Campaign Finance

Items 3.5 and 3.6

November 16, 2021

Council Direction

- Campaign Advertisements

- Public Financing

- Foreign-Influence in Elections

- Contribution Limits on Business Entities

- Conflicts of Interests

City Disclaimers

- Disclaimers on printed "electioneering communications" sent within 90 days of an election

- Disclaimers on spoken form communications must have "paid for by" disclaimer

Notice to Voters

(Required by the City of San José)

This electioneering communication is not authorized or approved by any candidate for city office or by any election official. It is paid for by (committee name and committee identification number).

(Address, city, state).

Total cost of this mailing is (amount).

DISCLOSE Act

- Disclaimers on many kinds of campaign ads

- More extensive than City

Proposed Ordinance

- Follows DISCLOSE ACT

- Statements substantially similar

  - "Ad paid for by [insert committee name]"

  - "Not authorized by a candidate or committee controlled by a candidate"

- May print in 10-point font

Proposed Ordinance

"Major Committee Funding"

- DISCLOSE ACT

  - top 3 contributors of $50,000 or more

- Proposed Ordinance

  - top 3 contributors of [$5,000?] or more

- Disclaimers permitted limit on political speech

- Cannot take up too much room

Proposed Ordinance

- Filing requirements for certain advertisements

- Aligning use of Surplus Funds with State law

- Technical changes

Public Financing

- San Francisco - 6:1 Matching Funds

- Los Angeles - 6:1 Matching Funds

- Oakland - Reimbursement

- Seattle - "Democracy Voucher"

Foreign Influence

- Foreign entities and nationals cannot contribute

- But Domestic subsidiaries can contribute

- Seattle and St. Petersburg, Florida have passed ordinances to further limit "foreign-influence" in elections

Foreign Influence

Seattle

- No contributions to or expenditures on candidates

- Applies only to corporations

  - 1% or more owned by a single foreign entity

  - 5% or more owned by multiple foreign entities

  - Foreign owner participates in decision-making on political activity

- Corporations must certify they are not foreign-influenced

Foreign Influence

St. Petersburg

- Applies to business entities

- Higher threshold to qualify

  - 5% or more owned by a single foreign entity

  - 20% or more owned by multiple foreign entities

  - Foreign owner participates in decision-making on political activity

- Corporations must certify they are not foreign-influenced

Contribution Bans

Constitutional Issues

- Campaign contributions protected by First Amendment

- May limit contributions to prevent *quid pro quo* corruption

- Restrictions must be "closely drawn"

- More than "mere conjecture"

Contribution Bans

City Limits

- Contribution limit on all donors

  - $700 for Council

  - $1400 for Mayor

- No contributions from Cardrooms

Contribution Bans

"Fair Elections Initiative"

- No contributions from persons of for-profit entities that are:

  - Substantial Contractor

  - Substantial Developer

  - Substantial Landlord/Property Manager

Contribution Bans

Levine Act (Gov. Code 84308)

- No contribution from a party or participant with

- "License, permit, or other entitlement for use pending and for 3 months thereafter

    - Land use

    - Contracts (other than low cost bid, labor, personal employment)

    - Franchises

Conflict of Interest

Campaign Contributions

- May not vote or use official position to influence decision

- In a "license, permit, or other entitlement for use"

- If received a contribution within preceding 12 months

- $250 under Levine Act

  - City threshold?

Conflict of Interest

- Applies only to contributions received for Councilmember's own candidacy

- Will not apply to:

  - general policy decision

  - Participation legally required

  - Councilmember removes conflict within 30 days

- Disclosure Requirements

Conflict of Interest

Enforcement

- Violation would not affect decision

- Board of Fair Campaign and Political Practices

    - Can investigate

    - Reprimand, levy fines, or require corrective action