



Legislation Text

File #: CB 119732, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE related to political advertising and qualified public communications; expanding commercial advertisers' duty to maintain and provide records regarding political advertising and qualified public communications; amending Sections 2.04.010 and 2.04.280 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. The public has an interest in knowing the source, funding, and nature of paid advertisements that are intended to influence legislation on political matters of local importance, and these should be fully disclosed to the public.

B. Legislating on political matters of local importance is fundamental to voters' assessment of elected officials.

C. Timely disclosure of the identity and sources of funding for electioneering communications and communications that are intended to influence legislation on political matters of local importance is vitally important to the integrity of local elections and voters' assessment of their elected officials.

D. The City has a compelling interest in providing voters with information about political communications concerning both candidates for local office and legislative matters so that voters can be fully informed.

E. The United States Supreme Court has repeatedly recognized the public's interest in knowing who is speaking about a candidate or issue, and who is funding that speech, because disclosure ensures compliance with campaign finance restrictions and accomplishes the well-recognized important government interest in

informing the electorate. In addition, disclosure avoids confusion regarding the funding sources of political advertisements and communications. Abuse of existing law allows special interest groups to fund advertisements designed to influence elections and legislative matters while permitting the special interest groups to conceal their identities by using ambiguous or misleading names. The proponent of the advertisement or communication has a First Amendment right to speech, but individual citizens have a competing First Amendment interest in seeking to make informed choices in the political marketplace. By way of example, the U.S. Supreme Court has upheld federal requirements for broadcasters to keep, and make public, records regarding political advertisements, including the contracts between broadcasters and persons requesting the broadcaster's services for dissemination of electioneering communications. (*McConnell v. FEC*, 540 U.S. 93 (2003); *Citizens United v. FEC*, 558 U.S. 310 (2010).)

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

* * *

“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.

“Political committee” means any person (except a candidate or an individual dealing with ~~((his))~~ the individual's own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

“Public Disclosure Commission (PDC)” means the Public Disclosure Commission established by RCW ~~((42.17.350))~~ 42.17A.100.

“Public office” means any elective office of the City.

“Qualified public communication” means any paid advertisement (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that communicates a message relating to any political matter of local importance, including (1) legislation, as defined in Section 2.06.010, or (2) an elected official’s position on such legislation, in an effort to influence the development, proposal, drafting, consideration, reconsideration, promotion, adoption, enactment, rejection, approval, disapproval, veto, or failure to take action upon such legislation.

“Sponsor” means the candidate, political committee or person paying for ~~((the))~~ a political ~~((advertising))~~ advertisement. If a person acts as an agent for another or is reimbursed by another for the payment, the agent’s principal or the source of the reimbursement is the sponsor.

As used in this ~~((chapter))~~ Chapter 2.04, the singular shall include the plural and conversely, and any gender ~~((, any other,))~~ shall include all others as the context requires.

* * *

Section 3. Section 2.04.280 of the Seattle Municipal Code, last amended by Ordinance 123070, is amended as follows:

2.04.280 Commercial advertisers’ duty to report ~~((:))~~

A. Each commercial advertiser that has accepted or provided political advertising and/or a qualified public communication during the election campaign shall maintain documents and books of account open for public inspection during normal business hours through the campaign and for a period of no less than three years after the date of the applicable election. In the case of a qualified public communication, each commercial advertiser shall maintain documents and books of account open for public inspection from the first date on which the qualified public communication appears and for no less than four years after the last date on which the qualified public communication appeared. ~~((during normal business hours,))~~ Such documents and books of account ~~((which))~~ shall ~~((specify))~~ contain:

1. The names and addresses of persons from whom it accepted political advertising or qualified

public communications, including, if the person is a business entity, a list of the chief executive officers or members of the executive committee or of the board of directors of such entity;

2. The exact nature and extent of the advertising services rendered, including:

a. The advertisement;

b. The rates charged for the advertisement;

c. The name of:

1) The candidate or elected official to which the advertisement refers and the office to which the candidate is seeking election or which the elected official holds,

2) The election to which the advertisement refers, or

3) The legislative issue to which the advertisement refers (as applicable);

d. In the case of services provided to or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

3. The consideration and the manner of paying that consideration for such services.

B. Each commercial advertiser that must comply with subsection 2.04.280.A (~~(of this section)~~) shall deliver to the Executive Director, upon (~~(his or her)~~) the Director's request, copies of such information as must be maintained open for public inspection pursuant to subsection 2.04.280.A. (~~(of this section.)~~)

Section 4. 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 5. 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)