

December 17, 2019

MEMORANDUM

To: Gender Equity, Safe Communities, New Americans and Education Committee
From: Lish Whitson, Analyst
Subject: Council Bill 119701, Clean Campaigns Act

On December 19, the Gender Equity, Safe Communities, New Americans and Education (GESCNA-Ed) Committee will continue discussion of [Council Bill \(CB\) 119701](#), the “Clean Campaigns Act.” This bill would amend [Chapter 2.04](#) of the Seattle Municipal Code (SMC) to close loopholes in the City’s regulations related to campaign finance and reporting.

By way of background, the intent of the bill is to limit corruption and the appearance of corruption, in particular quid pro quo corruption, that can result from large donations to independent expenditure committees. The bill also seeks to limit foreign influence in local elections and increase transparency regarding political advertising, as well as addresses the following issues:

1. Contributions to independent expenditure committees:
2. Contributions by foreign-influenced corporations; and
3. Reporting requirements for commercial advertisers.

The bill would (1) define new categories of political committees, contributors, and contributions; (2) limit certain types of contributions; and (3) expand reporting requirements for commercial advertisers who accept political advertising.

This memorandum describes:

- A. Seattle’s current campaign finance regulations,
- B. Trends in campaign contributions and independent expenditures in Seattle,
- C. The proposed legislation,
- D. Amendments the Council may consider, and
- E. Next Steps

Campaign finance law uses its own terms of art. [SMC Section 2.04.010](#) defines key terms that are used throughout this memorandum.

1. Seattle's Current Campaign Finance Regulations

Chapter 2.04 of the SMC regulates campaign contributions. These regulations limit the size of contributions candidate campaigns may accept from any person. These limits apply equally to all "persons," including individuals, governments, committees, associations, corporations or "any other organization or group of persons, however organized" ([SMC 2.04.010](#) "Person"). Contributions to candidates for Mayor, City Council and City Attorney are limited to \$500 a person ([SMC 2.04.370.B.](#)). If a City Council or City Attorney candidate chooses to participate in the Democracy Voucher program that limit drops to \$250 ([SMC 2.04.630.B.3](#)). These limits are set to limit the threat of corruption, and in particular quid pro quo corruption, because of large contributions that lead to a perception of corruption.¹

There are no limits on contributions to "political committees," which are set up to spend money in support of or opposition to candidates and ballot propositions. However, contributions from those political committees to campaigns are subject to the limits described above. If a political committee or other person wants to spend more than \$500 in support of or in opposition to a candidate, it needs to act completely independently of all campaigns. Such spending is defined as an "independent expenditure." There are currently no monetary limits on independent expenditures in Seattle.

Disclosure is a key component of Seattle's campaign regulations (see [SMC 2.04, Subchapter III](#)). Each candidate or political committee that receives or expects to receive at least \$5,000 in contributions must report on contributions and expenditures. Similarly, all persons who make independent expenditures valued at \$100 or more must file reports of such expenditures. Each commercial advertiser that accepts political advertising is required to maintain records regarding the people who placed the advertising, the content of such advertising, and the consideration provided for the advertising ([SMC 2.04.280](#)).

These regulations are enforced by the Seattle Ethics and Elections Commission ([SMC 2.04.500](#)). Violations of the regulations may result in fines up to \$5,000 and repayment of any illegal contributions. Additional penalties for illegal contributions can result in fines up to twice the amount of the illegal contribution, or the penalties listed above, whichever is higher.

2. Trends in Campaign Contributions and Independent Expenditures

During the 2019 City Council campaign, \$13,666,000 was contributed to candidates and political committees. This was double the amount contributed during the 2017 election (\$6,993,000)² and three times the amount contributed in 2015 (\$3,376,384). In part, this reflects a significant

¹ For example, see Seattle's "strippergate" scandal, recounted by Nathalie Graham, "Strippergate 101: Everything You Need to Know About a City Council Scandal from 2013" The Stranger. September 30, 2019. Retrieved from <https://www.thestranger.com/slog/2019/09/30/41507162/strippergate-101-everything-you-need-to-know-about-a-city-council-scandal-from-2003>

² This election included campaigns for Mayor and City Attorney, in addition to campaigns for the two Citywide City Councilmember races. The amount spent on City Council races in 2017 was \$1,513,833.

increase in independent expenditures by political committees. In 2015, 21 percent of contributions were to political committees. In 2019, 45 percent of contributions were made to political committees. The following table compares the amount of money raised and spent in City Council races for the general election candidates in the last five City Council races.

Table 1. Campaign Contributions and Independent Expenditures in City Council Races¹

Year	City Council races	Independent Expenditures	Cash and in-kind contributions to Council candidates	Democracy Voucher contributions to Council candidates ²	Total Contributions and Expenditures	\$ per Race	% of \$ by Independent Expenditure
2009	4	\$134,495	\$1,600,056	N/A	\$1,734,551	\$433,638	7.8%
2011	5	\$0	\$1,762,815	N/A	\$1,762,815	\$352,563	0.0%
2013	4	\$3,577	\$953,916	N/A	\$957,493	\$239,373	0.4%
2015	9	\$784,365	\$3,644,498	N/A	\$4,428,863	\$492,096	17.7%
2017	2	\$358,894	\$589,268	\$991,700	\$1,580,968	\$790,484	22.7%
2019	7	\$4,254,629	\$2,807,297	\$2,454,475	\$9,516,401	\$1,359,486	44.7%

Source: Seattle Ethics and Elections Commission, www.seattle.gov/ethics/ Numbers as of December 11, 2019.

² The Democracy Voucher program began in 2017.

Comparison of campaign financing in 2011 compared to 2019 is instructive. In 2011, the campaign contribution limit was \$700. Businesses, unions and individuals maxed out contributions to candidates, but did not make independent expenditures. In 2019, with contributions down to \$250 for the twelve candidates who qualified for Democracy Vouchers, and set at \$500 for the other two candidates, corporations and unions avoided those limits by contributing heavily to independent expenditures. As Ron Fein from Free Speech for People noted to the Seattle Ethics and Elections Commission,

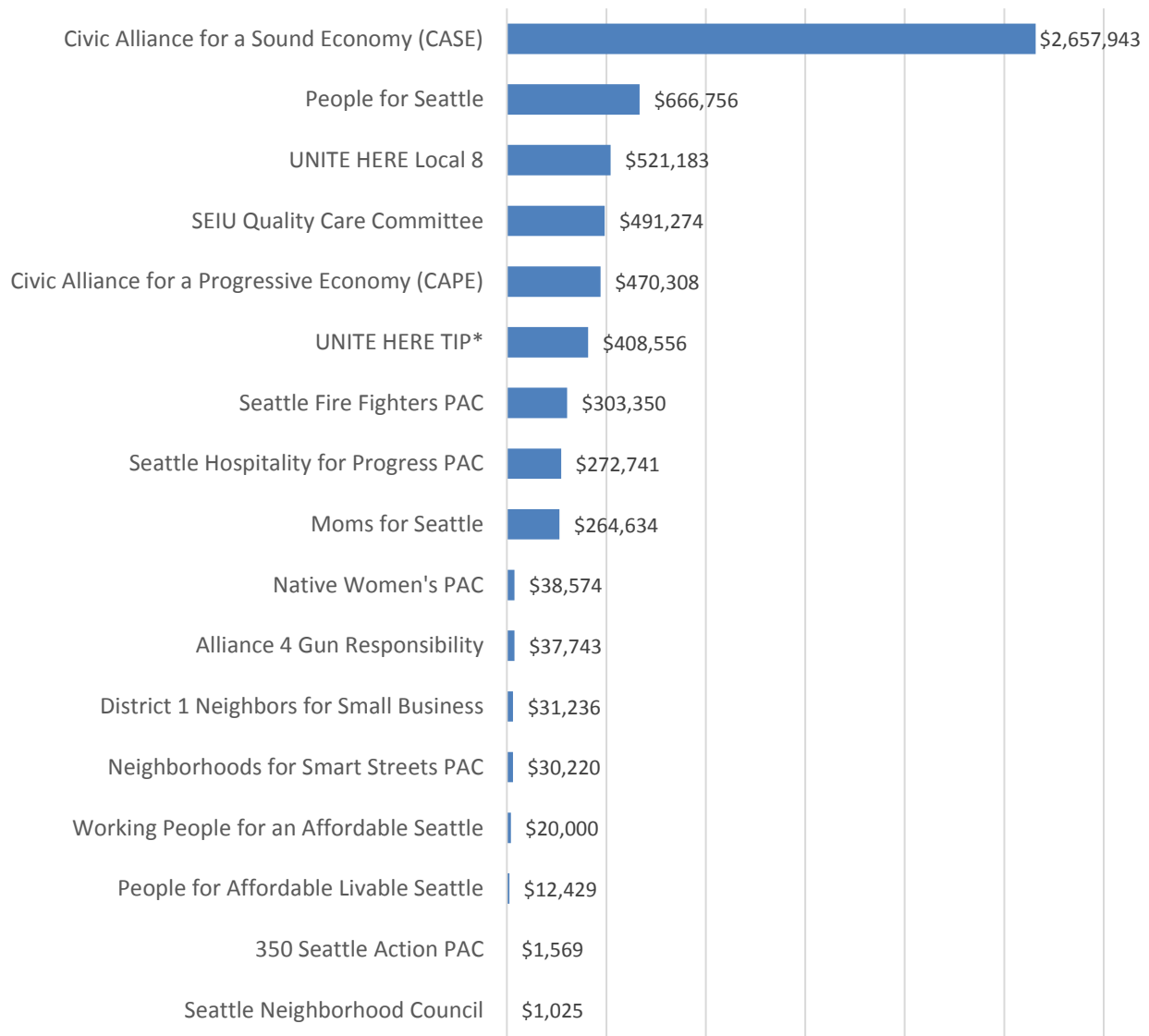
“it is illegal for a wealthy donor to contribute a penny more than \$500 to a candidate for mayor, city council, or city attorney, because the city council has determined that contributions above that amount pose an unacceptable risk of corruption or the appearance of corruption. Yet that same wealthy donor may contribute \$5,000, or \$50,000, or even \$500,000, to the candidate’s super PAC.”³

In 2019, there were 17 political committees that made independent expenditures in support of or in opposition to Seattle City Council candidates. These committees raised between \$20,000 and \$2,657,943 million for a total of \$6,229,541. Of those funds, \$4,254,629 was spent in independent expenditures for or against Council candidates. Other funds raised by these political committees were used for administration, research, and independent expenditures in

³ Ron Fein, Letter to the Seattle Ethics and Elections Commission, Free Speech for People, August 5, 2019, Retrieved from <http://www2.seattle.gov/ethics/Meetings/2019-08-13/Item3e%20Fein%20submission.pdf>

campaigns for office outside of Seattle. Chart 1 shows the amount of money raised by each committee. Of the 17 committees active in 2019, five received no contributions over \$5,000. Only one committee, Neighborhoods for Safe Streets Political Action Committee (PAC), received no contributions over \$500.⁴

Chart 1: Contributions to Independent Expenditure Committees in 2019.



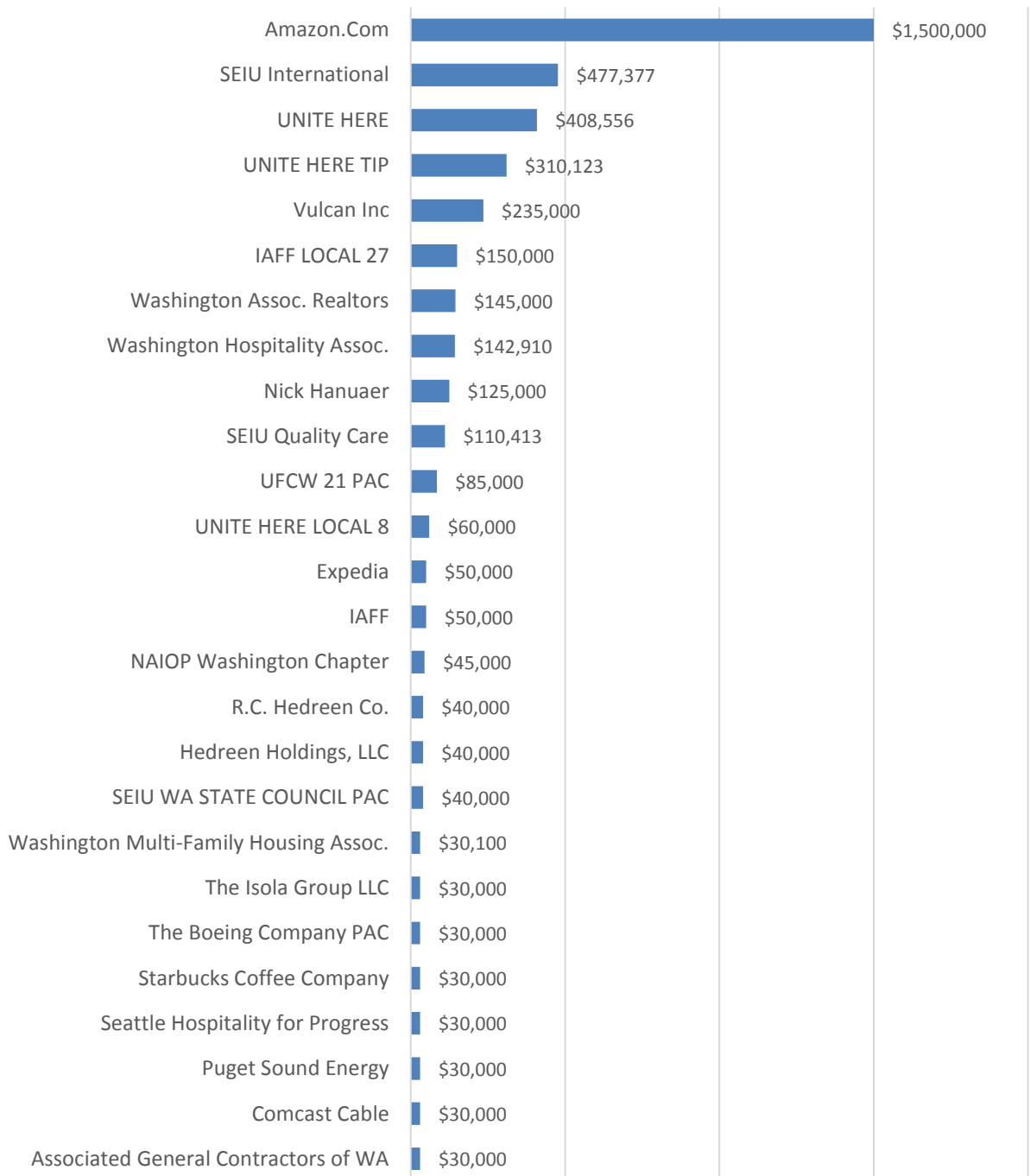
Source: Seattle Ethics and Elections Commission, www.seattle.gov/ethics/. Data as of December 11, 2019.

*UNITE HERE TIP is a political committee that raises and spends funds across the United States. This reflects the amount that has been reported as being raised for Seattle City Council races.

⁴ It is possible that some of the other PACs, particularly Union PACs, received only low-dollar contributions. These PACs transferred funds between local, statewide and national political committees to finance their independent expenditures. Individual contributions to the political committees were not reported to the Seattle Ethics and Elections Commission.

The largest contributors to political committees in 2019 were individual businesses, business associations and unions. Chart 2 shows the top 26 contributors to Independent Expenditure Committees.

Chart 2: Top 26 Contributors to Independent Expenditure Committees in 2020.



Source: Seattle Ethics and Elections Commission, www.seattle.gov/ethics/. Data as of December 11, 2019.

Amazon.com's contributions to the Civic Alliance for a Sound Economy (CASE) PAC sponsored by the Seattle Chamber made national news and Presidential candidates made comments decrying the contribution.⁵ These contributions were seen as indicating an intent to "buy" the City's elections. For example, Seattle Congressperson Pramila Jayapal was quoted as saying of the public reaction to the contributions: "They believe, sometimes with very good reason, that enormous amounts of money from the wealthiest individuals and corporations are trumping, no pun intended, their interests (...) they are right."⁶ Headlines regarding the contributions indicated a belief that the contribution was intended to "buy" the City Council.⁷ National surveys have shown that a majority of members of the public believe that unlimited donations will result in corruption, and unlimited spending by large donors makes them less likely to vote.⁸

These contributions were not spent equally across all races. The biggest set of independent expenditures were \$731,000 from UNITE HERE in favor of Andrew Lewis running in District 7 and \$516,000 from CASE in support of Heidi Wills running in District 6. Only \$1,360 in independent expenditures were made in favor of Kshama Sawant, running in District 3. In contrast, CASE spent \$467,000 in support of her opponent, Egon Orion. The race with the most Independent Expenditures was in District 7, the race with the least was District 5 where the incumbent, Debora Juarez, was endorsed by both labor and business-affiliated political committees. Table 2 (page 7) shows the amount of independent expenditures for each general election candidate in November 2019.

⁵ Daniel Beekman, Bernie Sanders joins Elizabeth Warren in criticizing Amazon's spending in Seattle City Council elections, *The Seattle Times*, October 12, 2019, Retrieved from <https://www.seattletimes.com/seattle-news/politics/bernie-sanders-joins-elizabeth-warren-in-criticizing-amazons-spending-in-seattle-city-council-elections/>

⁶ Lester Black, Jayapal Calls \$1.5 Million Amazon Super PAC Donation "Callously Disrespectful" to Seattle Voters, *The Stranger*, November 1, 2019, Retrieved from <https://www.thestranger.com/slog/2019/11/01/41866042/jayapal-calls-15-million-amazon-super-pac-donation-callously-disrespectful-to-seattle-voters>

⁷ Knute Berger, What did Amazon buy – and what couldn't they buy – in Seattle's most expensive election ever? *Crosscut*, November 6, 2019, Retrieved from <https://crosscut.com/2019/11/what-did-amazon-buy-and-what-couldnt-they-buy-seattles-most-expensive-election-ever>

⁸ Brennan Center for Justice, National Survey: Super PACs, Corruption, and Democracy, April 24, 2019, Retrieved from <https://www.brennancenter.org/our-work/analysis-opinion/national-survey-super-pacs-corruption-and-democracy>

Table 2: 2019 Direct Contributions and Independent Expenditures for General Election Candidates

District	Candidate	Total Direct Contributions*	Independent Expenditure	Independent Expenditures as % of Total Spending
1	Herbold	\$199,484	\$135,537	57%
	Tavel	\$192,757	\$390,753	
2	Morales	\$192,354	\$50,639	42%
	Solomon	\$193,228	\$233,420	
3	Orion	\$404,207	\$629,111	39%
	Sawant	\$576,176	\$1,356	
4	Pedersen	\$197,444	\$232,508	36%
	Scott	\$217,883	\$2,229	
5	Davison Sattler	\$73,455	\$143	20%
	Juarez	\$150,125	\$54,180	
6	Strauss	\$202,418	\$164,410	65%
	Wills	\$373,655	\$908,543	
7	Lewis	\$194,457	\$731,056	75%
	Pugel	\$235,756	\$586,670	
Total		\$3,403,399	\$4,120,555	55%

Source: Seattle Ethics and Elections Commission, <http://www.seattle.gov/ethics/>, December 12, 2019

*Includes monetary, in-kind and democracy voucher contributions.

As shown in Table 1 (page 3), the Democracy Voucher program, which began distributing vouchers to Seattle voters in 2017, has shifted fundraising for City Council campaigns. Under the program, each registered voter receives \$100 worth of \$25 vouchers that can be provided to a candidate for office who has qualified for the program. Candidates who want to qualify to receive vouchers must agree to (1) take part in three debates or public events; (2) not solicit money for an organization that will be making independent expenditures, and (3) limit both the dollar value of contributions they accept and total contributions they accept.⁹ The maximum limit on contributions may be raised if expenditures against the candidate or for the candidate's opponent exceed the cap. Because of the size of independent expenditures in 2019, most participating candidates had the cap lifted. Candidates seeking to qualify to receive vouchers must also receive signatures and contributions from Seattle residents. Table 3 (page 8) shows participation in the democracy voucher program in 2019.

⁹ For District City Council candidates, these limits are \$250 per contributor, \$75,000 total for the primary and \$150,000 total for the primary and general election together (see [SMC 2.04.634](#)).

Table 3: 2019 Vouchers and Contributions

	Contributions to Primary-Only Candidates	Contributions to General Election Candidates	Total
Democracy Vouchers			
Number of Voucher Assignors*	12,976	17,669	26,728
Number of Vouchers Redeemed	42,656	55,523	98,179
Value of Redeemed Vouchers	\$1,066,400	\$1,388,075	\$2,454,475
Candidates Qualifying for a Voucher Program	23	12	35
Cash and In-Kind Contributions			
Number of Cash Contributors*	6,343	14,583	20,225
Value of Contributions	\$791,973	\$2,015,324	\$2,807,297
Totals			
Total Assignors/Contributors**	18,610	30,419	52,432
Total Contributions	\$1,858,373	\$3,403,399	\$5,261,772
Total Candidates	41	14	55
% of Funds Raised through Vouchers	57%	41%	47%

Source: Seattle Ethics and Elections Commission, <http://www.seattle.gov/ethics/>, December 12, 2019

* Includes assignors and contributors who made contributions or assigned vouchers to more than one candidate

** 3,069 voucher assignors made cash contributions to the same candidate

In their analysis of the effect of the democracy vouchers in the 2017 election, Professors Brian J. McCabe and Jennifer Heerwig found that “the Democracy Voucher program successfully increased participation in the municipal campaign finance system and shifted the donor pool in a more egalitarian direction.”¹⁰ They found that voucher users in 2017 were more representative of the voting population than cash donors, but still not representative of the overall voting pool. In its analysis of the 2017 election, the Seattle Ethics and Elections Commission found that the Democracy Voucher program increased the number of Seattle contributors to campaigns by 300 percent.¹¹ At least one candidate believes that democracy vouchers are helping to build trust with voters.¹²

¹⁰ Brian J. McCabe and Jennifer Heerwig, Diversifying the Donor Pool: How Did Seattle's Democracy Voucher Program Reshape Participation in Municipal Campaign Finance? *Election Law Journal: Rules, Politics, and Policy*. 2019, Retrieved at <https://doi.org/10.1089/elj.2018.0534>

¹¹ Seattle Ethics & Elections Commission, Democracy Voucher Program, Biennial Report 2017, Retrieved at <http://www.seattle.gov/democracymv/program-data/internal-program-reports>

¹² Erica C. Barnett, Is Seattle's Experiment in Public Campaign Finance Working? *The C is for Crank*, July 18, 2019, Retrieved at <https://thecisforcrank.com/2019/07/18/is-seattles-experiment-in-public-campaign-finance-working/>

3. Council Bill (CB) 119701

CB 119701 amends three aspects of the City's Campaign Finance regulations to limit corruption and the appearance of corruption, including quid pro quo corruption. This section briefly summarizes the legislation's impact on (1) independent expenditures, (2) foreign-influenced corporations and (3) campaign advertising.

A. Independent Expenditures

As Table 1 (page 3) shows, there has been a significant increase in independent expenditures in City races over the last decade. Under the City's current regulations, contributions to independent expenditures committees, commonly called "Super PACs," are exempt from any limits. CB 119701 would:

- a. define "independent expenditure committee" and "limited contributor committee;"
- b. place a cap of \$5,000 on contributions to independent expenditure committees; but
- c. exempt limited contributor committees from the cap.

Limited contributor committees are defined as a committee that (1) has been in existence for more than nine months, (2) receives at least 250 contributions,¹³ and (3) receives no contributions greater than \$500 from any person.

B. Foreign-Influenced Corporations

Federal law restricts foreign-owned corporations and other foreign principals from making contributions to federal, state and local campaigns. The definition of foreign principal includes foreign governments, political parties and foreign corporations. Foreign corporations are defined as "a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country" ([United States Code, Title 22, Section 611\(b\) \(22 USC § 611 \(b\)\)](#)). What this definition leaves out are corporations that are owned or controlled by foreign persons but organized under United State laws and having their principal place of business in the United States. Researchers, and Federal Election Commission Chair Ellen L. Weintraub, have identified foreign influence through corporate ownership as one way that foreign interests have sought a direct influence on US governmental actions.¹⁴ CB 119701 would prohibit contributions from such corporations by:

¹³ The number of contributions depends on the campaign or campaigns the committee is making expenditures in support of or opposition to. To participate in a district City Council campaign, the committee must receive at least 250 contributions. To participate in citywide City Council and City Attorney campaigns, the committee must receive at least 400 contributions. To participate in Mayoral campaigns, the committee must receive at least 600 contributions.

¹⁴ See, Ellen L. Weintraub, Letter to the Seattle Ethics and Election Commission, August 6, 2019, Retrieved at: <http://www2.seattle.gov/ethics/Meetings/2019-08-13/Item3c%20Weintraub%20submission.pdf> and Ian Vandewalker and Lawrence Norden, Getting Foreign Funds Out of America's Elections, Brennan Center for Justice

- a. Defining “Chief Executive Officer,” “corporation,” “foreign investor,” and “foreign owner.”
- b. Defining a “foreign-influenced corporation” as a corporation where (i) a single foreign owner controls at least 1% of the company’s equity or shares, (ii) multiple foreign owners control at least 5% of the company’s equity or shares, or (iii) a foreign owner participates directly in decisions regarding political activities in the United States.
- c. Prohibiting foreign-influenced corporations from contributing to independent expenditure committees.

C. Advertising

SMC 2.04.280 currently requires commercial advertisers who accept or provide political advertising during an election campaign to maintain and provide documents and books of account containing the following information:

- a. The names and addresses of the persons who placed the advertising;
- b. The nature and extent of the advertising services; and
- c. The consideration and manner of paying for the advertisement.

CB 119701 provides greater detail regarding these requirements and would apply these requirements to “qualified public communications.” A qualified public communication is defined as a paid advertisement that is intended to influence legislation. The bill would require that an advertiser provide the following additional information for both paid election advertising and qualified public communications:

- a. The rates charged for an advertisement;
- b. The name of the candidate or elected official to which the advertisement refers and the position the candidate is seeking;
- c. The election or legislative issue to which the advertisement refers; and
- d. For services provided to or on behalf of a candidate, the candidate’s name, authorized committee and committee treasurer.

Information regarding election advertising is required to be retained for three years after the date of the election. For a qualified public communication, information would be required to be retained for four years after the date of the communication.

at NYU School of Law, 2018, Retrieved from <https://www.brennancenter.org/our-work/policy-solutions/getting-foreign-funds-out-americas-elections>

D. Amendments

In reviewing CB 119701, Central Staff identified the following minor changes, that should be made prior to voting the bill out of committee:

- a. Add a finding of fact regarding 2019 campaign financing, as follows:

E. Independent expenditures in Seattle’s 2019 election for seven district City Council seats were more than five times the amount of independent expenditures in 2015, a year when all nine City Council seats were up for election. ~~RESERVED~~

- b. The definition of “political advertising” in Section 2.04.010 was inadvertently deleted from Section 2.04.010 in the bill and should be added back into the bill. The definition reads as follows:

"Political advertising" means any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

- c. In Section 8 of CB 119701, which adds a new Section 2.04.400, the words “other than a limited contributor committee” in the first sentence in subsection 2.04.400.A. should not be underlined.

E. Next Steps

The GESCNA-Ed Committee, or its successor, will discuss the Clean Campaigns Act on January 7, at which time it will consider possible amendments and may vote on the bill.

cc: Kirstan Arestad, Exec Director
Aly Pennucci, Supervising Analyst