



Seattle City Council

Office of Councilmember M. Lorena González Memorandum

DATE: Tuesday, October 29, 2019

TO: Chair Brendan Donckers, Seattle Ethics & Elections Commission
Director Wayne Barnett, Seattle Ethics & Elections Commission

CC: All Councilmembers

FROM: Councilmember M. Lorena González

SUBJECT: Proposed legislation limiting foreign-influenced corporate contributions

I. **Introduction: Intent of Initiative 122 (Honest Elections Seattle) & Initiative 735**

In November 2015, Seattle voters passed, with a 63.19% vote in favor, a citizen-led initiative known as “Honest Elections Seattle” or Initiative 122. The initiative enacted several campaign-finance reforms that changed the way campaigns are typically financed for Seattle candidates. The intent of the initiative was to encourage a more diverse pool of candidates for elected office and to ensure everyone can have his or her voice heard, not just the wealthy and political elite. Initiative 122, at its core, was a reform proposal to give voters real control of the election process and get big money out of politics in Seattle. Initiative 122 included new lobbying, disclosure, and enforcement measures designed to give a real voice to regular people and hold elected leaders accountable to voters rather than big donors. Those reforms included the establishment of “Democracy Vouchers” which directs the Seattle Ethics & Elections Commission (“SEEC”) to provide eligible Seattle residents up to \$100 of vouchers to donate to a qualified mayoral, city council or city attorney candidate.

Together, these campaign-finance reform laws are one of a kind in our nation and are rooted in getting big money out of politics to restore the voice of the people in our democracy.

On June 28, 2017, the Pacific Legal Foundation filed a lawsuit with the King County Superior Court against the City of Seattle alleging that Initiative 122 violated the plaintiffs’ right to free speech under the First Amendment of the U.S. Constitution.

On July 11, 2019, the [Washington Supreme Court unanimously ruled](#) that Seattle’s Democracy Voucher Program established by Initiative 122 was constitutional. The ruling stated that the measure did not violate free speech and that the system “resembles other content neutral ways the government facilitates political speech, for example, when the government distributes voters’ pamphlets.” In doing so, the Court acknowledged the purposes of the Democracy Voucher Program as follows:

In 2015, Seattle voters approved Initiative 122, establishing the Democracy Voucher Program. According to the initiative, the program’s purposes are (1) to “expand the pool of candidates for city offices and to safeguard the

people's control of the elections process," (2) to "ensure the people of Seattle have equal opportunity to participate in political campaigns and be heard by candidates," and (3) to "prevent corruption." (citations omitted)

Notably, in November of 2016, the people of Washington State considered Initiative 735, which was an Initiative to the Washington State Legislature. The measure passed with 63% of voters approving. Initiative 735 urged Washington's U.S. congressional delegation to propose an amendment to the United States Constitution that would clarify that rights listed in the U.S. Constitution are reserved for human beings, that spending money is not free speech, that governments are empowered to regulate political contributions and expenditures to prevent undue influence on government, and that contributions and expenditures must be disclosed to the public.

It is critical to view my proposed legislation in the context of Initiative 122, the subsequent unsuccessful legal challenge to the Democracy Voucher Program and statewide passage of Initiative 735.

II. The Issue: Big Money Continues to Roll into Our Elections Despite I-122

Despite our City's efforts, as described above, we still see *limitless* money pouring into our electoral process that threatens the public's faith in the integrity and fairness of our local elections and our campaign-finance laws. The simple act of, for example, cutting a single \$1,000,000 check to a single super PAC dilutes the power of the Democracy Voucher Program and the underlying purposes of the program as described above. To address these concerns, I have partnered with Free Speech For People and Fix Democracy First to champion legislation to close gaps in our existing campaign finance laws.

In August of 2019, I requested the SEEC's feedback on my proposed legislation. I appreciated the Commissioner's thoughtful and deliberate attention to my proposal. Since then, I have continued to engage with stakeholders, including the Washington State Public Disclosure Commission. On August 24, 2019, the Chair of the Washington PDC, Judge Anne Levinson (Ret.), wrote to SEEC Chair Brendan Donckers. In her letter, she indicates that the PDC Commissioners met, heard testimony and discussed the working draft of my proposed ordinance. She wrote that, "At the conclusion of the discussion, the [PDC] Commissioners were unanimous in expressing strong support for the goals and objectives of the proposed ordinance[.]" The PDC's letter went on to explicitly support the various components of my proposed legislation and, in relevant part, stated as follows:

"An ordinance limiting large contributions to independent expenditure committees in order to prevent corruption or the appearance of corruption, protecting against foreign interference though limiting campaign spending by corporations with foreign ownership of a scale that influences corporate decision-making, and strengthening commercial advertisers' duty to report, would be another important tool to address the influence of money in campaigns, and to guard against the potentially deleterious effects of excessive corporate spending in municipal elections."

I have appreciated the engagement of the PDC and look forward to continuing to work with them and other stakeholders as the policy goals in my draft ordinance are discussed and publicly debated. To that end, I appreciate the opportunity to join the SEEC Commissioners on Wednesday, October 30th, to take up my ordinance once again. In advance of that meeting, I wanted to provide you with an updated copy of the working draft of my proposed ordinance, which has been informed by additional research, stakeholder engagement and current, publicly available electoral activities.

The key policy goals and components of this legislation have not been modified from the version you reviewed in August of 2019. I have, however, added an additional definition in Seattle Municipal Code, Section 2.04.010 that would create a “Limited Contribution Committee” (LCC) structure. A political committee would need to satisfy each of the following criteria before qualifying as an LCC:

1. Exist for at least nine months;
2. Receive contributions as follows:
 - a. from at least 150 persons during a year when district City Council candidates are running for office, or
 - b. from at least 400 persons during a year when at-large City Council and City Attorney candidates are running for office, or
 - c. from at least 600 persons during a year when at-large Mayoral candidates are running for office; **and**
3. The total amount of contributions that the committee has received in the preceding two years consists of contributions that are either:
 - a. less than \$500 per person per calendar year, or
 - b. from a person that itself meets criteria 1, 2 and 3a.

Once a political committee qualifies as an LCC, the committee would not be subject to the \$5,000 contribution cap otherwise applicable to independent expenditure committees. The policy goal is to more closely align with the provisions of I-122 the independent expenditure activities of political committees by allowing for those activities if the political committee is focused on small donations from a broader set of political donors.

Attached to this memorandum is an updated working draft of my ordinance for your consideration along with a chart that outlines, at a high level, the modifications that my ordinance proposes to SMC 2.04.

I. Conclusion and Next Steps

In closing, I would like to thank you all for your ongoing attention to my proposed ordinance. I believe that, if passed, this bill would bring our local election laws in line with federal laws to eliminate the influence of foreign interests, would close significant and troubling loopholes in our existing campaign finance laws and, ultimately, protect our local elections from corruption or the appearance of corruption.

I would also like to provide you with my anticipated timeline for the City Council's Legislative process, in the hopes that this will assist the SEEC in its ability to determine a date certain by which to provide me with Commissioner feedback related to the working draft.

City Council's Anticipated Legislative Timeline

Action Item	Anticipated Date
Refer Ordinance to Council's Introduction & Referral Calendar	November 12, 2019
Possible Executive Session	December 2, 2019
Regular GESCNA-Ed Committee Hearing: Briefing and Discussion with Community & Subject Matter Expert Panel	December 11, 2019, 9:30AM
Special GESCNA-Ed Committee Hearing: Briefing and Discussion of identified issues and discussion of possible amendments	December 19, 2019, <i>Time TBD</i>
Possible Executive Session	January 6, 2020
Special Committee Hearing: Briefing, discussion and possible vote on amendments and amended legislation	January 7, 2020
Full City Council Vote	January 13, 2020
Alternative Full City Council Vote	January 21, 2020

Please let me know if you have any questions regarding this timeline or the process for consideration of the legislation.

For additional information on the content of the legislation, please feel free to contact me directly at (206) 684-8802 or Lorena.Gonzalez@seattle.gov. You may also contact:

- **Vy Nguyen**, Office of CM González, ext. 4-5328 or Vy.Nguyen@seattle.gov
- **Lish Whitson**, Council Central Staff, ext. 5-6174 or Lish.Whitson@seattle.gov

Sincerely,



Councilmember M. Lorena González

Seattle City Council, Position 9 // Citywide

Chair: Gender Equity, Safe Communities, New Americans & Education Committee

Vice-Chair: Finance & Neighborhoods



**PROPOSED LEGISLATION TO
PROTECT SEATTLE’S DEMOCRACY**

Subject Matter	Proposed Changes to Seattle’s Election Code
Definitions	<p>Adds the following provisions to the Seattle Municipal Code in Section 2.04.010:</p> <ol style="list-style-type: none"> 1. Chief Executive Officer, corporation, foreign-influenced corporation, foreign owner 2. additional language on independent expenditures and independent expenditure committees 3. Establishes a “Limited Contributor Committee” (“LCC”) 4. Defines a “Qualified Public Communication” (“QPC”)
Reporting Requirements for Independent Expenditures & Commercial Advertising	<p>Adds the following provisions to the Seattle Municipal Code in Sections 2.04.260, .270, .280:</p> <p>Requires a CEO to certify, under penalty of perjury, that the corporation is not foreign influenced within 7 days of a contribution</p>
	<p>Adds independent expenditures to disclosures and reporting requirements</p>
	<p>Adds a timeline for when reporting must be done for contributions that aggregate to \$100 or more</p>
	<p>Adds qualified public communication to commercial advertiser's reporting requirements</p>
	<p>Includes requirements for disclosure if political advertising or QPC is from a business entity that would require the business entity to publicly file a list of the CEO, members of the executive committee or board of directors</p>
	<p>Adds disclosure requirements for rates charged for ads, transparency for ads, such as names of candidates and the election, this also includes legislative issues</p>
	Limits on Contributions to Independent Expenditure Committees
<p>No foreign-influenced corporation shall make an independent expenditure or a contribution to an independent expenditure committee in any amount</p>	