



Legislation Details (With Text)

File #: CB 119730 **Version:** 1 **Name:** CB 119730
Type: Council Bill (CB) **Status:** Retired
In control: City Clerk

On agenda: 1/7/2020

Final Action: **Ord. No.**

Title: AN ORDINANCE related to elections; limiting contributions to independent expenditure committees; amending Sections 2.04.010, 2.04.270, 2.04.370, 2.04.400, and 2.04.500 of the Seattle Municipal Code (SMC).

Sponsors: M. Lorena González

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Central Staff Memo, 3. Presentation

Date	Ver.	Action By	Action	Result
5/3/2021	1	City Clerk	Retired	
1/7/2020	1	Select Committee on Campaign Finance Reform	discussed	
1/6/2020	1	City Council	referred	
12/31/2019	1	Council President's Office	sent for review	
12/31/2019	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE related to elections; limiting contributions to independent expenditure committees; amending Sections 2.04.010, 2.04.270, 2.04.370, 2.04.400, and 2.04.500 of the Seattle Municipal Code (SMC).

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council makes the following findings of fact:

A. Independent expenditure committees, also known as “Super PACs,” and similar independent spending groups are a growing phenomenon in local elections in Seattle, in Washington State, and nationwide.

B. Large contributions to independent expenditure committees pose the risk of corruption or the appearance of corruption, including quid pro quo corruption, even if the independent expenditure committees do not coordinate with political campaigns.

C. Current laws allow donors to circumvent limits on contributions to candidates by making unlimited contributions to independent expenditure committees supporting those candidates.

D. In recent years, large contributions to independent expenditure committees by large, well-funded organizations, such as real estate interests, technology companies, and other industries, have increased the appearance of corruption in city elections.

E. In 2015, a real estate development executive attempted to blackmail a Seattle City Council candidate by using the threat of \$200,000 in negative independent expenditures, and offered to block those expenditures if the candidate would settle a lawsuit pending against the real estate development company.

F. Multiple grand juries have returned criminal indictments alleging that contributions were made to independent expenditure committees in exchange for favorable official action.

G. According to data collected by the Seattle Ethics and Elections Commission, total independent expenditures in City elections have rapidly increased, with independent expenditures on City Council elections vaulting from \$0 in 2011 and just \$3,577 in 2013 to \$4,254,629 in 2019, even as most seats are now elected by district, rather than at large.

H. Independent expenditures in Seattle's 2017 election were more than double the amount of independent expenditures in 2013, the previous year with a Mayoral election, according to data collected by the Seattle Ethics and Elections Commission.

I. 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.

J. Many of the largest independent expenditures are made by independent expenditure committees that are funded by individuals and corporations that make enormous contributions of six or seven figures, with a single contributor making a contribution of \$1.5 million in the 2019 City Council election, which amounted to one-third of all independent expenditures made for that election.

K. Surveys of public opinion consistently demonstrate that large individual or corporate contributions to independent expenditure committees create an appearance of corruption.

L. To protect the integrity of Seattle’s democracy and prevent corruption or the appearance of corruption, in particular quid pro quo corruption, it is necessary to place limits on contributions to independent expenditure committees.

M. The people of Seattle wish to protect their democratic self-governance.

Section 2. Section 2.04.010 of the Seattle Municipal Code, last amended by the ordinance introduced as Council Bill 119731, is amended as follows:

2.04.010 Definitions

* * *

“Independent expenditure” means an expenditure on behalf of ~~((;))~~ or opposing any election campaign, when such expenditure:

1. ~~((is))~~ Is made independently of the candidate, ~~((his/her))~~ the candidate’s political committee ~~((;))~~ or agent, or ~~((of))~~ any ballot proposition committee or its officers or agents; ~~((;))~~

2. ~~((and when such expenditure is))~~ Is made without the prior consent, or the collusion ~~((;))~~ or ~~((the))~~ cooperation, of the candidate, ~~((or his/her))~~ the candidate’s agent or political committee, or the ballot proposition committee or its officers or agents; ~~((;))~~ and

3. ~~((when such expenditure is))~~ Is not a contribution as defined in this Section 2.04.010.

An independent expenditure is made by a person on the earliest of the following events: (a) the person agrees with a vendor or provider of services to make an independent expenditure; or (b) the person incurs the obligation to make an independent expenditure; or (c) the person pays for an independent expenditure.

“Independent expenditure committee” means any political committee that makes an independent expenditure, or makes contributions to other independent expenditure committees, totaling \$1,000 or more in an election cycle for a City election.

“Knowledge.” A person knows or acts knowingly or with knowledge when:

1. ~~((the))~~ The person is aware of a fact, facts, or circumstances or result described by an offense in this ~~((title))~~ Title 2; or

2. ~~((he or she))~~ The person has information that would lead a reasonable person to believe that facts exist, which facts are described by an ordinance defining the offense, in violation of this ~~((title))~~ Title 2.

“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 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 subsections 1, 2, and 3.a of this definition.

“Officer of a political committee” means the following persons: the treasurer, any person designated by the committee as an officer on the statement of organization filed with the City Clerk, and any person who alone or in conjunction with other persons makes contribution, expenditure, strategy, or policy decisions on behalf of the committee.

“Person” means an individual; ~~((s))~~ partnership; ~~((s))~~ joint venture; ~~((s))~~ public or private corporation; ~~((s))~~ association; ~~((s))~~ federal, state, or local government entity or agency however constituted; ~~((s))~~ candidate; ~~((s))~~

committee; ((§)) political committee; ((§)) continuing political committee; ((§)) political party ((§)) or executive committee thereof; ((§)) or any other organization or group of persons, however organized.

* * *

Section 3. Section 2.04.270 of the Seattle Municipal Code, last amended by the ordinance introduced as Council Bill 119731, is amended as follows:

2.04.270 Independent expenditures; contributions to out-of-state committees-reports

* * *

B. 1. Any person who contributes in the aggregate an amount of \$100 or more during the preceding 12-month period to any political committee not domiciled in the state or not otherwise required to report under this ((chapter)) Chapter 2.04, if the person reasonably expects such political committee to make contributions or independent expenditures in respect to any election covered by this ((chapter)) Chapter 2.04, shall file with the City Clerk a report signed by the contributor disclosing the contributor's name and address, the date, nature, purpose, amount, and recipient of such contribution, and any instructions given as to the use or disbursement of such contribution.

2. The initial report shall be filed with the City Clerk within five days after the date on which the amount of \$100 or more is reached, and each subsequent report shall be filed within five days after each subsequent contribution is made to the same such political committee.

* * *

Section 4. Section 2.04.370 of the Seattle Municipal Code, last amended by the ordinance introduced as Council Bill 119731, is amended as follows:

2.04.370 Mandatory limitations on contributions to candidates

A. No person shall make a contribution to any candidate for Mayor, member of the City Council, or City Attorney of the City ((§)) except in the election cycle for that candidate as defined in Section 2.04.010.

B. No person shall contribute more than \$500 to any candidate for Mayor, member of the City Council,

or City Attorney of the ((city)) City, in any election cycle.

C. A candidate for Mayor, member of the City Council, or City Attorney of the City ((;)) may only accept or receive a campaign contribution during an election cycle as defined in Section 2.04.010.

D. No candidate for Mayor, member of the City Council, or City Attorney of the City shall solicit or receive campaign contributions of more than \$500 from any person in any election cycle.

E. Contributions from foreign-influenced corporations prohibited

1. No candidate for Mayor, member of the City Council, or City Attorney of the City shall solicit or receive campaign contributions from a foreign-influenced corporation.

2. Any corporation making a contribution to a candidate for Mayor, member of the City Council, or City Attorney of The City of Seattle shall, within seven business days after making such contribution, file with the City Clerk a statement of certification signed by its chief executive officer under penalty of perjury, avowing that after due inquiry, the corporation was not a foreign-influenced corporation on the date such contribution was made. The corporation shall also provide a copy of the statement of certification to any campaign to which it contributes.

F. The limitations imposed by this Section 2.04.370 shall not apply to:

1. A candidate's contributions of the candidate's own resources to the candidate's own campaign, or contributions to the candidate's campaign by the candidate or the candidate's spouse or state registered domestic partner of their jointly owned assets;

2. Independent expenditures as defined by this Chapter 2.04 except as provided by Section 2.04.400;

3. The value of in-kind labor; and

4. Contributions consisting of the rendering of clerical or computer services on behalf of a candidate or an authorized political committee, to the extent that the services are for the purpose of ensuring compliance with City, county, or state election or public disclosure laws.

G. The limitations imposed by this Section 2.04.370 shall apply to contributions of the candidate's spouse's or state registered domestic partner's separate property.

H. The limitations in this Section 2.04.370 shall be adjusted commencing before the 2019 election cycle, and prior to each election cycle thereafter, by the Commission to account for inflation or deflation using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the period since the effective date of this measure or the prior adjustment, as calculated by the United States Department of Labor. The declaration of the Washington State Department of Labor and Industries every September 30, regarding the rate by which Washington State's minimum wage rate is to be increased effective the following January 1, shall be the authoritative determination of the rate or percentage of increase or decrease to be adjusted, except that the Commission may round off the new figures to amounts judged most convenient for public understanding.

Section 5. Section 2.04.400 of the Seattle Municipal Code, enacted by the ordinance introduced as Council Bill 119731, is amended as follows:

2.04.400 Limits on contributions to independent expenditure committees

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.

~~((A))~~ B. No foreign-influenced corporation shall make an independent expenditure in elections for or against candidates for the offices of Mayor, City Council, or City Attorney of The City of Seattle, or a contribution 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 Seattle or for other lawful purposes.

Section 6. Section 2.04.500 of the Seattle Municipal Code, last amended by Ordinance 123070, is amended as follows:

2.04.500 Civil remedies and sanctions ((-))

A. 1. Upon determining pursuant to Sections 2.04.070 through 2.04.090 that a violation has occurred, the Commission may issue an order requiring the party to take particular action in order to comply with the law, and in addition, or alternatively, may impose sanctions up to \$5,000 for each violation.

2. Upon determining that a contribution was illegally made or accepted, in addition to the remedies in subsection 2.04.500.A.1, the Commission may order the return of a contribution illegally made, and impose a penalty of two times the amount of a contribution illegally made or accepted by a person who violates Section 2.04.180, 2.04.200, 2.04.210, 2.04.215, 2.04.240, 2.04.270, 2.04.290, 2.04.300, 2.04.370, 2.04.400, or 2.04.480.

3. Upon determining that a report was filed excessively late, in addition to the remedies in subsection 2.04.500.A.1, the Commission may impose a penalty of two times the amount of each deposit or expenditure for each deposit or expenditure that was reported excessively late. A report is excessively late if it was due more than 21 days before the election in which the candidate or ballot proposition appeared on the ballot, but was not filed at least 21 days before that election. A report is also excessively late if it was due within 21 days before the election in which the candidate or ballot proposition appeared on the ballot, but was not timely filed.

4. In addition to the actions in subsections 2.04.500.A.1, 2.04.500.A.2, and 2.04.500.A.3 above, the Commission may forward the determination of violation to the Seattle City Attorney or the King County Prosecutor for prosecution. If the court finds that the violation of any provision of this ((chapter)) Chapter 2.04 by any candidate or political committee probably affected the outcome of any election, the result of the election may be held void and a special election held within 60 days of such finding. Any action to void an election shall

be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

* * *

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 8. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)