

**City Council Briefing:  
Proposed Direct Campaign  
Expenditure Disclosure Ordinance**

City Council Work Session

June 7, 2016

Law Department and Office of City Clerk

# Background

Resolution No. 20151217-070 directed the City Manager to:

- Review direct campaign expenditure disclosure laws from other jurisdictions
- Develop a comprehensive direct campaign expenditure disclosure ordinance for Council consideration

# **Background**

## **Terminology**

### **Direct Campaign Expenditure:**

- A direct campaign expenditure is an election-related expenditure that is not:
  - made by any candidate for office, or
  - coordinated with any candidate for office
- Includes expenditures to influence a Council election or a ballot measure election

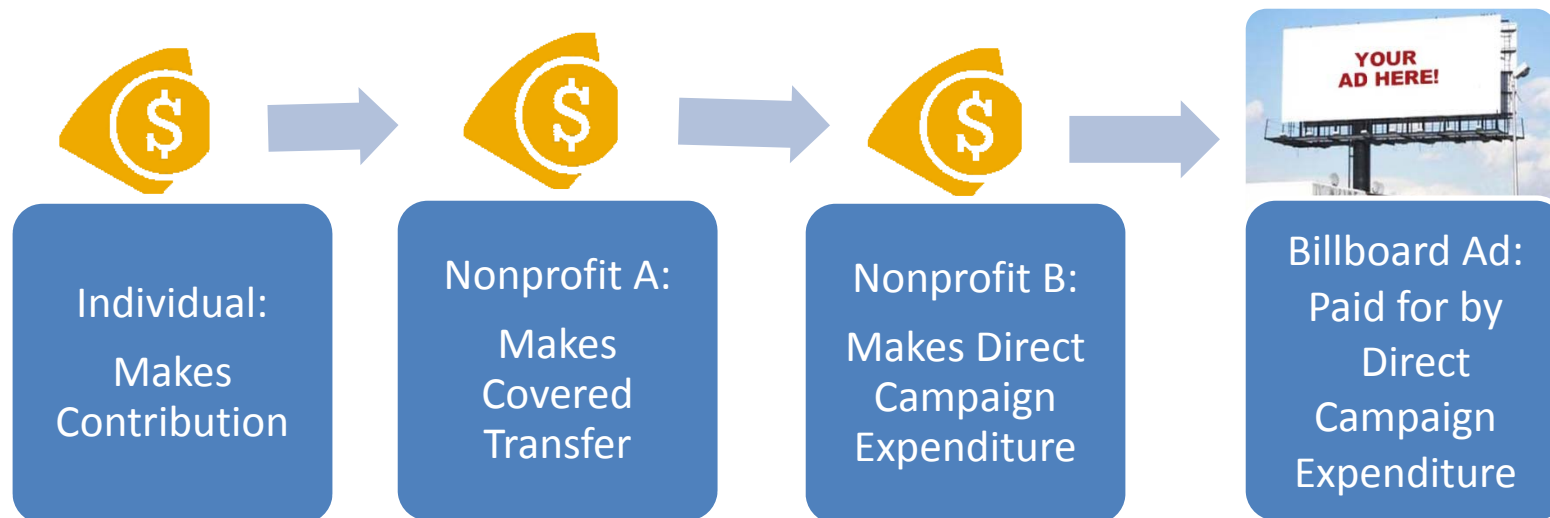
# Background

## Terminology

### **Covered Transfer:**

- A covered transfer occurs when a person makes a contribution to a second person with the knowledge that the second person is likely to either:
  - use the contribution to pay for a direct campaign expenditure, or
  - transfer the contribution to another person who will pay for a direct campaign expenditure

# Background Terminology



# Background

## Other Jurisdictions

Law Department identified and reviewed:

- Relevant existing laws from these jurisdictions:
  - Federal
  - Texas
  - 21 other states
  - 2 municipalities (outside of Texas)
- Relevant proposed laws from these jurisdictions:
  - Federal DISCLOSE Act
  - Texas (including 2013 vetoed bill and 2015 failed bills)
  - 2 other states

# Existing City Ordinance

Existing City campaign finance ordinance:

- Requires timely reporting of direct campaign expenditures made in a City election
- Requires disclosure of top five donors in advertisements paid for with direct campaign expenditures

# Existing City Ordinance

- Existing City campaign finance ordinance does not require:
  - A person reporting direct campaign expenditures to include information about contributors or donors in reports
  - Reporting of covered transfers
  - Records retention
- Proposed amendments address the above issues, and clarify requirements for disclosure statements in advertisements



# **Proposed Amendments**

## **Direct Campaign Expenditures**

Requires a person making one or more direct campaign expenditures that exceed \$500 in aggregate to report the following information:

- Person's name, address, occupation, and employer
- Contributor information, under certain circumstances:
  - Contributor's name, address, occupation, and employer
  - Date and amount of each contribution received

# **Proposed Amendments**

## **Direct Campaign Expenditures**

A person must report contributor information if:

- (1) The person received \$250 (in aggregate) from a contributor since the last general election; and
- (2) At the time of making the contribution, the contributor had reason to know that the contribution:
  - May be used to make political contributions or direct campaign expenditures; or
  - May be comingled with other funds used to make political contributions or direct campaign expenditures

# **Proposed Amendments**

## **Covered Transfers**

### **Definition:**

A person makes a covered transfer if:

- (1) The person makes a contribution and discusses or requests that the contribution be used to:
  - Pay for a direct campaign expenditure, or
  - Make a transfer to another person who will pay for a direct campaign expenditure

**OR**

# **Proposed Amendments**

## **Covered Transfers**

- (2) The person makes a contribution in response to a solicitation asking for a contribution to:
- Pay for a direct campaign expenditure, or
  - Make a transfer to another person who will pay for a direct campaign expenditure

# Proposed Amendments

## Covered Transfers

A person who makes one or more covered transfers that exceed \$500 (in aggregate) must report:

- Person's name, address, occupation, and employer
- Name and address of person receiving transfer
- Date and amount of transfer
- Purpose/description of transfer
- If transfer is made for direct campaign expenditure, name of candidate or ballot measure supported or opposed by expenditure (if known)
- Contributor information, under certain circumstances:
  - Contributor's name, address, occupation, and employer
  - Date and amount of each contribution received

# Proposed Amendments

## Covered Transfers

A person must report contributor information if:

- (1) The person received \$250 (in aggregate) from a contributor since the last general election; and
- (2) At the time of making the contribution, the contributor had reason to know that the contribution:
  - May be used to make political contributions, direct campaign expenditures, or covered transfers; or
  - May be comingled with other funds used to make political contributions, direct campaign expenditures, or covered transfers

# **Proposed Amendments**

## **Disclosure Statement**

Clarifies existing requirement to identify five top contributors' names in political advertisements, electioneering communications, or express advocacy paid for by a direct campaign expenditure

- Establishes additional criteria for when contributors' names must be disclosed
- Creates exceptions for small items (bumper stickers, pins, etc.) and fliers that cost less than \$500

# **Proposed Amendments**

## **Records Retention**

Requires that a person retain financial records, associated with the following, for five years, if the person:

- Reports a direct campaign expenditure
- Reports a covered transfer
- Discloses contributor names in a political advertisement, electioneering communication, or express advocacy



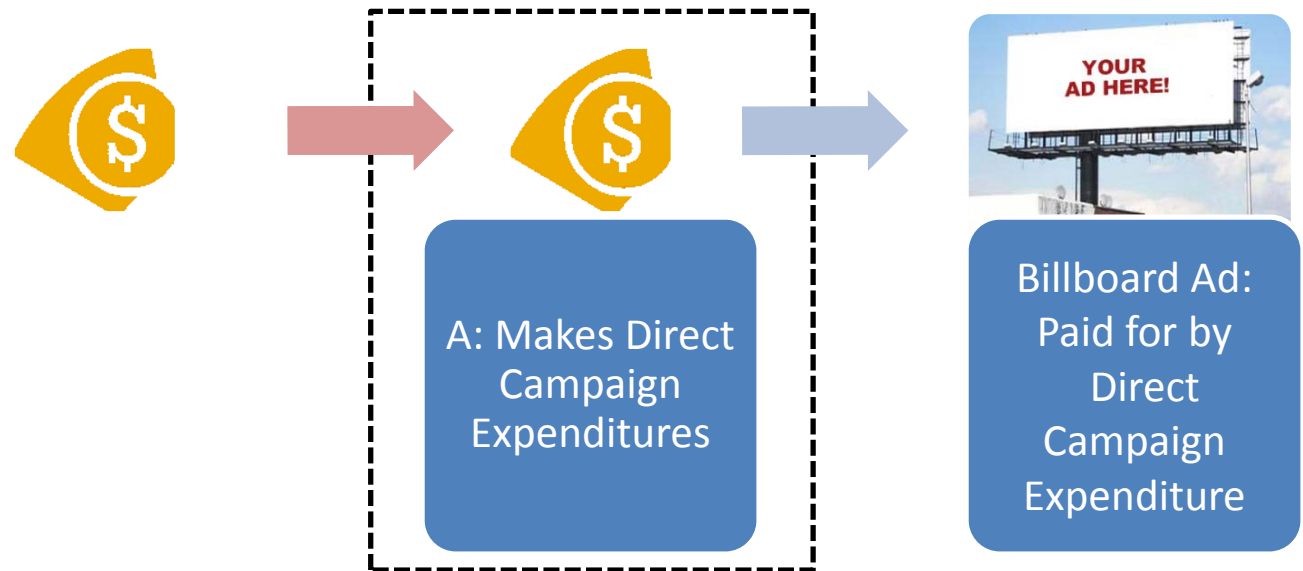
# Enforcement Mechanisms

## Enforcement of Chapter 2-2:

- Criminal: Prosecution as Class C Misdemeanor with possible \$500 fine; and/or
- Civil: Ethics Review Commission hearing(s) with possible (non-monetary) civil sanction

# **IMPLEMENTATION**

# Reporting Requirements



## ATX.1: Report of Direct Campaign Expenditures

- **Filer Information**

Name and address

Occupation and employer

- **Expenditures (\$500 threshold)**

Name and address

Expenditure date and amount

Purpose

Candidate or measure supported/opposed

- **Contributions (\$250 threshold)**

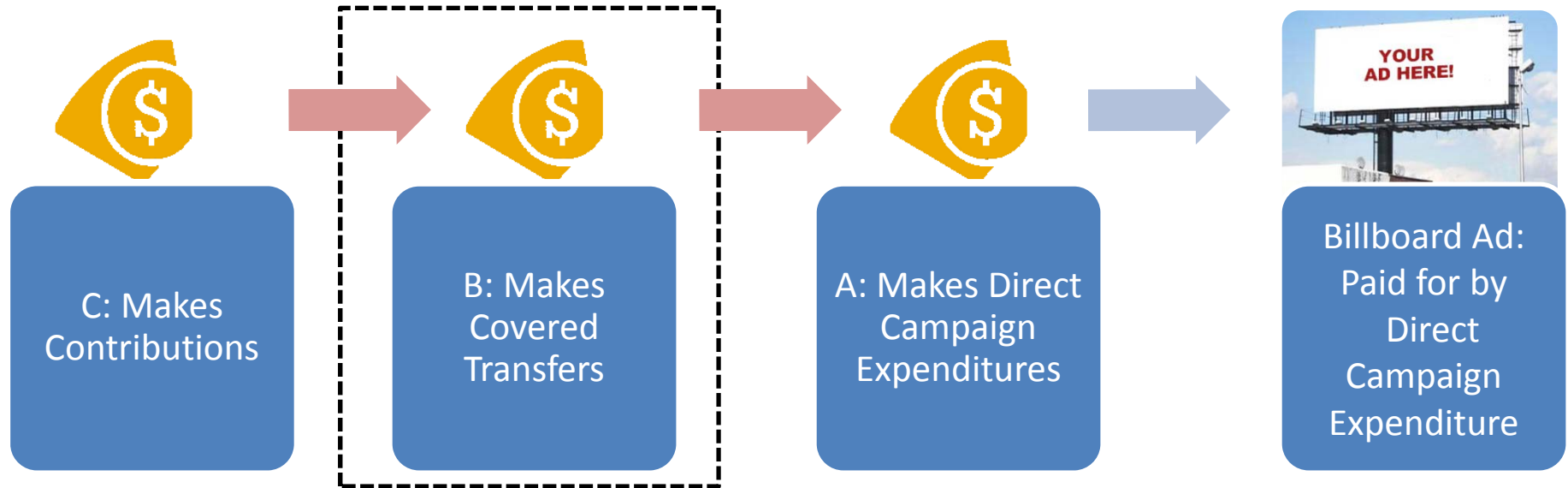
Name and address

Occupation and employer

Date received

Amount received

# Reporting Requirements



## ATX.8: Report of Covered Transfers

- **Filer Information**

- Name and address

- Occupation and employer

- **Transfers (\$500 threshold)**

- Name and address

- Transfer date and amount

- Purpose

- Candidate or measure supported/opposed

- **Contributions (\$250 threshold)**

- Name and address

- Occupation and employer

- Date received

- Amount received

# Implementation Requirements

- New reporting requirements for Direct Campaign Expenditures will require modifications to:
  - Campaign finance form ATX.1: Report of Direct Campaign Expenditures to support collection of contribution information
  - The data validation process
  - The publicly accessible campaign finance database
  - Updates to the data extract/transform/load (ETL) tool in order to make the data publicly available

# Implementation Requirements

- New reporting requirements for Covered Transfers will require the design and creation of:
  - A new campaign finance form, ATX.8: Report of Covered Transfers
  - A new data validation process
  - Modifications to the publicly accessible campaign finance database
  - A new data extract/transform/load (ETL) tool in order to make the data publicly available

# Implementation Requirements

- The Ethics Review Commission must review and approve both the amended ATX.1 form and the proposed ATX.8 form

# Proposed Timeline

- Timeline for amendments to the ATX.1 (Contributions Supporting Direct Campaign Expenditures)
  - Council Approval on June 16, 2016
  - The Clerk's Office submits the changes to the ATX.1 form to the ERC at their August 10, 2016 meeting
  - If approved by ERC, the new form and instructions can be released by September 1, 2016



# Proposed Timeline

- Timeline for the ATX.8 (Covered Transfers)
  - The Clerk's Office recommends phasing this requirement in for implementation in January 2017
  - Submit the new form to ERC for approval at their December 2016 or January 2017 meeting
  - The Clerk's Office will finalize the form, instructions and complete changes to the database, validation and extraction tools in January 2017

# Next Steps

- Council will consider the ordinance on June 16
- The Clerk's Office will begin implementing the necessary form and technical changes
- The Clerk's Office will develop written instructions for filers required to report Covered Transfers

# Questions?