

January 3, 2020

MEMORANDUM

To: Select Committee on Campaign Finance Reform
From: Lish Whitson, Analyst
Subject: Clean Campaigns Acts

On Tuesday, January 7, the Select Committee on Campaign Finance Reform will consider, and may vote on the Clean Campaign Acts; specifically, three Council Bills (CB) related to regulating campaign finance: CB [119730](#), CB [119731](#) and CB [119732](#). These bills seek to reduce and remove the threat of corruption and the appearance of corruption, including quid pro quo corruption, by limiting independent expenditures, prohibiting contributions by foreign-influenced corporations and requiring greater transparency from commercial advertisers.

The content of these bills was discussed at the [December 11](#) and [December 19](#) Gender Equity, Safe Communities, New Americans and Education (GESNA-Ed) Committee meetings. After the December 19 meeting, a single bill covering all three topics was split into three bills, each addressing a different topic, as noted below:

CB 119730: Limits on Independent Expenditures

CB 119731: Restrictions on Foreign-Influenced Corporations

CB 119732: Requirements for Commercial Advertisers and Qualified Public Communications

In addition, Central Staff received direction to make the following changes:

- Prohibit foreign-influenced corporations from making contributions to political campaigns;
- Increase civil penalties for illegal campaign finance contributions; and
- Incorporate additional findings of fact to better explain the purpose of and need for the bills.

This memorandum discusses: (1) Seattle's current campaign finance regulations; (2) limits on independent expenditures (CB 119730), including an amendment discussed on December 19; (3) restrictions on foreign-influenced corporations (CB 119731); (4) commercial campaign advertising (CB 119732); and (5) Council's next steps. For a discussion of trends in campaign spending, please see the memorandum prepared for the [December 19 meeting](#).

1. Seattle's Current Campaign Finance Regulations

Chapter 2.04 of the Seattle Municipal Code (SMC) limits the size of contributions candidates for City Council, City Attorney, and Mayor may accept. 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

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 were set by the Honest Elections initiative to limit the threat of corruption, in particular quid pro quo corruption, as well as the perception of corruption created by large contributions.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 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. Limits on Independent Expenditures (CB 119730)

CB 119730 would define “independent expenditure committee” and set a \$5,000 limit on contributions to independent expenditure committees, often referred to as “Super PACs.” The bill would also create a category of political committees called a “limited contributor committee” (LCC) that would be permitted to make unlimited contributions to an independent expenditure committee.

¹ For examples of attempted quid pro quo corruption in Seattle campaigns, see the threat of independent expenditures against Jon Grant in 2015 (Daniel Beekman, “Civic Square development exec apologizes for ‘inappropriate’ message about campaign,” The Seattle Times, October 14, 2015, retrieved from <https://www.seattletimes.com/seattle-news/politics/civic-square-development-exec-apologizes-for-inappropriate-message/> and 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>

Independent expenditure committees are political committees that make expenditures in support of or opposition to election campaigns without coordinating that spending with a campaign. There has been a significant increase in independent expenditures over the last ten years. Because political committees can raise unlimited amounts of money, contributions to political committees may be used to avoid stricter limits on contributions to candidates and campaigns. The proposed \$5,000 limit is intended to reduce the appearance of corruption and threat of corruption that results from large independent expenditures in support of or opposed to candidates.

An LCC would be defined as a political committee that receives small contributions from many contributors. Under CB 119730, the number of contributions needed to qualify would mirror the thresholds for candidates wishing to participate in the democracy voucher program. Political committees that meet the following criteria could qualify as an LCC:

1. Has been in existence for at least nine months;
2. Receives contributions from the greater of:
 - a. At least 150 persons, if making expenditures in support of or in opposition to district City Council campaigns;
 - b. At least 400 persons, if making expenditures in support of or in opposition to an at-large City Council candidate or candidate for City Attorney; or
 - c. At least 600 persons, if making expenditures in support of or in opposition to candidates for Mayor; and
3. The total amount of contributions that the committee has received in the preceding two years consists exclusively of contributions that are either:
 - a. Less than \$500 per person per calendar year; or
 - b. From a committee that itself meets the criteria in 1, 2, and 3.a.

Because they themselves may only receive small dollar donations, LCCs would be exempt from the \$5,000 limit on contributions to independent expenditure committees.

Councilmember González has proposed amendments to the LCC regulations, as shown in Attachment 1. The amendments would:

1. Cap contributions from LCCs to other political committees at \$10,000.
2. Reduce the minimum number of contributors to 100.
3. Reduce the maximum contribution amount to \$100.
4. Require an LCC to certify to the Seattle Ethics and Elections Commission that it has met the requirements to qualify as an LCC.

3. Restrictions on Foreign-Influenced Corporations (CB 119731)

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 \(b\)\)](#)). This definition is silent on corporations that are owned or controlled by foreign persons but organized under United State laws and that have their principal place of business in the United States.

Federal Election Commission Chair Ellen L. Weintraub and academic researchers have identified foreign influence through corporate ownership as one way that foreign interests have sought a direct influence on US governmental actions.² CB 119701 would prohibit contributions from such corporations by:

- 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 making contributions to political campaigns or independent expenditure committees.

4. Commercial Campaign Advertising (CB 119732)

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 119732 provides greater detail regarding these requirements and would apply these requirements to “qualified public communications.” A qualified public communication would be defined as a paid advertisement that is intended to influence legislation or influence an elected official’s position on the 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;

² 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 at NYU School of Law, 2018, Retrieved from <https://www.brennancenter.org/our-work/policy-solutions/getting-foreign-funds-out-americas-elections>

- 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.

5. Next Steps

The Select Committee on Campaign Finance Legislation will discuss and may vote on CBs 119370, 119371 and 119372 at its January 7 Committee meeting. If it does vote the legislation out of Committee on the 7th, the legislation could be ready for a vote by the City Council on January 13.

Attachments:

1. Proposed Amendment to Council Bill 119370

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

Attachment 1: Proposed Amendment to Council Bill 119370

Proposed Amendment to Council Bill (CB) 119370: Limited Contributor Committee definition and limits
Councilmember González

CB 119370: Limits contributions to independent expenditure committees to avoid the corruption and the appearance of corruption that can result from unlimited contributions to independent expenditure committees. The bill as introduced would allow “limited contributor committees” to contribute an unlimited amount of money to independent expenditure committees to allow organizations that collect many small contributions to contribute toward independent expenditures.

Proposed Amendment: This amendment would (1) add a cap on the maximum amount that a Limited Contributor Committee (LCC) can contribute to an Independent Expenditure Committee, (2) lower the maximum amount that an individual can contribute to a LCC, (3) lower the number of contributions that a LCC needs to receive in order to be considered a limited contributor committee. It would also require LLCs to certify they meet the requirements to be considered a limited contributor committee.

Effect of Amendment: The intent of this amendment is to clarify that LCCs are made up of small-dollar donors in order to prevent unlimited contributions to independent expenditure committees. There is nothing in this amendment that would prohibit an LLC from making its own independent expenditures at whatever level it deems appropriate.

Language added to CB 119370 is shown with a double underline.

Language removed from CB 119370 is shown with a ~~double-strikeout~~.

A. Amend the definition of “Limited contributor committee” in Section 2.04.010 as follows:

“Limited contributor committee” means a political committee that meets all the following

criteria:

1. Has been in existence for at least nine months;

2. Receives contributions from at least 100 persons. ~~the greater of:~~

~~a. At least 150 persons, if making expenditures in support of or in opposition to district City Council campaigns;~~

~~b. At least 400 persons, if making expenditures in support of or in opposition to an at large City Council candidate or candidate for City Attorney; or~~

~~c. At least 600 persons, if making expenditures in support of or in opposition to candidates for Mayor; and~~

3. The total amount of contributions that the committee has received in the preceding two years consists exclusively of contributions that are either:

a. From individuals, where no one individual has contributed more than \$100 per calendar year; or ~~Less than \$500 per person per calendar year, or~~

b. From ~~a committee that~~ one or more persons that each provide to the committee a certification, on a form developed by the Executive Director and signed under penalty of perjury, that the person itself meets the criteria in subsections 1, 2, and 3.a of this definition.

B. Require that limited contributor committees file a report regarding their status as limited contributor committees by adding a subsection 2.04.260.A.13. as follows:

2.04.260 Treasurer's reports—Contents((=))

A. Each report required under Section 2.04.250 shall disclose:

* * *

12. Investments made of campaign funds under Section 2.04.215 and interest dividends and/or other income received.

13. For a limited contributor committee, certification on a form developed by the Executive Director and signed under penalty of perjury, that the committee meets the definition of a limited contributor committee as defined under subsection 2.04.010.

* * *

C. Add a limit on contributions to independent expenditure committees from limited contributor committees in Section 2.04.400 as follows:

2.04.400 Limits on contributions to independent expenditure committees

Amendment 2 to Council Bill 119701: Limited Contributor Committee definition and limits

A. In any election cycle, no person other than a limited contributor committee shall contribute more than \$5,000 to an independent expenditure committee that has conveyed, implicitly or explicitly, that contributions to the committee may be used in elections for or against candidates for the offices of Mayor, City Council, or City Attorney of The City of Seattle.

B. In any election cycle, no limited contributor committee shall contribute more than \$10,000 to an independent expenditure committee that has conveyed, implicitly or explicitly, that contributions to the committee may be used in elections for or against candidates for the offices of Mayor, City Council, or City Attorney of the City of Seattle.

~~B.C.~~ An independent expenditure committee may dedicate any contributions that do not comply with the restrictions of Section 2.04.400 for use in elections outside the Seattle or for other lawful purposes.