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2010 APR -1 PM 5:38



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To: Rules & Legislation Committee
From: Council Member Ignacio De La Fuente
Date: April 15, 2010
Re: Campaign Expenditure and Contribution Limits

I. BACKGROUND

One of Oakland Campaign Reform Act's fundamental provisions is the regulation of contributions to candidates for Oakland offices (defined as the offices of Mayor, City Attorney, City Auditor, City Councilmember and School Board Director). OCRA essentially permits candidates who voluntarily agree to accept limits on their campaign expenditures to receive contributions in a greater total amount per election than for candidates who do not voluntarily agree to limit their campaign spending.¹ The current contribution limitation for candidates accepting voluntary expenditure ceilings is \$700 per election from a person, and \$1,300 per election from a broad-

¹ The relevant provisions of OCRA Sections 3.12.050 and 3.12.060 read as follows:

3.12.050 *Limitations On Contributions From Persons*

A. *No person shall make to any candidate for city office and the controlled committee of such a candidate, and no such candidate for city office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than one hundred dollars (\$100.00) for each election except as stated in subsection B of this section.*

B. *For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no person shall make to a candidate for city office and the controlled committee of such candidate, and no such candidate for city office and the controlled committee of such candidate shall accept contributions totaling more than five hundred dollars (\$500.00) [now \$700 due to COLA adjustments] from any person for each election.*

3.12.060 *Limitations On Contributions From Broad-Based Political Committees*

A. *No broad-based political committee shall make to any candidate for city office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad-based political committee, a contribution or contributions totaling more than two hundred fifty dollars (\$250.00) [now \$300 due to COLA adjustments] for each election except as stated in subsection B of this section.*

B. *For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad-based political committee shall make to any candidate for city office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad-based political committee, a contribution or contributions totaling more than one thousand dollars (\$1,000.00) [now \$1,300 due to COLA adjustments] for each election.*

based political committee.² The current contribution limitation for candidates who do *not* accept voluntary expenditure ceilings is \$100 per election from a person, and \$300 per election from a broad-based political committee. These limits were adopted under Oakland's previous election system, which included both a primary and general election. In January the City Council implemented Ranked Choice voting which will consolidate the primary and general election into a single Ranked Choice election in November.

In a memorandum dated February 4, 2010, the Office of the City Attorney proposed a set of amendments to Oakland's Election Code (O.M.C. Chapter 3.08) and Campaign Reform Act (O.M.C. Chapter 3.12) to make them consistent with the pending implementation of Ranked Choice Voting (RCV) in the November 2010 election. Contained in the February 4 memorandum was also a proposal and recommendation to double the current limits on campaign contributions and on the voluntary expenditure ceilings contained in the Oakland Campaign Reform Act (OCRA).

This recommendation was forwarded to the Public Ethics Commission on March 4, 2010. The Commission recommended against adopting it.

At the March 18, 2010 Rules & Legislation Committee, Council Member Ignacio De La Fuente proposed an alternative approach to setting appropriate contribution and spending limits under Oakland's new Ranked-Choice elections. He proposed:

- Individual contributions be adjusted from \$700 for each election to \$1,000 for the consolidated Ranked Choice election;
- Broad-based political committee contributions be adjusted from \$1,300 for each election to \$1,600 for the consolidated Ranked Choice election; and
- Expenditure limits in all races be adjusted from current limits for each election to 40% more than those limits for the consolidated Ranked Choice election.

DISCUSSION

In explaining his recommendation for doubling the current contribution and expenditure limits, the City Attorney stated:

" . . . The existing campaign contribution and expenditure limits are limits for each election period. (OMC Sections 3.12.050, 3.12.060, 3.12.200.) [Emphasis in original.] With RCV, the campaign season will change from two election periods to one. While formerly there was a primary season from January-June and a general election period from June-November, under RCV there will be one long election season. Candidates have already begun campaigning. However, the maximum amount a candidate can collect from each contributor and the maximum amount that each candidate can spend on his/her election to communicate to the voters would effectively be cut in half with RCV."

" . . . The City Attorney's Office recommends that the City Council double the expenditure limits and the contribution limits for two reasons. First, because two election seasons are being folded into one and a doubling of the limits does not change the amounts that will be donated or spent over

² OCRA defines "person" as "an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert." OCRA defines "broad-based political committee" as "a committee of persons which has been in existence for more than six months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five or more candidates."

the course of the entire election year. Second, because RCV is a major change in voting systems which will require candidates - at least in the first few RCV cycles - to perform additional outreach to educate residents."

In his report to the Public Ethics Commission, the Executive Director responded to the City Attorney's assertions by stating:

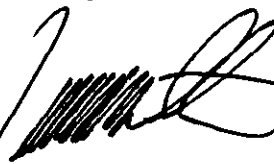
"... The assertion that "a doubling of the limits does not change the amounts that will be donated or spent over the course of the entire election year" again has merit only when compared to the relatively infrequent situation when a candidate is forced into a November run-off election. The large majority of Oakland elections has historically been decided in the June primary and thus a "doubling" of the contribution and expenditure limits could, in fact, significantly increase the amounts that are ordinarily donated or spent to elect a candidate."

Council Member De La Fuente's recommendation represents a compromise between these two views, recognizing that a consolidated Ranked Choice election season is likely to be longer than a single primary or general election season and that, for candidates who would have been in run-off elections, providing no increase effectively diminishes the existing limits.

RECOMMENDATION

Adopt an Ordinance amending Oakland Municipal Code Sections 3.12.050, 3.12.060, and 3.12.200 to: (1) Change the limit for individual contributions from \$700 for each of the elections - the primary and the general -- to \$1,000 for the consolidated Ranked Choice election; (2) Change the limit for broad-based political committee contributions from \$1,300 for each of the elections - the primary and the general -- to \$1,600 for the consolidated Ranked Choice election; and (3) Change the Voluntary Expenditure Ceilings for candidates for City offices from the current limits for each of the elections - the primary and the general -- to 40% more than those limits for the consolidated Ranked Choice election.

Respectfully Submitted,



Council Member Ignacio De La Fuente