from directly or indirectly soliciting political funds or contributions, knowingly, from other County officers or employees or persons on the employment list of the County and making other non-substantive revisions. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended action is not approved by the Board, Fresno County Ordinance Code Section 3.08.110 will remain unchanged and the County would not be able to enforce Subsection (A)(5) because it does not conform to recent Ninth Circuit Court of Appeals ("Ninth Circuit") case law.

DISCUSSION:

On July 19, 2023, the Ninth Circuit determined that Government Code Section 3205 is unconstitutional (*Progressive Democrats for Social Justice v. Rob Bonta*, 73 F.4th 1118 (9th Cir. 2023)). Government Code Section 3205 generally prohibits local government employees from soliciting political contributions from their coworkers.

Fresno County Ordinance Code Section 3.08.110 (Employees - Political Activity) currently contains similarly prohibitive language, which is based on Government Code Section 3205.

To conform the Fresno County Ordinance Code to Ninth Circuit case law, the Human Resources Department recommends that Fresno County Ordinance Code Section 3.08.110 be amended to:

1. Delete Subsection (A)(5) in its entirety, which prohibits County officers and employees from directly or indirectly soliciting political funds or contributions, knowingly, from other County officers or employees or persons on the employment list of the County;

2. Renumber Subsection (A)(6) and (A)(7) as Subsections (A)(5) and (A)(6), respectively; and
3. Replace “1aw” with “law” in the newly renumbered Subsection (A)(6) to correct an apparent misspelling.

The proposed Ordinance before the Board makes no other substantive changes.

The attached “redline” document shows the specific amendments to Subsection (A) of Section 3.08.110 that are in the proposed Ordinance, shown with the complete text of Fresno County Ordinance Code Section 3.08.110 for context.

On November 28, 2023, the Board conducted the first hearing on the proposed Ordinance. The Ordinance, if adopted, would take effect thirty (30) days after final passage.

REFERENCE MATERIAL:

BAI #6, November 28, 2023

*Progressive Democrats, et. al v. Rob Bonta*, 73 F.4th 1118 (9th Cir. 2023)

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance

On file with Clerk - Proposed Amendment - Ordinance Code Section 3.08.110

CAO ANALYST:

Paige Benavides