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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

COUNCIL BILL 117814\_\_\_\_\_

AN ORDINANCE relating to public financing of political campaigns; providing for the submission to voters of the City, at an election to be held on November 5, 2013, of a proposition to lift the limit on regular property taxes under Chapter 84.55 RCW and authorize the City to levy additional property taxes for up to six years for the purposes of establishing a public matching funds program for financing City Council election campaigns when certain qualifying conditions are met by candidates, and limiting campaign expenditures on City election campaigns of those who voluntarily enter the Public Campaign Financing Program; establishing a campaign matching fund account in the City Treasury; amending Subchapter V of chapter 2.04 the Seattle Municipal Code and adding new sections to chapter 2.04; and ratifying and confirming certain prior acts.

WHEREAS, the City of Seattle established a system for partial public financing of election campaigns in 1978; and

WHEREAS, the Fair Campaign Practices Act enacted following the passage of Initiative 134 in 1992 prohibited the use of public funds to finance state and local political campaigns; and

WHEREAS, in 2008, the Washington State Legislature amended RCW 42.17.128, which was later re-codified as 42.17A.550, allowing counties, cities and towns to establish public campaign financing programs funded through local revenue sources with the approval of voters; and

WHEREAS, in 2008, the City Council created through Resolution 31061 a Campaign Public Financing Advisory Committee (CPFAC) to evaluate public financing and develop a proposed program model; and

WHEREAS, the CPFAC issued a report recommending the City Council advance a proposal to create a public financing program for local election campaigns for consideration by Seattle voters; and

WHEREAS, in December of 2012, the City Council requested the Seattle Ethics and Elections Commission (SEEC) to review the 2008 CPFAC report and provide updated recommendations for Council consideration; and

WHEREAS, in March of 2013, the SEEC submitted a report to the City Council recommending specific public financing program parameters; and

1 WHEREAS, the City Council is committed to systemically improving the local electoral process  
2 through measures that reduce barriers to entry for candidates and broaden public  
participation in the electoral process; and

3 WHEREAS, the City Council is concerned about the rising costs associated with local election  
4 campaigns and the potential negative impact on public participation in the democratic  
process; NOW, THEREFORE,

5  
6 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

7 Section 1. Findings

8 Based on City Council and public discussions with campaign public financing  
9 researchers and practitioners on January 31 and February 13, 2013 and recommendations from  
10 the Seattle Ethics and Elections Commission in their March 28, 2013 letter to the City Council,  
11 the City finds that it is in the best interest of the public to strengthen the local electoral process  
12 by reducing the financial barriers to entry for prospective candidates, increasing the role of small  
13 donors and diversifying the pool of donors to City Council races. The City finds there is public  
14 benefit to creating a voluntary program available to candidates running for the Seattle City  
15 Council to obtain public matching funds for certain political campaign activities if specific  
16 criteria and conditions are met.

17 Section 2. Administration of the Campaign Financing Program

18 The Seattle Ethics and Elections Commission is charged with implementing and  
19 administering the Seattle Public Campaign Financing Program ("Program"). Within 180 days of  
20 voter approval of the Program the Commission must:

- 21 a) promulgate rules implementing the Program;
- 22 b) recommend or propose legislation and changes to the Seattle Municipal Code as  
23 necessary to implement the Program;
- 24 c) develop and make available to the public all forms and documents necessary to  
25 participate in the Program; and
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1 d) establish processes and procedures for appeal of decisions of the Executive Director of  
2 the Ethics and Elections Commission.

3 Section 3. Subchapter V of Chapter 2.04 of the Seattle Municipal Code, which was last  
4 amended by Council Bill 117808, is amended as follows:

5 Subchapter V

6 (~~Voluntary Expenditure Limitations~~) Seattle Public Campaign Financing Program

7 Section 4. Added to Subchapter V of Chapter 2.04 of the Seattle Municipal Code are  
8 Sections 2.04.400, 2.04.405, 2.04.410, 2.04.415 2.04.420, 2.04.425, 2.04.430, 2.04.435, 2.04.440  
9 2.04.445, 2.04.450, and 2.04.455 as follows:

10 2.04.400 Definitions.

11 The following terms, when used and capitalized in this ordinance Subchapter V of  
12 Chapter 2.04, are defined as follows:

13 “Campaign Program Fund” means the fund established as the repository for the levy  
14 proceeds or other funds to support the Program;

15 “Cap” means maximum allowed Total Candidate Funds;

16 “Commission” means the Seattle Ethics and Elections Commission;

17 “Director” means the Executive Director of the Commission;

18 “Matchable Contribution” means a campaign contribution that is certified by the Director  
19 as having met the requirements of 2.04.405;

20 “Matching Funds” means the public funds given by the City to a Participating Candidate;

21 “Participating Candidate” means a person who has been certified by the Director as  
22 having met the requirements of 2.04.410;

23 “Participation Agreement” means a contract between a Participating Candidate and the  
24 City of Seattle detailing the responsibilities of the parties to the agreement;

25 “Program” means the Seattle Public Campaign Financing Program;

1           “Statement of Intent” means a statement by a candidate of his or her intention to  
2 participate in the Program; and

3           “Total Candidate Funds” means a candidate’s cash on hand plus expenditures plus debts  
4 and obligations.

5           2.04.405 Matchable Contribution.

6           A Matchable Contribution for the Program must be a monetary contribution of no less  
7 than \$10.00 from a human who resides in the City of Seattle at the time the contribution is made.  
8 The contribution may be of any amount up to that allowed by 2.04.370.

9           2.04.410 Program Eligibility.

10          To qualify as a Participating Candidate and be eligible to receive public matching funds,  
11 a person must:

12          (a) have filed a Statement of Intent with the Commission no earlier than January 1 of the  
13 year of the election and no later than 14 days after filing a Declaration of Candidacy for a Seattle  
14 City Council position with King County Elections;

15          (b) have filed a Participation Agreement with the Commission no later than 14 days after  
16 filing a Declaration of Candidacy for a Seattle City Council position with King County  
17 Elections;

18          (c) have filed a Declaration of Candidacy for a Seattle City Council position with King  
19 County Elections;

20          (d) be opposed by at least one person who has filed a Declaration of Candidacy for the  
21 same Seattle City Council position with King County Elections who is still in the election after  
22 the date set for withdrawal from the election, and who has at least \$6,000 in Total Candidate  
23 Funds in support of his or her candidacy;

1 (e) have received at least 600 Matchable Contributions between filing a Statement of  
2 Intent with the Director and no later than 21 days after the last day to file a Declaration of  
3 Candidacy for a Seattle City Council position with King County Elections;

4 (f) agree to participate in a minimum of three public debates or candidate forums with at  
5 least one ~~opponent candidate~~ during the course of the campaign; and

6 (g) have submitted all necessary documentation for qualification no later than 21 days  
7 after the last day to file a Declaration of Candidacy for a Seattle City Council position with King  
8 County Elections in the year of the election.

9 A candidate who qualifies for the Program is qualified for both the primary and general  
10 elections.

11 2.04.415 Qualification Process.

12 1. By December 1 of the year prior to an election year, the Commission must issue a  
13 schedule that sets the deadlines and process for qualification, including the form of the Statement  
14 of Intent and the Participation Agreement.

15 2. The Director must certify eligible candidates who have timely filed to participate  
16 in the Program within 15 days of the date on which the last of the conditions listed in SMC  
17 2.04.410 is satisfied.

18 2.04.420 Program Structure.

19 A. Caps. For Participating Candidates the Cap for the primary election is \$140,000 and  
20 the Cap for the entire election is \$245,000.

21 B. Matching Funds. A Participating Candidate will be eligible for Matching Funds equal  
22 to the value, up to \$50.00, of each Matchable Contribution times six, provided that the resulting  
23 number may not exceed \$105,000 in the primary election and \$210,000 for the entire election. If  
24 a candidate's Total Candidate Funds, when added to the Matching Funds calculated as provided  
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1 for here, would exceed the applicable Cap, the Matching Funds are reduced until the Cap is not  
2 exceeded.

3 2.04.422 Permissible Uses of Matching Funds.

4 A. Matching funds provided under the provisions of this chapter may be used only for  
5 expenditures by a Participating Candidate to further the candidate's nomination for election or  
6 election, either in a special election to fill a vacancy, or during the calendar year in which the  
7 primary or general election in which the candidate is seeking nomination for election or election  
8 is held.

9 B. Such public funds may not be used for:

- 10 1. an expenditure in violation of any law;  
11 2. payments made to the candidate, except to reimburse a candidate for loans  
12 made by the candidate to the candidate's own political committee or campaign in an amount  
13 totaling no more than the amount provided in RCW 42.17A.445(3) and WAC 390-05-400;  
14 3. payments to the candidate's immediate family as defined in 4.16.030, or to a  
15 business entity in which the candidate or the candidate's immediate family has a ten percent or  
16 greater ownership interest;  
17 4. payments in excess of the fair market value of services, materials, facilities or  
18 other things of value received in exchange;  
19 5. payment of any penalty or fine imposed pursuant to federal, state or local law;  
20 6. payments for inaugural activities; or  
21 7. payments in cash.

22 2.04.425 Lifting of a Cap.

23 A. Non-participating Candidate Funds. In the event a non-participating candidate's  
24 Total Candidate Funds exceed the Cap, the Cap is removed for all Participating Candidates in the  
25 same election contest.

1           B. Independent Expenditures. If the combined total of the Independent Expenditure and  
2 the Total Candidate Funds of any candidate(s) who benefit(s) from the Independent Expenditure  
3 exceeds the Cap, the Cap is removed for all Participating Candidates who do not benefit in the  
4 same election contest.

5           1. If the candidate who benefits is a Participating Candidate, then the Cap  
6 shall remain in place for that candidate until such time another Participating Candidate exceeds  
7 the Cap in the same election contest.

8           2. The Director must post to the Commission website and notify all  
9 candidates in a race no later than three business days after learning of an Independent  
10 Expenditure pursuant to 2.04.270 a determination of which, if any, candidates are no longer  
11 subject to a Cap.

12           C. If a Participating Candidate's Cap is removed and that candidate's Total Candidate  
13 Funds exceed \$140,000 in the primary, then that candidate is required to adhere to a general  
14 election Cap of \$105,000. If a Participating Candidate's Cap is removed and that candidate's  
15 Total Candidate Funds do not exceed \$140,000 in the primary, then that candidate is required to  
16 adhere to the overall election Cap of \$245,000.

17           D. The Executive Director shall determine which candidates benefit from an  
18 Independent Expenditure. In making that determination the Director must consider the following  
19 factors:

- 20           1. whether the communication clearly identifies one or more candidates;  
21           2. whether the communication clearly expresses support for or opposition to one  
22 or more candidates;  
23           3. whether the communication clearly identifies and associates a candidate with a  
24 position on an issue and urges voters to take a particular action;

1           4. whether the communication distinguishes one or more candidates from each  
2 other in a campaign based on a position on an issue or in some other manner; and

3           5. any other factors deemed relevant by the Director.

4           2.04.430 Changes to the Program.

5           No more than 180 days after regular City Council elections, the Commission shall report  
6 to the City Council whether the Commission has determined that any changes would improve the  
7 Program and if so, details related to the specific recommendations. The City Council may, upon  
8 receipt of the Commission's report, change any existing dollar value by no more than 15%, the  
9 existing number of Matchable Contributions required to participate in the Program by no more  
10 than 100, any of the dates or times for taking action under this ~~ordinance~~ Subchapter V of  
11 Chapter 2.04, and other technical, non-substantive changes.

12           2.04.435 Disbursement of Funds.

13           A.     Within one week of certifying that a candidate has qualified under 2.04.410 for  
14 the election in question, the Director must provide each Participating Candidate with the  
15 matching funds the candidate is, at that time, eligible to receive based on the candidate's  
16 Matchable Contributions and other limitations set forth here. This initial disbursement shall not  
17 exceed 50 percent of the Matching Funds available to the Candidate in the primary.

18           B.     The Commission determines the information needed to submit a claim for  
19 subsequent payments of public funds. The Director must certify each request for payment of  
20 public funds within four business days of the request, except that within 14 calendar days before  
21 the election, when the certification of a request for public funds must be made within two  
22 business days of the request. Any submission of a claim for public funds must include a  
23 minimum of \$1,000 of Matchable Contributions; provided that in the 14 calendar days preceding  
24 an election, a claim must include a minimum of \$200 of Matchable Contributions. All claims for  
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1 public funds must be submitted no later than 5:00 p.m. on the 30th day following the date of the  
2 election.

3 2.04.440 Return of Funds.

4 A Participating Candidate may withdraw from the Program. A Participating Candidate  
5 withdrawing from the Program must return all Matching Funds to the Campaign Program Fund  
6 with interest, assessed at the same rate as a 26-week US Treasury Bill issued the day the  
7 candidate entered into the Participation Agreement, per day from the date of receipt of those  
8 funds. A Participating Candidate must return unexpended Matching Funds to the City for  
9 deposit into the Campaign Program Fund no later than 30 days after he or she is elected,  
10 defeated, or withdraws.

11 4.02.445 Insufficient Funds.

12 In the event that the funds available in the Campaign Program Fund are insufficient to  
13 provide every Participating Candidate with the funds he or she would be eligible to receive, the  
14 apportionment to each candidate is reduced proportionally until the total disbursement equals the  
15 amount of funds available.

16 2.04.450 Applicability

17 This program is available only to candidates in Citywide Council elections.

18 2.04.455 Penalties

19 In addition to the penalties and remedies provided for in 2.04.500, Participating  
20 Candidates are subject to the following additional penalties:

21 A. Participating Candidates who violate applicable Caps will be subject to a penalty up  
22 to the amount of the Matching Funds made available to the Candidate;

23 A-B. Participating Candidates who make expenditures in violation of section 2.04.422  
24 are subject to a fine of up to twice the amount of the expenditure.

1 Section 5. Definitions. The following terms, when used and capitalized in this  
2 ordinance, shall have definitions stated below:

3 A. "City" means the City of Seattle.

4 B. "Proceeds" means that portion of regular property taxes levied and collected  
5 as authorized by voter approval pursuant to this ordinance that are above the limits on levies  
6 provided for in RCW 84.55.010, and all interest and other earnings derived from that portion of  
7 the levy.

8 Section 6. Levy of Regular Property Taxes – Submittal. The City hereby submits to the  
9 qualified electors of the City a proposition as authorized by RCW 84.55.050 to exceed the levy  
10 limitation on regular property taxes contained in Chapter 84.55 RCW, as it now exists or may  
11 hereafter be amended, for property taxes levied in 2013 through 2018 for collection in 2014  
12 through 2019, respectively. The proposition shall be limited so that the City shall not levy more  
13 than \$2,000,000 in the first year, in addition to the maximum amount of regular property taxes it  
14 would have been limited to by RCW 84.55.010 in the absence of voter approval under this  
15 ordinance, plus other authorized lid lifts. Proceeds shall be used to provide funding for the  
16 Seattle Public Campaign Financing Program. Pursuant to RCW 84.55.050(4), the maximum  
17 regular property taxes that may be levied in 2019 for collection in 2020 and in later years shall be  
18 computed as if the levy lid in RCW 84.55.010 had not been lifted under this ordinance.

19 Section 7. Application of Levy Proceeds.

20 Unless otherwise directed by ordinance, Proceeds shall be deposited in the Campaign  
21 Program Fund. The Director of Finance and Administrative Services, or the Director's designee,  
22 is authorized to create subfunds or accounts within the Campaign Program Fund as may be  
23 needed or appropriate to implement the purposes of this ordinance. Proceeds may be temporarily  
24 deposited or invested in such manner as may be lawful for the investment of City money, and  
25 interest and other earnings shall be used for the same purposes as the Proceeds  
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1 Section 8. Election – Ballot Title. The City Council directs that the City Clerk file this  
2 ordinance with the Director of Elections of King County, Washington, as ex officio supervisor of  
3 elections, requesting that the Director of Elections call and conduct a special election in the City  
4 in conjunction with the general election to be held on November 5, 2013, for the purpose of  
5 submitting to the qualified electors of the City the proposition set forth in this ordinance. The  
6 City Clerk is directed to certify to the King County Director of Elections the ballot title approved  
7 by the City Attorney in accordance with his responsibilities under RCW 29A.36.071.

8 Section 9. Ratification. Certification of such proposition by the City Clerk to the King  
9 County Director of Elections in accordance with law prior to the date of such election on  
10 November 5, 2013, and any other act consistent with the authority and prior to the effective date  
11 of this ordinance, are hereby ratified and confirmed.

12 Section 8. The Seattle Ethics and Elections Commission will submit to the City Council,  
13 Mayor and citizens of Seattle annual progress reports on the Campaign Finance Program. The  
14 report shall be due to the City Council and Mayor by no later than March 1 of calendar years  
15 following each election.

16 Section 10. Any appeal of the City Attorney's Explanatory Statement for this proposition  
17 timely filed under SMC 2.14.030 shall be heard by the Office of the Hearing Examiner, not the  
18 Commission.

19 Section 11. Severability. The provisions of this ordinance are declared to be separate and  
20 severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of  
21 this ordinance, or the invalidity of its application to any person or circumstance, do not affect the  
22 validity of the remainder of this ordinance, or the validity of its application to other persons or  
23 circumstances.

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Section 12. 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 \_\_\_\_\_, 2013, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Michael McGinn, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
LEG	Mike Fong 5-1675 /Tony Kilduff 4-3580	N/A

**Legislation Title:**

AN ORDINANCE relating to public financing of political campaigns; providing for the submission to voters of the City, at an election to be held on November 5, 2013, of a proposition to lift the limit on regular property taxes under Chapter 84.55 RCW and authorize the City to levy additional property taxes for up to six years for the purposes of establishing a public matching funds program for financing City Council election campaigns when certain qualifying conditions are met by candidates, and limiting campaign expenditures on City election campaigns of those who voluntarily enter the Public Campaign Financing Program; establishing a campaign matching fund account in the City Treasury; amending Subchapter V of chapter 2.04 the Seattle Municipal Code and adding new sections to chapter 2.04; and ratifying and confirming certain prior acts.

**Summary of the Legislation:**

This legislation would place ballot measure before the voters in November 2013 authorizing a six-year property tax levy lid lift to support a public campaign funding program for City Council races. The program, which is voluntary, would provide candidates who qualify by receiving at least 600 contributions of at least \$10.00 each matching funds from the program at a rate of \$6.00 for every \$1.00 raised. The maximum amount of any qualifying donation that would be matched is \$50.00, with a total of \$210,000 in public funds available to any participating candidate.

Candidates who participate get up to \$105,000 in public funds in the primary and face a spending cap of \$140,000. They are also eligible for up to \$105,000 in the general election and face a combined spending cap between the two races of \$245,000.

The limit on spending by a participating candidate in the primary will be lifted if spending against that candidate exceeds \$140,000. In that event, the candidate may raise and spend at will in the primary but will be bound by a spending limit of \$105,000 in the general.

**Background:**

(Include a brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable.)

Please check one of the following:

This legislation does not have any financial implications.



(Please skip to "Other Implications" section at the end of the document and answer questions a-h. Earlier sections that are left blank should be deleted. Please delete the instructions provided in parentheses at the end of each question.)

**X This legislation has financial implications.**

(If the legislation has direct fiscal impacts (e.g., appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" Section. Please delete the instructions provided in parentheses at the end of each title and question.)

**Appropriations:**

(This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not supported by revenue/reimbursements, please confirm that there is available fund balance to cover this appropriation in the note section.)

Fund Name and Number	Department	Budget Control Level*	2013 Appropriation	2014 Anticipated Appropriation
General Fund	Office of Ethics and Elections	V1T00	0	\$150,000
<b>TOTAL</b>				<b>\$150,000</b>

\*See budget book to obtain the appropriate Budget Control Level for your department.

Appropriations Notes:

Anticipated 2014 appropriations are for relocation and expansion of space for the Seattle Ethics and Elections Commission.

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

(This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.)

Fund Name and Number	Department	Revenue Source	2013 Revenue	2014 Revenue
Campaign Program Fund	FAS	Levy lid lift		\$2,000,000
<b>TOTAL</b>				<b>\$2,000,000</b>

Revenue/Reimbursement Notes:

Proposed LLL to take effect in 2014.

**Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:**

(This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.)

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2013 Positions	2013 FTE	2014 Positions*	2014 FTE*
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**g) Does this legislation affect a piece of property? No**

(If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.)

**h) Other Issues: None.**

**List attachments to the fiscal note below:**

