



SEATTLE CITY COUNCIL

Select Committee on Campaign Finance Reform Agenda

Tuesday, January 7, 2020

9:30 AM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

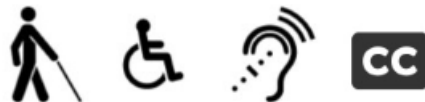
M. Lorena González, Chair
Lisa Herbold, Vice-Chair
Debora Juarez, Member
Andrew J. Lewis, Member
Tammy J. Morales, Member
Teresa Mosqueda, Member
Alex Pedersen, Member
Kshama Sawant, Member
Dan Strauss, Member

Chair Info: 206-684-8809; Lorena.González@seattle.gov

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SEATTLE CITY COUNCIL
Select Committee on Campaign Finance Reform
Agenda
January 7, 2020 - 9:30 AM

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/campaign-finance-reform>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

(10 minutes)

D. Items of Business

1. [CB 119730](#) **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).**

Supporting

Documents:

[Summary and Fiscal Note](#)

[Central Staff Memo](#)

[Presentation](#)

Briefing and Discussion (90 minutes for Items 1-3)

Presenter for Items 1-3: Lish Whitson, Council Central Staff

2. [CB 119731](#) **AN ORDINANCE related to elections; prohibiting foreign-influenced corporations from making independent expenditures or contributing to campaigns and independent expenditure committees; amending Sections 2.04.010, 2.04.260, 2.04.270, 2.04.360, and 2.04.370 of the Seattle Municipal Code (SMC); and adding a new Section 2.04.400 to the SMC.**

Supporting

Documents:

[Summary and Fiscal Note](#)

[Central Staff Memo](#)

[Presentation](#)

Briefing, Discussion, and Possible Vote

3. [CB 119732](#) **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).**

Supporting

Documents:

[Summary and Fiscal Note](#)

[Central Staff Memo](#)

[Presentation](#)

Briefing, Discussion, and Possible Vote

E. Adjournment



Legislation Text

File #: CB 119730, Version: 1

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; ((§)) partnership; ((§)) joint venture; ((§)) public or private corporation; ((§)) association; ((§)) federal, state, or local government entity or agency however constituted; ((§)) candidate; ((§)) 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 ~~((s))~~ 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 ~~((s))~~ 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)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Legislative	Lish Whitson/(206) 615-1674	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation 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).

Summary and background of the Legislation:

This bill would amend the City’s regulations regarding campaign finance limits and reporting of campaign expenditures. It addresses gaps in the City’s election regulations that can undermine the integrity of the City’s elections and increase the risk of corruption or the appearance of corruption, including quid pro quo corruption.

While the City limits the amount that a person may contribute to a political campaign, there is no cap on how much money a political committee can spend in support of or in opposition to a candidate. This has, in the past, resulted in threats to candidates. This bill would limit contributions to independent expenditure committees. It defines “independent expenditure committee” as a political committee that makes independent expenditures (uncoordinated with a candidate or ballot proposition campaign.) The legislation sets a \$5,000 cap on contributions by persons to independent expenditure committees for use in elections in the City of Seattle in any election cycle. A “limited contribution committee,” one that only accepts donations up to \$500 a person, would be able to contribute to another political committee with no cap.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes X No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes X No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

The Seattle Ethics and Elections Commission has indicated that they would require additional staff to enforce these and existing regulations. One Strategic Advisor 1 position to enforce these and other Election regulations would cost approximately \$149,000 in 2020.

Is there financial cost or other impacts of *not* implementing the legislation?

None identified

3.a. Appropriations

_____ This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

_____ This legislation adds, changes, or deletes revenues or reimbursements.

3.c. Positions

_____ This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

The Seattle Ethics and Elections Commission would enforce the legislation.

b. Is a public hearing required for this legislation?

No.

c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

No.

d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

e. Does this legislation affect a piece of property?

No.

f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

None identified.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).

Not applicable.

List attachments/exhibits below:

None

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

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

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.



SEATTLE CITY COUNCIL
CENTRAL STAFF

Clean Campaigns Acts (Council Bills 119730, 119731, 119732)

LISH WHITSON, ANALYST

SELECT COMMITTEE ON CAMPAIGN FINANCE REFORM

JANUARY 7, 2020

Agenda

1. Existing Conditions

- a. Spending in Seattle elections
- b. Summary of Seattle's current campaign finance regulations

2. Clean Campaigns Acts

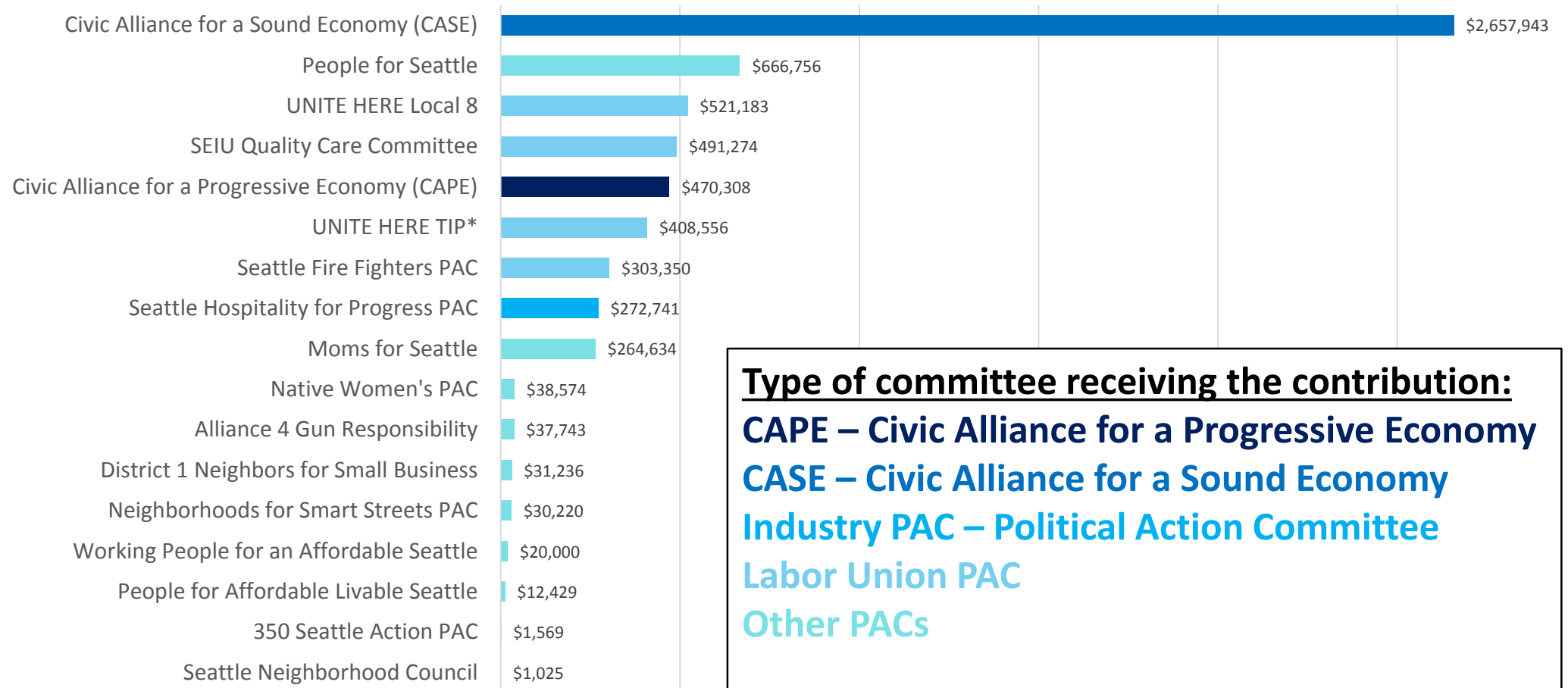
- a. Limit contributions to independent expenditure committees (CB 119730)
- b. Prohibit contributions by foreign-influenced corporations (CB 119731)
- c. Require greater transparency in political advertising (CB 119732)

Spending in City Council races

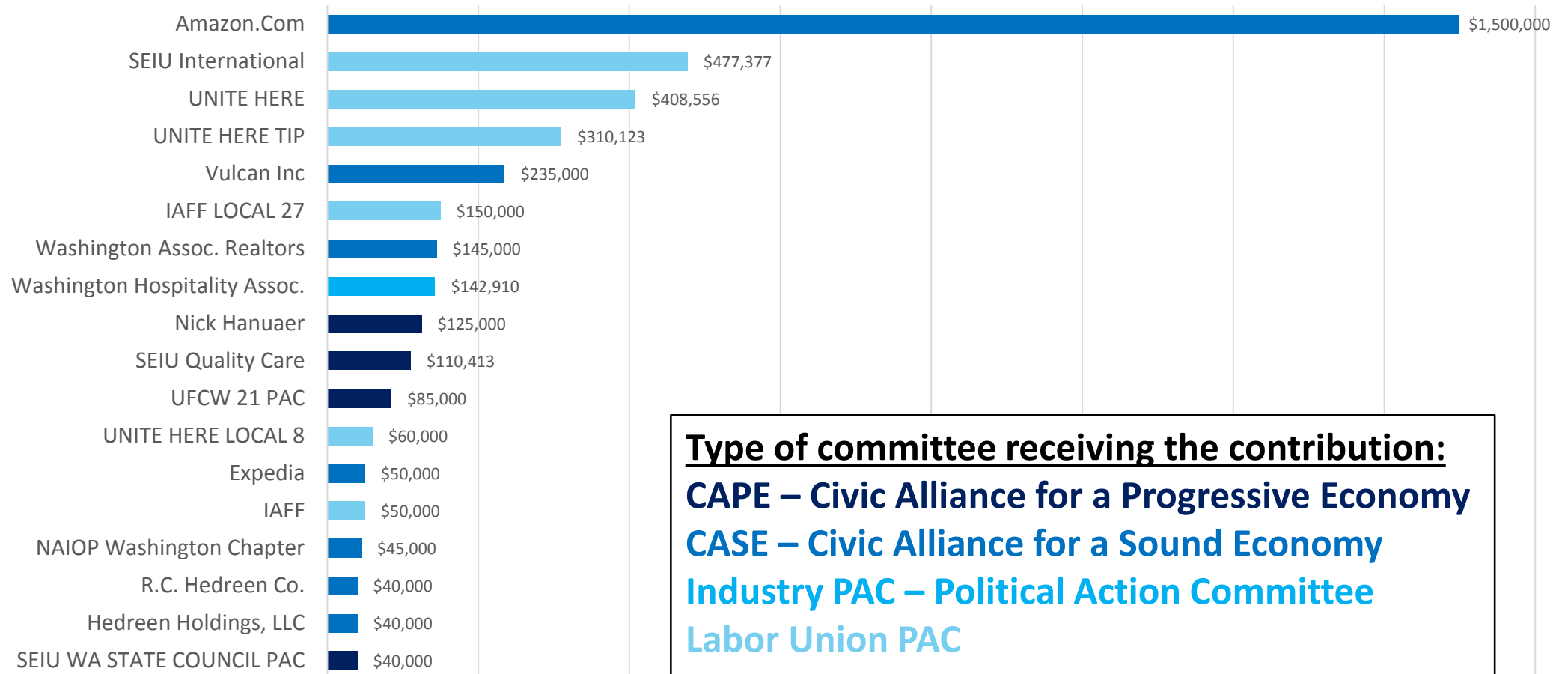
Year	City Council races	Independent Expenditures	Cash and in-kind contributions to Council candidates	Democracy Voucher contributions to Council candidates	Total Contributions and Expenditures	\$ per Race	% of \$ by Independent Expenditure
2009	4	\$134,495	\$1,600,056	N/A	\$1,734,551	\$433,638	7.8%
2011	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/, Seattle City Council Central Staff Numbers as of December 11, 2019.

Total Contributions to 2019 Political Committees



Top Contributors to Political Committees that made Independent Expenditures in 2019



Key Terms

“Person”: individual, partnership, joint venture, public or private corporation, association, government, candidate, committee, political committee, continuing political committee, political party, or any other organization or group of persons

“Contribution”: transfer of anything of value that is less than full consideration

“Political committee”: any person planning to receive contributions or make expenditures in support of or opposition to a candidate or ballot proposition

“Independent expenditure” (IE): expenditure on behalf of or opposing a campaign, when:

- It is made independent of a campaign
- Is made without consent, collusion, or cooperation of a campaign
- Is not a contribution

Seattle's Campaign Contribution Limits

	Candidates Collecting Democracy Vouchers		Candidates Not Collecting Democracy Vouchers	
Maximum Contribution	Councilmembers	\$250	All Candidates	\$500
	City Attorney	\$250		
	Mayor	\$500		

- No limits on contributions to political committees
- Contributions to candidates and political committees must be disclosed
- Campaigns may not participate in IEs

Foreign Contributions

- No Seattle regulations regarding foreign contributions.
- Federal law prohibits contributions from foreign nationals* and foreign principals** in connection with any election – federal, state or local.
- Domestic subsidiaries of foreign corporations are eligible to contribute if the foreign parent doesn't finance election-related contributions or expenditures.

* Green card holders may contribute

** A “foreign principal” is a group organized under the laws of another country or having its principal place of business in a foreign country, including foreign governments, political parties, partnerships, associations, and corporations.

Political Advertising

Commercial advertisers must maintain documents and books of account, including:

- Names and addresses of persons placing an advertisement
- Nature and extent of the advertising
- Cost and method of payment

Documents and books of account must be open for public inspection:

- During normal business hours
- During election and for at least three years after the election

Requirements only apply for campaigns, not legislative activity.

Penalties

- Civil penalties for violations of election campaign contribution regulations: up to \$5,000 and return of contribution
- Civil penalties for illegal contributions: greater of up to two times the contribution amount OR \$5,000 and return of the contribution
- May be sent for prosecution
- Court may void the election if the violation probably affected the election.

Independent Expenditures (CB 119730)

“Independent Expenditure Committee”: political committee that makes (1) an IE or (2) contributes over \$1,000 to other independent expenditure committees in an election cycle.

- Contributions to independent expenditure committees for use in Seattle campaigns would be limited to \$5,000 per person.

Independent Expenditures (CB 119730)

“Limited Contributor Committee” (LCC): A political committee that:

- Has existed for at least 9 months;
- Receives contributions from at least:
 - 150 persons if contributing toward district council races;
 - 400 persons if contributing toward at-large council and city attorney races;
 - 600 persons if contributing toward mayoral races; and
- Only accept contributions less than \$500 or from other limited contributor committees.
- No limits on contributions from LCCs to other political committees.

Amendment 1 to CB 119730 (Councilmember González)

1. Amend the definition of “Limited Contributor Committee” as follows:

“Limited Contributor Committee”: A political committee that:

- Has existed for at least 9 months;
- Receives contributions from at least 100 persons; and
- Only accept contributions less than \$100 or from other LCCs.

2. Require LCCs to certify that they meet the definition

3. Limit contributions from LCCs to \$10,000

Foreign-Influenced Corporations (CB 119731)

“Foreign Investor”: foreign government; foreign political party; company headquartered in a foreign country or incorporated under foreign laws; or an individual that is neither a citizen nor a permanent resident of the United States

“Foreign Owner”: foreign investor, or corporation where a foreign investor holds

“Foreign-Influenced Corporation”:

- Single foreign owner owns 1% or more of the corporation; or
- Two or more foreign owners own 5% or more; or
- Foreign owner participates directly or indirectly in corporate decision-making regarding political activities

“Chief Executive Officer”: highest-ranking officer or decision-maker in a corporation

“Corporation”: a corporation, company, limited liability company, limited partnership, business trust, business association, other similar entity

Foreign-Influenced Corporations (CB 119731)

- Foreign-influenced corporations would not be permitted to:
 1. Contribute to campaigns for elected office;
 2. Make independent expenditures; or
 3. Contribute to independent expenditure committees.
- Corporations that contribute to a campaign, make an independent expenditure, or contribute to an independent expenditure committee would be required to certify they are not foreign-influenced.

Political Advertising (CB 119732)

- Would define “**Qualified Public Communication**” (QPC) as a paid advertisement intended to influence political decisions.
- Commercial advertisers would be required to maintain documents and books of account for QPCs for four years after the QPC occurs.
- Would require advertisers to keep documents and books of account that include:
 - The advertisement
 - Leaders of corporations placing QPCs
 - Rates charged for advertisements
 - Subjects of advertisement (names of candidates, election, legislative issue)
 - Names of candidates, candidate committees, treasurers

Questions?



Legislation Text

File #: CB 119731, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE related to elections; prohibiting foreign-influenced corporations from making independent expenditures or contributing to campaigns and independent expenditure committees; amending Sections 2.04.010, 2.04.260, 2.04.270, 2.04.360, and 2.04.370 of the Seattle Municipal Code (SMC); and adding a new Section 2.04.400 to the SMC.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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

A. The City of Seattle welcomes immigrants, visitors, and investors from around the world. However, its elections should be decided by the people of Seattle and not by foreign investors or the business entities over which they exert influence.

B. Foreign nationals have used and may continue to use U.S. business entities to funnel funds into U.S. elections, which is in violation of federal laws prohibiting foreign spending in U.S. elections. There are recent instances of intentional and targeted foreign interference in domestic local elections, including in San Diego, where in 2017, a businessman was convicted in federal court of unlawfully funneling foreign funding into local elections through third parties and shell corporations in order to support politicians who might support his real estate development plans; and in New York, where, in 2019, four individuals have been indicted on charges stemming from a scheme in which they laundered foreign money into U.S. elections via shell corporations and straw donors.

C. The U.S. Court of Appeals for the Ninth Circuit has acknowledged the validity of legislation “to protect the country’s political processes after recognizing the susceptibility of the elections process to foreign

interference,” including in municipal elections. (*United States v. Singh*, 924 F. 3d 1030, 1043 (2019)).

D. The United States government has concluded that the 2016 presidential election was subject to extensive foreign involvement, as set forth in the U.S. Director of National Intelligence’s January 2017 report on “Assessing Russian Activities and Intentions in Recent US Elections” and in Special Counsel Robert Mueller’s “Report on the Investigation into Russian Interference in the 2016 Presidential Election,” publicly released on April 18, 2019.

E. The United States government has concluded that Russia, China, Iran, and other foreign actors are engaged in ongoing campaigns to undermine democratic institutions, as set forth in the joint statement “Combating Foreign Influence in U.S. Elections,” issued by the Office of the Director of National Intelligence (ODNI), Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and Department of Homeland Security (DHS) on October 19, 2018.

F. The FBI has concluded that foreign influenced operations include “criminal efforts to suppress voting and provide illegal campaign financing,” as set forth in FBI Director Christopher Wray’s press briefing on election security on August 2, 2018.

G. The United States Congress and the U.S. Supreme Court have recognized the need to protect U.S. elections (including local elections) from foreign influence through the ban on contributions and expenditures by foreign nationals imposed by 52 U.S.C. 30121 and upheld by the Supreme Court in *Bluman v. Federal Election Commission*, 800 F. Supp. 2d 281 (2011).

H. It has been affirmed by the Supreme Court that “the United States has a compelling interest... in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.” (*Bluman v. Federal Election Commission*, 8000 F. Supp. 2d 281 (2011), *aff’d* 575 U.S. 1104 (2012))

I. Current law does not adequately protect against foreign interference through corporate political spending by U.S. corporations with significant foreign ownership, as explained by Federal Election

Commissioner Ellen Weintraub in her July 19, 2017, statement “How Our Broken Campaign Finance System Could Allow Foreign Governments to Buy Influence in Our Elections and What We Can Do About It.”

J. The U.S. Securities and Exchange Commission, major capital investors, corporate managers, and corporate governance experts broadly agree that ownership or control of one percent or more of shares can confer substantial influence on corporate decision-making.

K. Corporations with foreign ownership have been increasingly politically active in recent years, including in local elections in Seattle and around the country.

L. Business entities have a fiduciary duty to their shareholders, including shareholders around the world, and generally prioritize the interests of such shareholders, which may diverge substantially from the interests of the citizens of Seattle and of citizens of the United States.

M. Political spending by foreign-influenced business entities, even when they are simply acting in the perceived interests of their investors rather than being purposefully used to funnel foreign money into local elections, can weaken, interfere with, or disrupt Seattle’s democratic self-government and the faith that the electorate has in its elected officials.

N. To protect the integrity of Seattle’s democratic self-government, it is necessary to prevent foreign-influenced business entities from influencing Seattle elections by spending money in local candidate elections or contributing to independent expenditure committees.

Section 2. Section 2.04.010 of the Seattle Municipal Code, last amended by Ordinance 124694, is amended as follows:

2.04.010 Definitions

* * *

“Candidate” means any individual who seeks election to the office of Mayor, member of the City Council, or City Attorney of the City, whether or not successfully. An individual is deemed to seek election when ~~((he or she))~~ the individual first:

1. Solicits or receives contributions; or
2. Makes expenditures or reserves space or facilities with intent to promote ~~((his or her))~~ the individual's candidacy for office; or
3. Announces publicly or files for office; or
4. Purchases commercial advertising space or broadcast time to promote ~~((his or her))~~ the individual's candidacy; or
5. Makes expenditures or solicits or receives contributions to explore the possibility of seeking election to City office; or
6. Gives ~~((his or her))~~ consent to another person to take on behalf of the individual any of the actions in subsections 1, 2, 4, or 5 of this ~~((section))~~ definition.

“Charter” means the Charter of The City of Seattle.

“Chief executive officer” means the highest-ranking officer or decision-making individual with authority over a corporation’s affairs.

“City” means The City of Seattle.

“Commercial advertiser” means any person who sells the service of communicating messages or producing political advertising.

“Commission” means the Seattle Ethics and Elections Commission established by Section 3.70.010.

“Continuing political committee” means a political committee which is an organization of continuing existence not established in anticipation of any particular election.

“Contribution” means a loan, loan guarantee, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services, for less than full consideration, but does not include:

~~((a) interest))~~ 1. Interest on moneys deposited in a political committee’s account;

~~((b) ordinary))~~ 2. Ordinary home hospitality;

~~((e) the))~~ 3. The rendering of legal or accounting services on behalf of a candidate or an authorized political committee, but only to the extent that the services are for the purpose of ensuring compliance with City, county, or state election or public disclosure laws;

~~((d) the))~~ 4. The rendering of personal services of the sort commonly performed by volunteer campaign workers;

~~((e) incidental))~~ 5. Incidental expenses personally incurred by campaign workers not in excess of \$25, in the aggregate, during the applicable period, personally paid for by a volunteer campaign worker; or

~~((f) an))~~ 6. An internal political communication primarily limited to the members of a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization. For purposes of this definition, “members” are those who ~~((i))~~ (a) regularly pay dues in exchange for benefits from the organization, or ~~((ii))~~ (b) are able to vote, directly or indirectly, for at least one ~~((1))~~ member of the organization’s governing board, or ~~((iii))~~ (c) adhere to a code of conduct, the violation of which may subject the members to sanctions that could adversely affect their livelihood, or ~~((iv))~~ (d) participate in the organization’s policy-formulating committees.

For the purposes of this ~~((chapter))~~ Chapter 2.04, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets to fundraising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this ~~((chapter))~~ Chapter 2.04 by the actual cost of consumables furnished in connection with the purchase of such tickets, and only the excess over actual cost of such consumables shall be deemed a contribution. Without limiting the foregoing, the financing by a person of the dissemination, distribution, or publication, in whole or in part, of broadcast, written graphic, or other form of political advertising prepared or approved by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the

candidate or political committee.

“Corporation” means a corporation, company, limited liability company, limited partnership, business trust, business association, or other similar entity.

“Elected ((Official)) official” means any person elected at a general or special election to the office of Mayor, member of the City Council, or City Attorney of the City and any person appointed to fill a vacancy in any such office.

* * *

“Final report” means the report described as a final report in Section 2.04.375.

“Foreign-influenced corporation” means a corporation for which at least one of the following conditions is met:

1. A single foreign owner holds, owns, controls, or otherwise has direct or indirect beneficial ownership of one percent or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interests of the corporation;

2. Two or more foreign owners, in aggregate, hold, own, control, or otherwise have direct or indirect beneficial ownership of five percent or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interests of the corporation; or

3. A foreign owner participates directly or indirectly in the corporation’s decision-making process with respect to the corporation’s political activities in the United States.

“Foreign investor” means a person or entity that:

1. Holds, owns, controls, or otherwise has direct or indirect beneficial ownership of equity, outstanding voting shares, membership units, or other applicable ownership interests of a corporation; and

2. Is a government of a foreign country; a foreign political party; 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; or an individual who is not a citizen of the United States or a national of the

United States and who is not lawfully admitted for permanent residence.

“Foreign owner” means (1) a foreign investor; or (2) a corporation wherein a foreign investor holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares in an amount that is equal to or greater than 50 percent of the total equity or outstanding voting shares.

“In-kind labor” means services provided by a person who volunteers all, or a portion, of ~~((his/her))~~ the person’s time to a candidate’s election campaign, and who is not paid by any person for such services.

* * *

Section 3. Section 2.04.260 of the Seattle Municipal Code, last amended by Ordinance 123070, is amended as follows:

2.04.260 Treasurer’s reports-Contents ((;))

A. Each report required under Section 2.04.250 shall disclose:

1. The funds on hand at the beginning of the reporting period;
2. The name and address of each person who has made one or more contributions during the

reporting period, together with:

- a. The money value and date of each contribution; ~~((;))~~
- b. The aggregate value of all contributions received from each such person during the

applicable period; ~~((;))~~

c. The occupation and the employer’s name, city, and state of each individual whose contributions in the aggregate during the applicable period exceed \$100.

Contributions of \$25 or less in the aggregate from any one person during the applicable period may be reported as one lump sum so long as the campaign treasurer maintains a separate list of the ~~((contributor’s))~~ contributors’ names, addresses, and the amounts of each of their contributions, but if the treasurer does not maintain such a list, then the name, address, and amount of each contribution shall be reported;

d. A copy of the certification provided pursuant to subsection 2.04.270.D, by the chief executive officer of any corporation making a contribution, that the corporation is not a foreign-influenced corporation.

3. Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, together with the names and addresses of the lender and each person liable directly, indirectly, or contingently and the date and amount of each such loan, promissory note, or security instrument;

4. The name and address of each political committee from which the reporting committee or candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts, dates, and purpose of all such transfers;

5. All other contributions not otherwise listed or exempted;

6. The name and address of each person to whom one or more expenditures were made in the aggregate amount of more than \$50 during the reporting period, and the amount, date, and purpose of each such expenditure;

7. The total sum of expenditures;

8. The surplus or deficit of contributions over expenditures;

9. The disposition made of any surplus of contributions over expenditures;

10. Such other information as the Commission requires by rule adopted pursuant to the Administrative Code in conformance with the policies and purposes of this ~~((chapter))~~ Chapter 2.04;

11. Funds received from a political committee not domiciled in the state and not otherwise required to report under this ~~((chapter))~~ Chapter 2.04 (a “nonreporting committee”). Such funds shall be returned unless the nonreporting committee files with the City Clerk no later than the tenth day of the month following any month in which a contribution is made a statement disclosing:

a. The name and address of the nonreporting committee,

- b. The purposes of the nonreporting committee,
- c. The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and titles of its responsible leaders,
- d. A statement whether the nonreporting committee is a continuing one,
- e. The name and office sought of each candidate in the City in support of whom the nonreporting committee made an expenditure,
- f. The City ballot proposition concerning which the nonreporting committee made an expenditure, and whether such committee is in favor of or opposed to such proposition,
- g. The name and address of each person residing in the state or corporation which has a place of business in the state that has made one or more contributions in the aggregate of more than \$25 to the nonreporting committee during the current calendar year, together with the money value and date of such contributions,
- h. The name and address of each person in the state to whom an expenditure was made by the nonreporting committee on behalf of a candidate or political committee, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; and

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

B. The correctness of each report shall be certified as required by all applicable laws and ordinances.

Section 4. Section 2.04.270 of the Seattle Municipal Code, last amended by Ordinance 124694, is amended as follows:

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

* * *

C. A person with the expectation of making an independent expenditure or expenditures by disseminating an advertising message or messages that the person reasonably expects to be received, read,

viewed or heard by 1,000 or more individuals in a single calendar year shall, within two business days after the initial dissemination of the advertisement, deliver a copy of each such advertisement to the offices of the Commission, along with a statement disclosing the method of dissemination of the advertisement and an estimate of the expected quantity of the advertising. This requirement applies only to all independent expenditures that are required to be reported, i.e., an individual spending \$100 or more of ~~((his or her))~~ the individual's own funds and anyone spending any amount of the funds of others. This disclosure does not substitute for the disclosure requirements of other sections of this ~~((chapter))~~ Chapter 2.04.

D. Any corporation making an independent expenditure or contributing to an independent expenditure committee shall, within seven business days after making such expenditure or 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 expenditure or contribution was made. The corporation shall also provide a copy of the statement of certification to any independent expenditure committee to which it makes a contribution.

Section 5. Section 2.04.360 of the Seattle Municipal Code, last amended by Ordinance 116368, is amended as follows:

2.04.360 Application ((-))

Sections 2.04.350 through 2.04.370 ~~((and 2.04.400 through 2.04.480))~~ apply only to candidates in any primary, general, or special election for the offices of Mayor, City Council, and City Attorney of The City of Seattle.

Section 6. Section 2.04.370 of the Seattle Municipal Code, last amended Ordinance 125611, is amended as follows:

2.04.370 Mandatory limitations on contributions to candidates

* * *

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.

~~((E))~~ F. The limitations imposed by this ~~((section))~~ Section 2.04.370 shall not apply to:

1. A candidate's contributions of ~~((his or her))~~ the candidate's own resources to ~~((his or her))~~ 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.

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

~~((G))~~ 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 (~~each~~) 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 7. A new Section 2.04.400 of the Seattle Municipal Code is added to Subchapter IV of Chapter 2.04 as follows:

2.04.400 Limits on contributions to independent expenditure committees

A. 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. 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 8. 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 9. 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)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Legislative	Lish Whitson/(206) 615-1674	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE related to elections; prohibiting foreign-influenced corporations from making independent expenditures or contributing to campaigns and independent expenditure committees; amending Sections 2.04.010, 2.04.260, 2.04.270, 2.04.360, and 2.04.370 of the Seattle Municipal Code (SMC); and adding a new Section 2.04.400 to the SMC.

Summary and background of the Legislation:

This bill would amend the City’s regulations regarding campaign finance limits and reporting of campaign expenditures. It addresses a gap in the City’s election regulations that can undermine the integrity of the City’s elections by allowing foreign influence in campaigns and increase the risk of corruption or the appearance of corruption, including quid pro quo corruption through campaign contributions and independent expenditures by foreign-influenced corporations.

The bill would prohibit contributions from foreign-influenced corporations to both campaigns and independent expenditure committees. It would define “foreign-influenced corporation,” “foreign investor” and “foreign owner.” The bill requires corporations that intend to make contributions to campaigns or independent expenditure committees to certify that they are not foreign-influenced corporations. It prohibits campaigns and independent expenditure committees from accepting contributions from foreign-influenced corporations.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

The Seattle Ethics and Elections Commission has indicated that they would require additional staff to enforce these and existing regulations. One Strategic Advisor 1 position to enforce these and other Election regulations would cost approximately \$149,000 in 2020.

Is there financial cost or other impacts of *not* implementing the legislation?

None identified

3.a. Appropriations

___ This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

___ This legislation adds, changes, or deletes revenues or reimbursements.

3.c. Positions

___ This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**
The Seattle Ethics and Elections Commission would enforce the legislation.
- b. **Is a public hearing required for this legislation?**
No.
- c. **Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**
No.
- d. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.
- e. **Does this legislation affect a piece of property?**
No.
- f. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**
None identified.
- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**
Not applicable.

List attachments/exhibits below:

None

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

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

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.



SEATTLE CITY COUNCIL
CENTRAL STAFF

Clean Campaigns Acts (Council Bills 119730, 119731, 119732)

LISH WHITSON, ANALYST

SELECT COMMITTEE ON CAMPAIGN FINANCE REFORM

JANUARY 7, 2020

Agenda

1. Existing Conditions

- a. Spending in Seattle elections
- b. Summary of Seattle's current campaign finance regulations

2. Clean Campaigns Acts

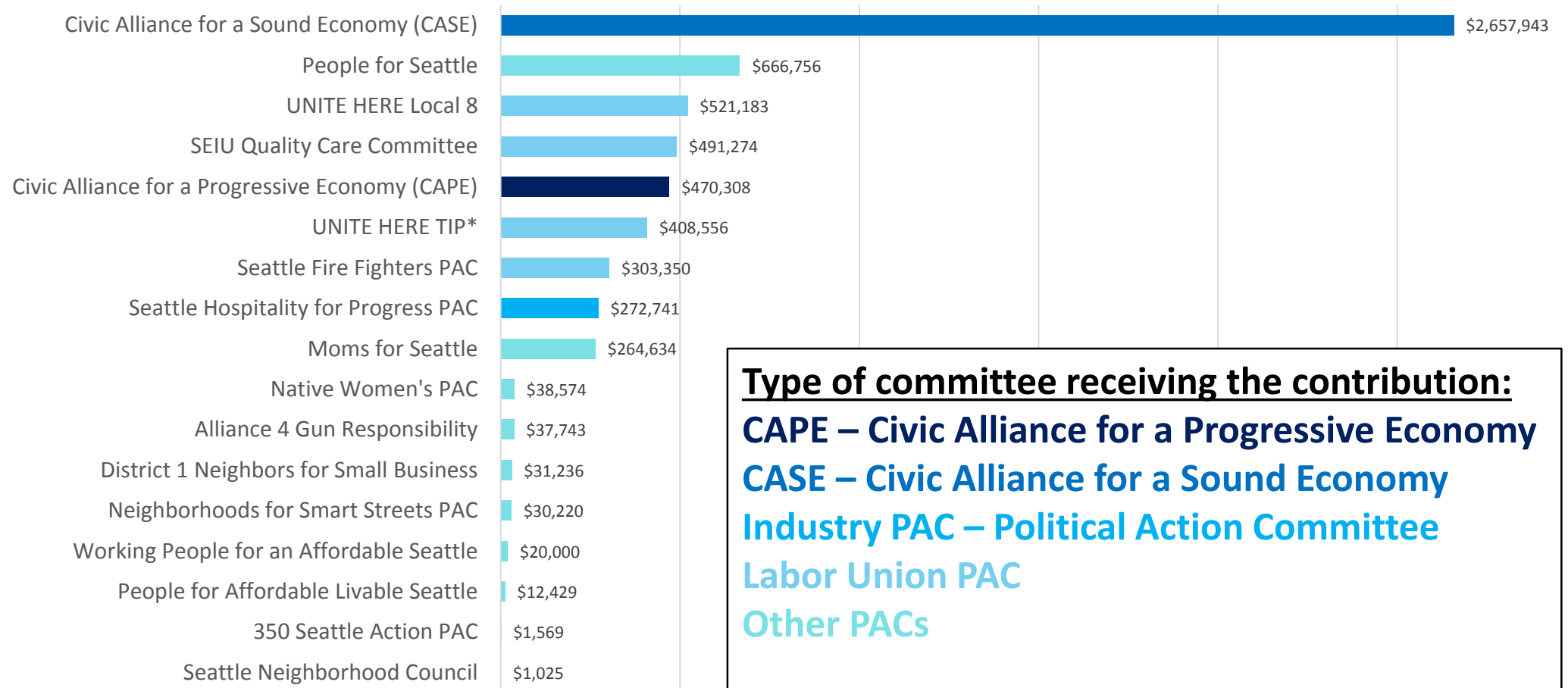
- a. Limit contributions to independent expenditure committees (CB 119730)
- b. Prohibit contributions by foreign-influenced corporations (CB 119731)
- c. Require greater transparency in political advertising (CB 119732)

Spending in City Council races

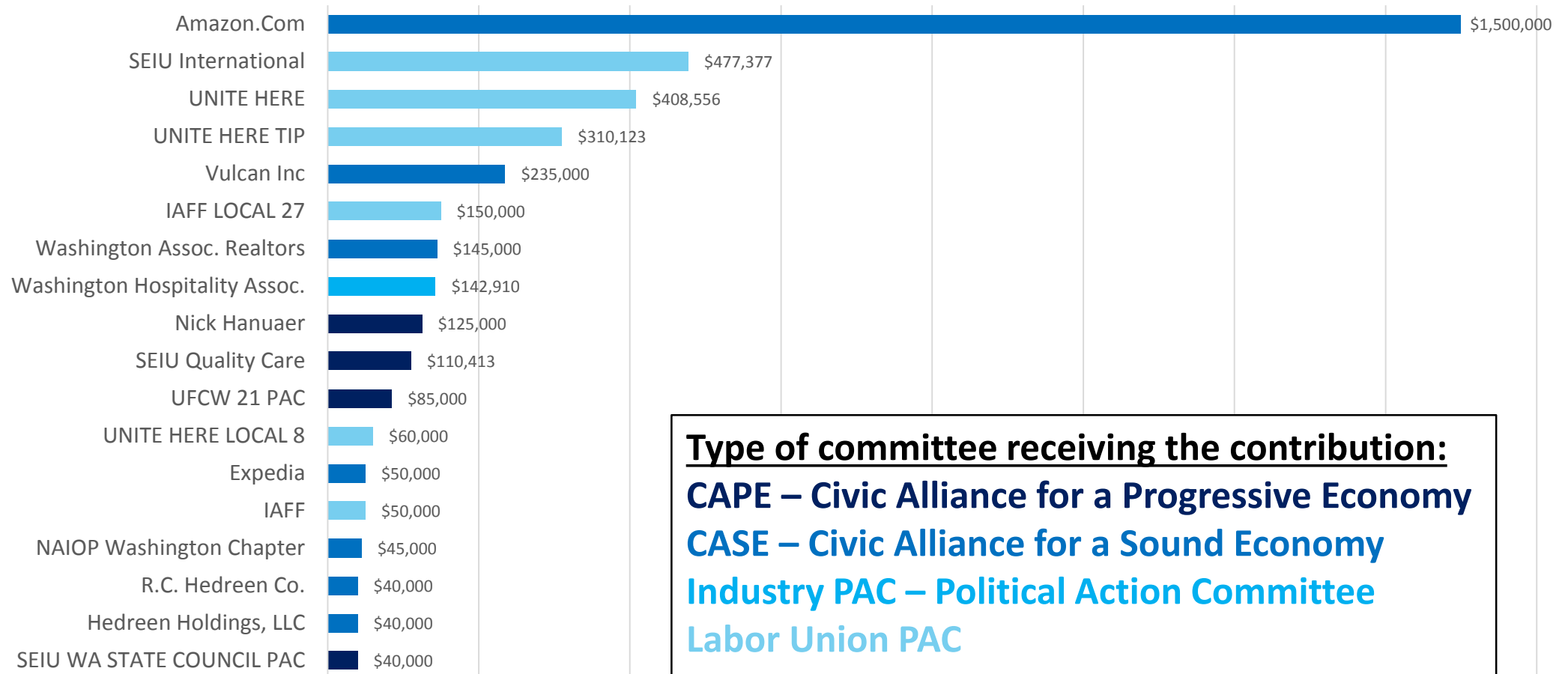
Year	City Council races	Independent Expenditures	Cash and in-kind contributions to Council candidates	Democracy Voucher contributions to Council candidates	Total Contributions and Expenditures	\$ per Race	% of \$ by Independent Expenditure
2009	4	\$134,495	\$1,600,056	N/A	\$1,734,551	\$433,638	7.8%
2011	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/, Seattle City Council Central Staff Numbers as of December 11, 2019.

Total Contributions to 2019 Political Committees



Top Contributors to Political Committees that made Independent Expenditures in 2019



Key Terms

“Person”: individual, partnership, joint venture, public or private corporation, association, government, candidate, committee, political committee, continuing political committee, political party, or any other organization or group of persons

“Contribution”: transfer of anything of value that is less than full consideration

“Political committee”: any person planning to receive contributions or make expenditures in support of or opposition to a candidate or ballot proposition

“Independent expenditure” (IE): expenditure on behalf of or opposing a campaign, when:

- It is made independent of a campaign
- Is made without consent, collusion, or cooperation of a campaign
- Is not a contribution

Seattle's Campaign Contribution Limits

	Candidates Collecting Democracy Vouchers		Candidates Not Collecting Democracy Vouchers	
Maximum Contribution	Councilmembers	\$250	All Candidates	\$500
	City Attorney	\$250		
	Mayor	\$500		

- No limits on contributions to political committees
- Contributions to candidates and political committees must be disclosed
- Campaigns may not participate in IEs

Foreign Contributions

- No Seattle regulations regarding foreign contributions.
- Federal law prohibits contributions from foreign nationals* and foreign principals** in connection with any election – federal, state or local.
- Domestic subsidiaries of foreign corporations are eligible to contribute if the foreign parent doesn't finance election-related contributions or expenditures.

* Green card holders may contribute

** A “foreign principal” is a group organized under the laws of another country or having its principal place of business in a foreign country, including foreign governments, political parties, partnerships, associations, and corporations.

Political Advertising

Commercial advertisers must maintain documents and books of account, including:

- Names and addresses of persons placing an advertisement
- Nature and extent of the advertising
- Cost and method of payment

Documents and books of account must be open for public inspection:

- During normal business hours
- During election and for at least three years after the election

Requirements only apply for campaigns, not legislative activity.

Penalties

- Civil penalties for violations of election campaign contribution regulations: up to \$5,000 and return of contribution
- Civil penalties for illegal contributions: greater of up to two times the contribution amount OR \$5,000 and return of the contribution
- May be sent for prosecution
- Court may void the election if the violation probably affected the election.

Independent Expenditures (CB 119730)

“Independent Expenditure Committee”: political committee that makes (1) an IE or (2) contributes over \$1,000 to other independent expenditure committees in an election cycle.

- Contributions to independent expenditure committees for use in Seattle campaigns would be limited to \$5,000 per person.

Independent Expenditures (CB 119730)

“Limited Contributor Committee” (LCC): A political committee that:

- Has existed for at least 9 months;
- Receives contributions from at least:
 - 150 persons if contributing toward district council races;
 - 400 persons if contributing toward at-large council and city attorney races;
 - 600 persons if contributing toward mayoral races; and
- Only accept contributions less than \$500 or from other limited contributor committees.
- No limits on contributions from LCCs to other political committees.

Amendment 1 to CB 119730 (Councilmember González)

1. Amend the definition of “Limited Contributor Committee” as follows:

“Limited Contributor Committee”: A political committee that:

- Has existed for at least 9 months;
- Receives contributions from at least 100 persons; and
- Only accept contributions less than \$100 or from other LCCs.

2. Require LCCs to certify that they meet the definition

3. Limit contributions from LCCs to \$10,000

Foreign-Influenced Corporations (CB 119731)

“Foreign Investor”: foreign government; foreign political party; company headquartered in a foreign country or incorporated under foreign laws; or an individual that is neither a citizen nor a permanent resident of the United States

“Foreign Owner”: foreign investor, or corporation where a foreign investor holds

“Foreign-Influenced Corporation”:

- Single foreign owner owns 1% or more of the corporation; or
- Two or more foreign owners own 5% or more; or
- Foreign owner participates directly or indirectly in corporate decision-making regarding political activities

“Chief Executive Officer”: highest-ranking officer or decision-maker in a corporation

“Corporation”: a corporation, company, limited liability company, limited partnership, business trust, business association, other similar entity

Foreign-Influenced Corporations (CB 119731)

- Foreign-influenced corporations would not be permitted to:
 1. Contribute to campaigns for elected office;
 2. Make independent expenditures; or
 3. Contribute to independent expenditure committees.
- Corporations that contribute to a campaign, make an independent expenditure, or contribute to an independent expenditure committee would be required to certify they are not foreign-influenced.

Political Advertising (CB 119732)

- Would define “**Qualified Public Communication**” (QPC) as a paid advertisement intended to influence political decisions.
- Commercial advertisers would be required to maintain documents and books of account for QPCs for four years after the QPC occurs.
- Would require advertisers to keep documents and books of account that include:
 - The advertisement
 - Leaders of corporations placing QPCs
 - Rates charged for advertisements
 - Subjects of advertisement (names of candidates, election, legislative issue)
 - Names of candidates, candidate committees, treasurers

Questions?



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)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Legislative	Lish Whitson/(206) 615-1674	N/A

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title:

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).

Summary and background of the Legislation:

This bill would amend the City’s regulations regarding commercial political advertising. It addresses a gap in the City’s campaign finance regulations that can undermine the integrity of the City’s elections and increase the risk of corruption or the appearance of corruption, including quid pro quo corruption through undisclosed commercial political advertising.

It defines a “qualified public communication” as a paid advertisement regarding a political matter of local importance, such as legislation. The bill requires that commercial advertisers maintain public records regarding qualified public communications and clarifies the types of records that commercial advertisers must keep.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
None identified.

Is there financial cost or other impacts of *not* implementing the legislation?
None identified

3.a. Appropriations

This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

___ This legislation adds, changes, or deletes revenues or reimbursements.

3.c. Positions

___ This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**
The Seattle Ethics and Elections Commission would enforce the legislation.
- b. **Is a public hearing required for this legislation?**
No.
- c. **Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**
No.
- d. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.
- e. **Does this legislation affect a piece of property?**
No.
- f. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**
None identified.
- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**
Not applicable.

List attachments/exhibits below:

None

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

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

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.



SEATTLE CITY COUNCIL
CENTRAL STAFF

Clean Campaigns Acts (Council Bills 119730, 119731, 119732)

LISH WHITSON, ANALYST

SELECT COMMITTEE ON CAMPAIGN FINANCE REFORM

JANUARY 7, 2020

Agenda

1. Existing Conditions

- a. Spending in Seattle elections
- b. Summary of Seattle's current campaign finance regulations

2. Clean Campaigns Acts

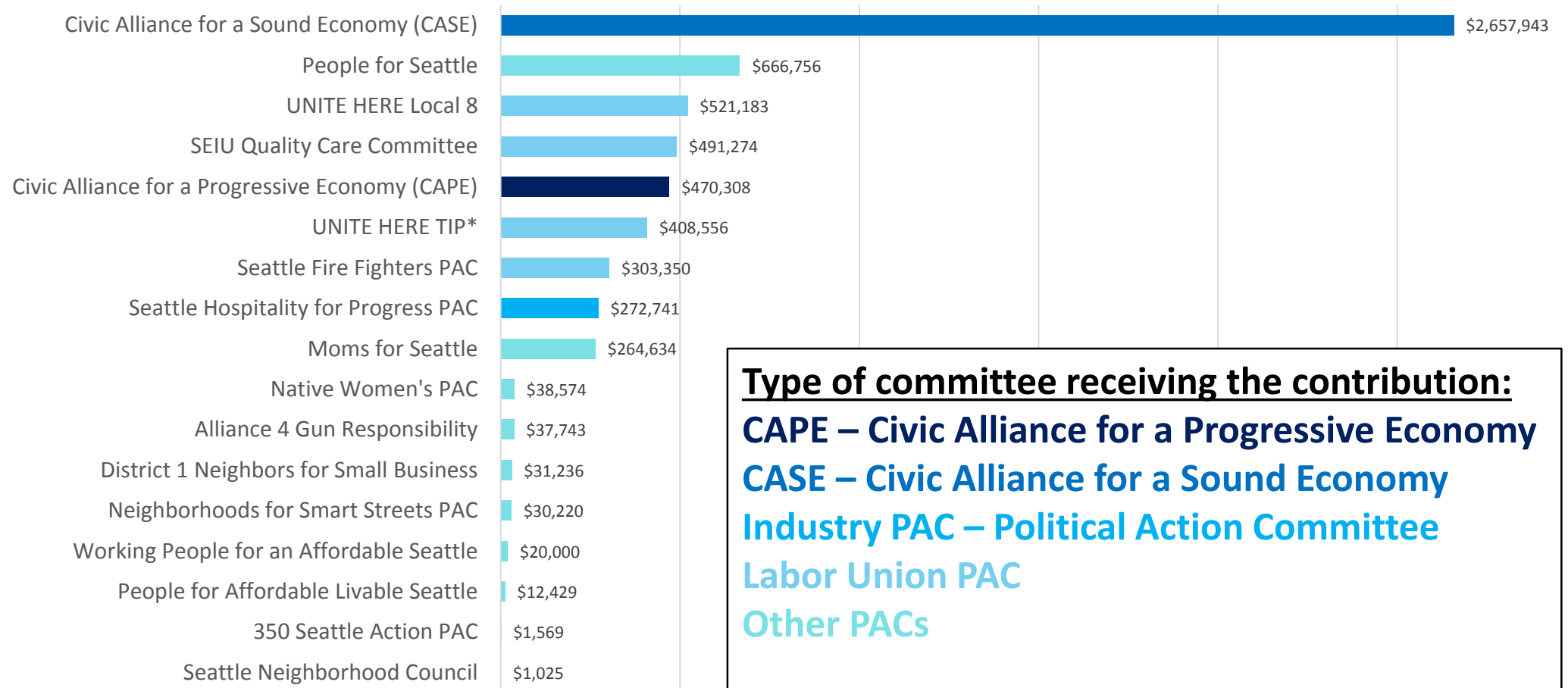
- a. Limit contributions to independent expenditure committees (CB 119730)
- b. Prohibit contributions by foreign-influenced corporations (CB 119731)
- c. Require greater transparency in political advertising (CB 119732)

Spending in City Council races

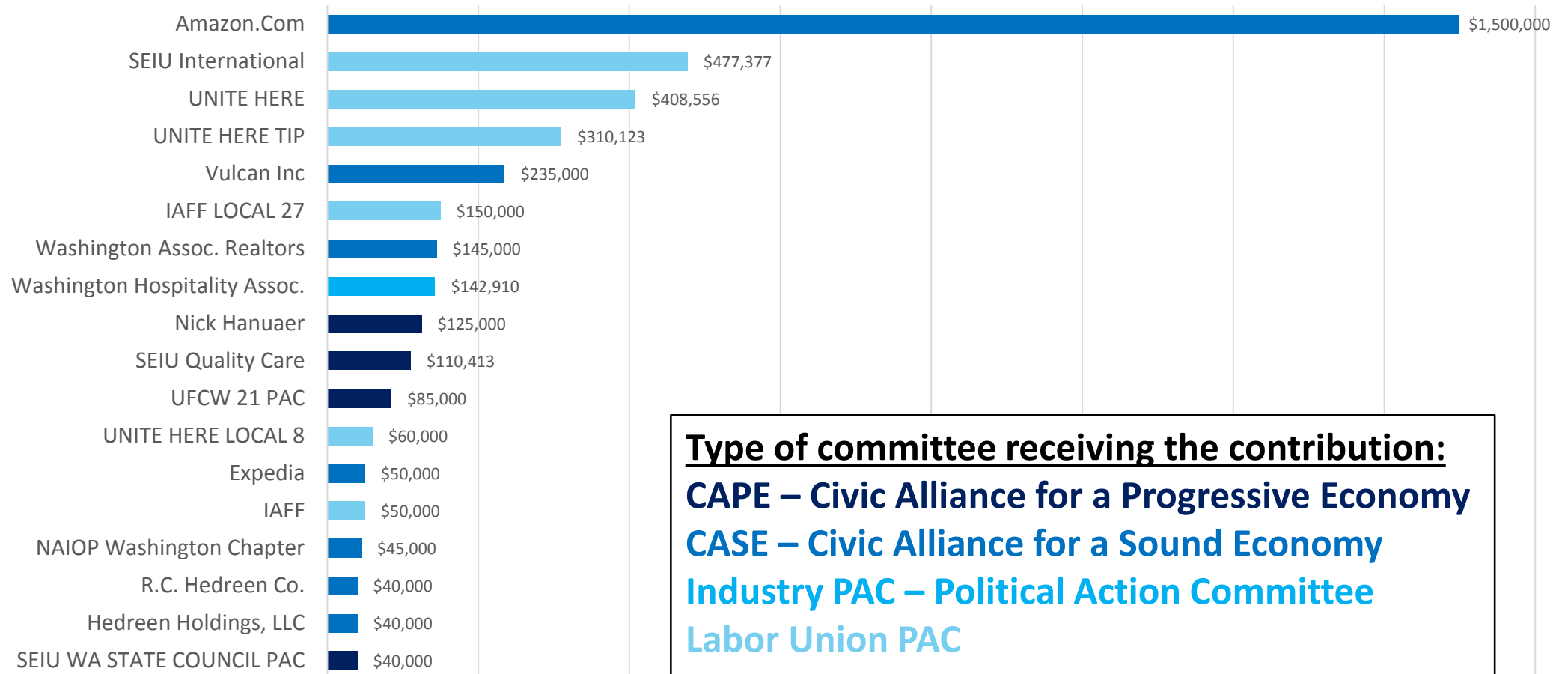
Year	City Council races	Independent Expenditures	Cash and in-kind contributions to Council candidates	Democracy Voucher contributions to Council candidates	Total Contributions and Expenditures	\$ per Race	% of \$ by Independent Expenditure
2009	4	\$134,495	\$1,600,056	N/A	\$1,734,551	\$433,638	7.8%
2011	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/, Seattle City Council Central Staff Numbers as of December 11, 2019.

Total Contributions to 2019 Political Committees



Top Contributors to Political Committees that made Independent Expenditures in 2019



Key Terms

“Person”: individual, partnership, joint venture, public or private corporation, association, government, candidate, committee, political committee, continuing political committee, political party, or any other organization or group of persons

“Contribution”: transfer of anything of value that is less than full consideration

“Political committee”: any person planning to receive contributions or make expenditures in support of or opposition to a candidate or ballot proposition

“Independent expenditure” (IE): expenditure on behalf of or opposing a campaign, when:

- It is made independent of a campaign
- Is made without consent, collusion, or cooperation of a campaign
- Is not a contribution

Seattle's Campaign Contribution Limits

	Candidates Collecting Democracy Vouchers		Candidates Not Collecting Democracy Vouchers	
Maximum Contribution	Councilmembers	\$250	All Candidates	\$500
	City Attorney	\$250		
	Mayor	\$500		

- No limits on contributions to political committees
- Contributions to candidates and political committees must be disclosed
- Campaigns may not participate in IEs

Foreign Contributions

- No Seattle regulations regarding foreign contributions.
- Federal law prohibits contributions from foreign nationals* and foreign principals** in connection with any election – federal, state or local.
- Domestic subsidiaries of foreign corporations are eligible to contribute if the foreign parent doesn't finance election-related contributions or expenditures.

* Green card holders may contribute

** A “foreign principal” is a group organized under the laws of another country or having its principal place of business in a foreign country, including foreign governments, political parties, partnerships, associations, and corporations.

Political Advertising

Commercial advertisers must maintain documents and books of account, including:

- Names and addresses of persons placing an advertisement
- Nature and extent of the advertising
- Cost and method of payment

Documents and books of account must be open for public inspection:

- During normal business hours
- During election and for at least three years after the election

Requirements only apply for campaigns, not legislative activity.

Penalties

- Civil penalties for violations of election campaign contribution regulations: up to \$5,000 and return of contribution
- Civil penalties for illegal contributions: greater of up to two times the contribution amount OR \$5,000 and return of the contribution
- May be sent for prosecution
- Court may void the election if the violation probably affected the election.

Independent Expenditures (CB 119730)

“Independent Expenditure Committee”: political committee that makes (1) an IE or (2) contributes over \$1,000 to other independent expenditure committees in an election cycle.

- Contributions to independent expenditure committees for use in Seattle campaigns would be limited to \$5,000 per person.

Independent Expenditures (CB 119730)

“Limited Contributor Committee” (LCC): A political committee that:

- Has existed for at least 9 months;
- Receives contributions from at least:
 - 150 persons if contributing toward district council races;
 - 400 persons if contributing toward at-large council and city attorney races;
 - 600 persons if contributing toward mayoral races; and
- Only accept contributions less than \$500 or from other limited contributor committees.
- No limits on contributions from LCCs to other political committees.

Amendment 1 to CB 119730 (Councilmember González)

1. Amend the definition of “Limited Contributor Committee” as follows:

“Limited Contributor Committee”: A political committee that:

- Has existed for at least 9 months;
- Receives contributions from at least 100 persons; and
- Only accept contributions less than \$100 or from other LCCs.

2. Require LCCs to certify that they meet the definition

3. Limit contributions from LCCs to \$10,000

Foreign-Influenced Corporations (CB 119731)

“Foreign Investor”: foreign government; foreign political party; company headquartered in a foreign country or incorporated under foreign laws; or an individual that is neither a citizen nor a permanent resident of the United States

“Foreign Owner”: foreign investor, or corporation where a foreign investor holds

“Foreign-Influenced Corporation”:

- Single foreign owner owns 1% or more of the corporation; or
- Two or more foreign owners own 5% or more; or
- Foreign owner participates directly or indirectly in corporate decision-making regarding political activities

“Chief Executive Officer”: highest-ranking officer or decision-maker in a corporation

“Corporation”: a corporation, company, limited liability company, limited partnership, business trust, business association, other similar entity

Foreign-Influenced Corporations (CB 119731)

- Foreign-influenced corporations would not be permitted to:
 1. Contribute to campaigns for elected office;
 2. Make independent expenditures; or
 3. Contribute to independent expenditure committees.
- Corporations that contribute to a campaign, make an independent expenditure, or contribute to an independent expenditure committee would be required to certify they are not foreign-influenced.

Political Advertising (CB 119732)

- Would define “**Qualified Public Communication**” (QPC) as a paid advertisement intended to influence political decisions.
- Commercial advertisers would be required to maintain documents and books of account for QPCs for four years after the QPC occurs.
- Would require advertisers to keep documents and books of account that include:
 - The advertisement
 - Leaders of corporations placing QPCs
 - Rates charged for advertisements
 - Subjects of advertisement (names of candidates, election, legislative issue)
 - Names of candidates, candidate committees, treasurers

Questions?