

January 9, 2020

## MEMORANDUM

**To:** Seattle City Council  
**From:** Lish Whitson, Analyst  
**Subject:** Clean Campaigns Acts

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On Monday, January 13, 2020, the City Council will consider two Council Bills (CB): [CB 119731](#), concerning campaign finance regulations and [CB 119732](#), concerning public information regarding commercial advertising. These bills were recommended for adoption by the Select Committee on Campaign Finance Reform on January 7, 2020. This memorandum discusses (1) CB 119731 - Regulation of Foreign-Influenced Corporations, including proposed technical amendments for Council's consideration (2) CB 119732 - Commercial Advertising; and (3) data regarding contributions and independent expenditures.

### 1. CB 119731: Regulation of Foreign-Influenced Corporations

[Chapter 2.04](#) of the Seattle Municipal Code (SMC) places caps on contributions to candidates for political office. There are no limits to contributions to independent expenditure committees, and no limits on independent expenditures by individuals or corporations. 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 owned or controlled by foreign persons but organized under United State laws and have their principal place of business in the United States.

CB 119731 amends the City's campaign finance regulations to prohibit:

1. independent expenditures by foreign-influenced corporations,
2. contributions from foreign-influenced corporations to independent expenditure committees, and
3. contributions from foreign-influenced corporations to political campaigns.

The bill would recognize the City's interest in limiting foreign influence in elections by closing a loophole that allows foreign persons to acquire ownership in a corporation and then use that ownership to influence a corporation's political activity.

The proposed bill defines “foreign-influenced corporation” as a corporation meeting one or more of the following criteria:

- A single foreign owner controlling at least one percent of a company's equity or shares.
- Multiple foreign owners controlling at least five percent of a company's equity or shares.
- A foreign owner participating directly in decisions regarding political activities in the United States.

These criteria (thresholds) are set at levels that provide the owner the opportunity to influence corporate decision-making according to John Coates, John F. Cogan Jr. Professor of Law and Economics at the Harvard Law School.<sup>1</sup>

The top 20 corporate contributors to independent expenditure committees during the 2019 City of Seattle Council races were analyzed to identify whether there was evidence of foreign ownership that would have precluded them from contributing to independent expenditure committees under the proposed thresholds.<sup>2</sup> Of the top 20 contributors by dollar amount, seven were identified as being publicly-traded corporations having at least one foreign owner that owned more than one percent of the company's shares.<sup>3</sup> The most common foreign owner of these companies is Norges Bank Investment Management, a Norwegian Company. For the other three publicly-traded corporations, no foreign ownership was identified among the largest institutional owners.<sup>4</sup> However, information was not sufficient to eliminate foreign-ownership influence. The remaining ten corporations are privately-owned companies for which ownership information was not readily available.<sup>5</sup>

On Monday, prior to adopting CB 119731, there are two technical amendments sponsored by Councilmember Herbold that the Council should consider. The first amendment would add the definition of "independent expenditure committee" as presented in [CB 119730](#) to CB 119731. The second would clarify the title of the proposed new section 2.04.400. These amendments are included as Attachment 1 to this memorandum.

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<sup>1</sup> See the testimony of John Coates, John F. Cogan Jr. Professor of Law and Economics at the Harvard Law School at the December 11 GESNA-Ed Committee meeting (<http://www.seattlechannel.org/videos?videoid=x108969>) and *Ending Foreign-Influenced Corporate Spending in U.S. Elections* by Michael Sozan - November 21, 2019, Center for American Progress: <https://cdn.americanprogress.org/content/uploads/2019/11/20082332/ForeignSpending-report.pdf>

<sup>2</sup> [www.msn.com/money/stockdetails/ownership/](http://www.msn.com/money/stockdetails/ownership/), January 7, 2020. Institutional ownership was reviewed to determine whether one or more institutional owners owned more than 1% of the company's shares. Data was not available to determine whether a combination of foreign owners controlled 5% or more of a corporation's shares. Data was not available to determine whether one or more foreign owners had direct influence over how decisions were made regarding contributions to independent expenditure committees.

<sup>3</sup> These corporations include Amazon.com, the largest contributor to independent expenditure committees in 2019, Expedia, Comcast, Starbucks, Weyerhaeuser, WSP USA, and AT&T.

<sup>4</sup> These corporations include Boeing, Lyft and Alaska Airlines.

<sup>5</sup> These corporations include Vulcan, Hedreen Holdings, R.C. Hedreen Co., Puget Sound Energy, Isola Gorup, Saltchuk Resources, Pacific Seafood, Urban Renaissance Group, Russell Investment Group and The Seneca Real Estate Group.

## **2. Council Bill 119732: Commercial Advertising**

CB 119732 would amend SMC 2.04 to enhance transparency in political advertising and provide greater specificity regarding the “documents and books of account” that commercial advertisers are required to maintain for advertising that appeals for votes or financial support of a political campaign. The bill would also require commercial advertisers to maintain documents and books of account for a new category of advertising (“qualified public communications”) that seeks to influence legislation or an elected official’s position on legislation.

Under current law, information about political advertising must be retained for three years after the date of the subject election. CB 119732 would require retaining this information for four years.

This bill does not limit the placing of advertisements, but continues and enhances the City’s longstanding requirements that provide transparency in the placing of advertisements intended to influence political decisions.<sup>6</sup> Commercial advertisers would be required to maintain the following, as appropriate:

1. Political advertisement or qualified public communication;
2. Rates charged for the advertisement;
3. Names and addresses of persons that placed the advertisement;
4. If placed by a business, names of the chief executive officers or directors;
5. If placed by a campaign committee, name of the candidate, name of a candidate’s authorized committee and name of the committee’s treasurer; and
6. Target of the advertising (candidate, election, or legislative issue).

This enhances existing City and State requirements for commercial advertisers in order to increase transparency regarding paid political speech.

## **3. Information Regarding Campaign Contributions and Independent Expenditures**

At its January 7, 2020 Select Committee meeting, Councilmembers requested analysis of campaign finance data. This section of the memorandum summarizes the results of that analysis, and new data on spending in Mayoral races, City Attorney races. This section also provides information regarding City Council races and independent expenditures in 2019. In summary, this analysis confirms that independent expenditures are increasing and playing a bigger role in Seattle elections.

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<sup>6</sup> See SMC [2.04.280](#), Revised Code of Washington (RCW) [42.17A.345](#) and Washington Administrative Code (WAC) [390-18-050](#).

### Seattle Mayoral Races

There has been an increase in the use of independent expenditures in Seattle Mayoral races over the last four election cycles as shown in Table 1. For example, between the 2013 and 2017 races, independent expenditures increased by 64 percent, while direct contributions to candidates dropped by six percent.

*Table 1: Independent Expenditures and Direct Contributions in Seattle Mayoral Elections*

Year	Candidates	Independent Expenditures (IE) <sup>7</sup>	Cash and in-kind contributions	Democracy Voucher contributions	Total Contributions and Expenditures	% of \$ by IE
2001	12	\$91,883	\$1,780,993	N/A	\$1,872,876	4.9%
2005	7	\$1,227	\$558,827	N/A	\$560,054	0.2%
2009	8	\$153,703	\$1,852,353	N/A	\$2,006,056	7.7%
2013	10	\$552,808	\$2,202,876	N/A	\$2,755,684	20.1%
2017	24	\$908,448	\$2,064,127	N/A	\$2,972,575	30.6%

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/)

### Seattle City Attorney Races

Given the relatively small number of candidates that have historically run for City Attorney, there has been less money raised and fewer independent expenditures in campaigns for City Attorney, as shown in Table 2.

*Table 2: Independent Expenditures and Direct Contributions in Seattle City Attorney Elections*

Year	Candidates	Independent Expenditures	Cash and in-kind contributions	Democracy Voucher contributions	Total Contributions and Expenditures	% of \$ by IE
2001	3	\$1,751	\$173,462	N/A	\$175,213	1.0%
2005	1	\$0	\$5,608	N/A	\$5,608	0.0%
2009	2	\$0	\$185,061	N/A	\$185,061	0.0%
2013	1	\$0	\$42,641	N/A	\$42,641	0.0%
2017	2	\$8,858	\$228,333	\$146,850	\$384,041	2.3%

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/)

### Seattle City Council Races

As with Mayoral races, since the 2011 election, independent expenditures have become a significant aspect of campaign spending in Seattle City Council races. Independent expenditures

<sup>7</sup> Data regarding independent expenditures in these tables reflects the amount spent directly in support of or opposition to a candidate. It does not include other money that may have been raised by a political committee for overhead, for use in races outside of the City of Seattle, or that is rolled over for use in future election cycles.

have been increasing. In 2019, for example, Table 3 shows that nearly half of all campaign spending came from independent expenditures.

*Table 3: Independent Expenditures and Direct Contributions in Seattle City Council Elections*

Year	Races	Candidates	IEs	Cash and in-kind contributions	Democracy Voucher contributions	Total Contributions and Expenditures	% of \$ by Independent Expenditure
2001	4	15	\$12,629	\$620,484	N/A	\$633,113	2.0%
2003	5	23	\$20,504	\$1,728,334	N/A	\$1,748,838	1.2%
2005	4	12	\$49,210	\$1,373,197	N/A	\$1,422,407	3.5%
2007	5	16	\$101,155	\$1,892,284	N/A	\$1,993,439	5.1%
2009	4	21	\$134,495	\$1,600,056	N/A	\$1,734,551	7.8%
2011	5	15	\$0	\$1,762,815	N/A	\$1,762,815	0.0%
2013	4	11	\$3,577	\$953,916	N/A	\$957,493	0.4%
2015	9	47	\$784,365	\$3,644,498	N/A	\$4,428,863	17.7%
2017	2	24	\$358,894	\$589,268	\$991,700	\$1,939,862	18.5%
2019	7	72	\$4,254,629	\$2,807,297	\$2,454,475	\$9,516,401	44.7%

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/)

### Independent Expenditures in 2019

As discussed in the memorandum prepared for the [December 20 Gender Equity, Safe Communities, New Americans, and Education \(GESCNA-Ed\) Committee](#), there were 17 political committees that made independent expenditures (or independent expenditure committees (IECs)) during the 2019 City Council races. These committees raised between \$20,000 and \$2,657,943 million for a total of \$6,229,541. Of those funds, \$4,254,629 was spent as independent expenditures for or against Council candidates.

The Civic Alliance for a Sound Economy (CASE), sponsored by the Seattle Metropolitan Chamber of Commerce, received the greatest share at approximately \$2.7 million. CASE reported independent expenditures totaling \$1.9 million for or against Council candidates. People for Seattle, which received contributions primarily from individuals, received approximately \$667,000 of which \$544,000 was spent for or against Council candidates. The third largest independent expenditure committee actively participating in the City Council race was Civic Alliance for a Progressive Economy, which received \$484,000, primarily from unions, and spent \$349,000 in independent expenditures.

The largest contribution to an IEC was a \$1.5 million contribution from Amazon.com to the CASE PAC. This represented 24 percent of all money contributed to IECs in Seattle in 2019. Table 4 breaks down contributions by amount contributed.

*Table 4: Contributions to Independent Expenditure Committees by Amount Contributed*

Amount contributed	# of Contributors	% of Contributors	\$ Contributed	% of \$ Contributed
More than \$500,000	1	0.1%	\$ 1,500,000	24.5%
Less than or equal to \$500,000 and more than \$5,000	95	5.0%	\$ 3,623,088	59.1%
Less than or equal to \$5,000 and more than \$100	855	45.2%	\$ 945,637	15.4%
Less than or equal to \$100	940	49.7%	\$ 57,528	0.9%
<b>Total</b>	<b>1891</b>	<b>100.0%</b>	<b>\$ 6,126,253</b>	<b>100.0%</b>

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/); Seattle City Council Central Staff

A range of contributors made contributions to IECs in 2019. The largest number of contributors were individuals. The largest contribution amounts, however, came from businesses and unions. While the largest contribution was made by a corporation, five of the top ten contributors were unions. Two trade associations and an individual were also among the top ten contributors, each of whom contributed over \$100,000. The median contribution made by a union was significantly higher than the median contributions made by other categories of contributions. Table 5 shows contributions by category of contributor.

*Table 5: Contributions to Independent Expenditure Committees by Category of Contributor*

Category of Contributor	\$ Contributed	% of Total \$	# of Contributors	% of Contributors	Average Contribution	Median Contribution
Corporation	\$2,476,651	40%	177	9%	\$13,992	\$1,000
Union	\$1,782,644	29%	16	1%	\$111,415	\$45,000
Individual	\$1,259,444	21%	1,657	88%	\$760	\$100
Trade Association	\$508,892	8%	20	1%	\$25,445	\$6,321
Other Association	\$65,532	1%	10	1%	\$6,553	\$4,000
Tribe	\$32,999	1%	10	1%	\$3,300	\$4,000
Political Party	\$90	0%	1	0%	\$90	\$90
<b>Total</b>	<b>\$6,126,253</b>	<b>100%</b>	<b>1,891</b>	<b>100%</b>	<b>\$3,240</b>	<b>\$107</b>

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/); Seattle City Council Central Staff

Table 6 shows that each IEC has its own mix of contributors. For example, the three largest IECs by amount received were the Civic Alliance for a Sound Economy (which received contributions primarily from corporations,) People for Seattle (which received contributions primarily from individuals,) and SEIU Quality Care (which received contributions primarily from unions.)

Table 7 shows the amount spent on each general election campaign in 2019. Independent expenditure committees aligned with one of two groups of candidates depending on whether they were perceived to be more “business-friendly” or “labor-friendly.” While each race saw some independent expenditures, they were concentrated in the District 3, 6 and 7 races.

Table 6: Contributions to Political Committees by Category of Contributors

Political committee	Category of Contributors															
	Corporations		Individuals		Other Associations		Trade Associations		Unions		Tribes		Parties		Total	
	#	\$	#	\$	#	\$	#	\$	#	\$	#	\$	#	\$	#	\$
Civic Alliance for a Sound Economy (CASE)	84	\$2,266,300	63	\$81,806	3	\$5,150	13	\$339,940							163	\$2,693,196
People for Seattle	1	\$1,000	467	\$665,620											468	\$666,620
SEIU Quality Care									2	\$483,552			1	\$90	3	\$483,642
Civic Alliance for a Progressive Economy (CAPE)			9	\$126,555	5	\$43,382			7	\$300,413					21	\$470,350
Unite HERE TIP	1	\$500							1	\$408,556					2	\$409,056
UNITE HERE Local 8 PAC									2	\$370,123					2	\$370,123
Seattle Hospitality PAC	73	\$185,788	28	\$24,040			3	\$160,052							104	\$369,880
Seattle Fire Fighters	2	\$7,575	651	\$65,894					2	\$200,000					655	\$273,469
Moms for Seattle	2	\$1,100	335	\$264,518											337	\$265,618
Native Women's PAC			3	\$250			1	\$5,000			10	\$32,999			14	\$38,249
District 1 Neighbors for Small Business	11	\$13,000	33	\$14,336			3	\$3,900							47	\$31,236
Working People for an Affordable Seattle									2	\$20,000					2	\$20,000
Alliance for Gun Responsibility			1	\$5,000	1	\$14,000									2	\$19,000
People for Affordable Livable Seattle	1	\$100	28	\$9,255	1	\$3,000									30	\$12,355
Neighborhoods for Smart Streets	1	\$288	38	\$2,145											39	\$2,433
Seattle Neighborhood Council	1	\$1,000	1	\$25											2	\$1,025
<b>Total</b>	<b>177</b>	<b>\$2,476,651</b>	<b>1,657</b>	<b>\$1,259,444</b>	<b>10</b>	<b>\$65,532</b>	<b>20</b>	<b>\$508,892</b>	<b>16</b>	<b>\$1,782,644</b>	<b>10</b>	<b>\$32,999</b>	<b>1</b>	<b>\$90</b>	<b>1891</b>	<b>\$6,126,253</b>

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/); Seattle City Council Central Staff

Table 7: Expenditures by Independent Expenditure Committees in Support of<sup>1</sup> General Election City Council candidates in 2019

Independent Expenditure Committee <sup>2</sup>	Campaign													
	D1		D2		D3		D4		D5		D6		D7	
	Herbold	Tavel	Morales	Solomon	Orion	Sawant	Pedersen	Scott	Davidson-Sattler	Juarez	Strauss	Willis	Lewis	Pugel
Civic Alliance for a Sound Economy (CASE)		\$298,805		\$165,481	\$467,012		\$66,461			\$19,612		\$516,024		\$325,547
People for Seattle		\$39,826		\$28,197	\$68,287		\$107,714			\$5,202		\$135,320		\$135,942
SEIU Quality Care	\$4,000		\$3,500								\$1,500			
Civic Alliance for a Progressive Economy (CAPE)	\$131,201		\$46,815		\$96	\$1,132		\$2,005		\$96	\$160,419		\$96	\$96
Unite HERE TIP													\$217,899	
UNITE HERE Local 8 PAC													\$512,837	
Seattle Hospitality PAC					\$19,116							\$68,807		\$65,832
Seattle Fire Fighters					\$74,457		\$16,429			\$9,046		\$88,585		
Moms for Seattle		\$14,459		\$143	\$143		\$30,288		\$143			\$99,807		\$56,874
Native Women's PAC										\$20,000				
District 1 Neighbors for Small Business		\$37,663												
People for Affordable Livable Seattle							\$11,616							
<b>Total</b>	<b>\$135,537</b>	<b>\$390,753</b>	<b>\$50,539</b>	<b>\$233,420</b>	<b>\$629,111</b>	<b>\$1,356</b>	<b>\$232,508</b>	<b>\$2,229</b>	<b>\$143</b>	<b>\$54,180</b>	<b>\$164,410</b>	<b>\$908,543</b>	<b>\$731,056</b>	<b>\$586,670</b>

Source: Seattle Ethics and Elections Commission, [www.seattle.gov/ethics/](http://www.seattle.gov/ethics/); Seattle City Council Central Staff.

<sup>1</sup> Independent expenditures were deemed to be “in support” of a candidate if they were reported to the Seattle Ethics and Elections Commission as being in support of a candidate or in opposition to a candidate’s general election opponent.

<sup>2</sup> In addition to the independent expenditure committees listed, five political committees raised funds and made independent expenditures or contributions to campaigns but made no independent expenditures in support of a general election candidate.



For additional background information on these bills, please see Central Staff memoranda and presentations from [December 11, 2019](#) and [December 20, 2019](#) meetings of the GESCNA-Ed Committee, as well as the [January 7, 2020](#), meeting of the Select Committee on Campaign Finance Reform.

**Attachment(s):**

1. Amendments to Council Bill 119731

cc: Kirstan Arestad, Executive Director  
Aly Pennucci, Supervising Analyst

**Attachment 1 – Amendments to Council Bill 119731**

**Amendment 1 to Council Bill (CB) 119731: Definition of “Independent Expenditure Committee”**

Councilmember Herbold

Amendment 1 to CB 119731 would add the definition of “ independent expenditure committee” to Section 2.04.010, “Definitions,” of the Seattle Municipal Code (SMC). This definition was inadvertently left out of CB 119731.

Independent expenditure committees are a subcategory of political committees. An independent expenditure committee would be defined as a political committee that makes an independent expenditure, or a contribution to another independent expenditure committee, totaling at least \$1,000 in an election cycle. Under CB 119731, foreign-influenced corporations are prohibited from making contributions to independent expenditure committees.

This amendment also makes technical corrections to and updates the language of the existing definitions of “independent expenditure” and “knowledge,” as shown.

Amend Section 2 of CB 119731 to include the definitions of “independent expenditure” and “knowledge” and add a definition of “independent expenditure committee.” Make technical corrections to the definitions of “independent expenditure” and “knowledge.” Language added to CB 119731 is shown in red below. New language to be added to the SMC is shown with an underline. Language to be removed from the SMC is shown struck out and surrounded by double parentheses.

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

**2.04.010 Definitions**

\* \* \*

“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.

“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; ~~((;))~~

**Attachment 1 – Amendments to Council Bill 119731**

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.

\* \* \*

## Attachment 1 – Amendments to Council Bill 119731

### Amendment 2 to Council Bill (CB) 119731: Title of Section 2.04.400

Councilmember Herbold

Amendment 2 to CB 119731 would simplify the title of Section 2.04.400 by changing it from “Limits on contributions to independent expenditure committees” to “Independent expenditures.”

Proposed Section 2.04.400 includes both a prohibition on contributions by a foreign-influenced corporation to an independent expenditure committee and a prohibition on independent expenditures made directly by a foreign-influenced corporation. Amending the title will clarify that the section discusses multiple avenues for making an independent expenditure.

Amend Section 7 of CB 119731 to simplify the title of Section 2.04.400. Language added to CB 119731 is shown in red below. New language to be added to the bill is shown with a double underline. Language to be removed from the bill is shown with a ~~double-strikeout~~.

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~~ Independent expenditures**

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, nor 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.