



The Municipal League Foundation

810 Third Avenue, Suite 224
Seattle, WA 98104
206-622-8333
www.munileague.org

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TO: Councilmembers Mike O'Brien, Sally Clark and Tim Burgess

FROM: Vanessa Lund, Municipal League Foundation

DATE: July 17, 2012

RE: Proposed Campaign Finance Reform Measures

Thank you for inviting the Municipal League to review the proposed local campaign finance reform recommendations. We are pleased that city leaders are thoughtfully analyzing and considering improvements to campaign finance practices and reaching out to community and civic groups for feedback. This letter summarizes the Municipal League's review process and findings. After careful deliberation, the Municipal League has decided to oppose the proposal. We are concerned that the combination of policies being considered may further advantage the incumbent, result an overall increase in the average size of contributions, and present a legal risk to the city.

This memo further details our review process, the arguments presented on both sides of the issue, and our recommendation and rationale.

Overview

The Municipal League Foundation convened a short term, ad hoc committee to review and respond to a request from City of Seattle Councilmembers Mike O'Brien, Sally Clark, and Tim Burgess, to evaluate local campaign finance reform recommendations. The committee reviewed materials and met on June 14th and was briefed by neutral, pro and con speakers.

The reform proposal expresses strong concerns about the negative influence of money in politics. It highlights the growth in average contribution sizes (\$221 on average), the reduction of small contributions (only 32% of contributions are less than \$100), and an all-time-high in campaign rollovers and unexpended funds.

To address these concerns, the proposal outlines the following policy goals:

- 1) Ensure the honoring of donor intent with respect to contributions being made for a specific election and campaign
- 2) Minimize actual and perceived influence of campaign donations on public officials
- 3) Reduce the potential for actual and perceived corruption as a result of off-year campaign contributions

To address these goals, the proposal calls for:

- 1) Limiting the time period that candidates for local office (Mayor, City Council and City Attorney) can solicit or accept campaign contributions to January 1 of the election year to April 30 of the following year; and
- 2) Capping the maximum amount of campaign surplus funds that can be rolled over to a future campaign at \$5,000.

Arguments in Favor of the Reform Proposal

- The City of Seattle has been a leader in setting strong ethics and elections policies. The city should take actions to address campaign financing because of the rising influence of big money. The policies being proposed are important first steps that will send an important signal that city leaders want to ensure clean and fair elections.
- Limiting campaign rollover funds helps preserve donor intent. One should not assume that a donor is going to support the candidate in perpetuity. In addition, there's no practical reason to carry over thousands of dollars of funds other than to create a "war chest" to scare off the opposition. Legitimate costs, such as maintaining a website, amount to a few hundred dollars a year, not thousands of dollars.
- Limiting the time period for fundraising creates a needed pause in the process and mitigates the perception of undue influence.
- The proposal is consistent with policies enacted in other jurisdictions (San Diego, Los Angeles and Alaska). San Diego's policies have been upheld by California State Supreme Court.
- Critics may argue that these policies don't go far enough, but they are an important first step. This is not the end of the conversation.
- Critics have argued not to take action because of the possibility of litigation. This is always a possibility, but should not be used as an excuse to not take action.

Arguments Against the Reform Proposal

- The specific reforms being proposed do little to address the issues of incumbent advantage, rising campaign contribution sizes or potential corruption. There's no evidence that these actions will decrease the average size of contributions, increase the number of small contributions, or limit contributions from big money interests trying to influence key decisions.
- The policies outlined in this proposal may work at cross purposes. Limiting the rollover combined with a tighter fundraising window could incentivize candidates to solicit bigger checks in a shorter period of time.

- Limiting the fundraising period for incumbents and challengers may have negative unintended consequences (e.g., increased lobbyist influence because they will have more importance as fund raisers, increased advantage for incumbents, opportunity for more PAC involvement, etc.) However, without evidence about the effect that these policies have had in other jurisdictions, it's difficult to evaluate the consequences.
- The proposal does little to “level the playing field” since it applies to incumbents and challengers. If there is a challenger who can raise money before January 1 (or whatever date) why should they be restricted?
- People have a right to donate and express their support of candidates. “Getting rid of money in politics” doesn't justify restricting people's speech or political activity.
- The proposal is likely to encounter legal challenges since Washington has greater free speech protections than California. If the city pursues this legislation they will open themselves to a costly lawsuit.
- Other policy options could be investigated, such as addressing the cost of running for office.
- The rollover limitation amount (\$5,000) seems to have no rationale other than it was the amount set in Alaska.
- The practical issues of implementing this policy should be further investigated and are there ways to clarify donor intent at the time of donation, rather than restricting the rollover amount?

Recommendation and Rationale

The Municipal League OPPOSES the reform proposal. The League applauds the city's effort to examine campaign finance reform but feels that this particular proposal does little to address the root problems that are driving campaign finance concerns, including costs and incumbent advantages. We are concerned that the specific policies outlined in this proposal (limiting the fundraising window and limiting the rollover amount) could have a combined affect that further favors the incumbent and increases the average size of contributions not to mention the issue of inhibiting free speech.

On the surface, the proposal may have been more compelling if it applied to incumbents only, rather than including challengers, but that approach may expose the city to additional legal challenges. In addition, the possibility of legal challenge strongly concerned our group.

We encourage the city to carefully consider the potential consequences of these reform proposals and evaluate whether other actions could be taken to better address the policy goals.