



AGENDA REPORT

TO: Members on the City Council and
Members of the Public

FROM: Councilmembers Dan Kalb,
Nikki Fortunato Bas,
Carroll Fife

SUBJECT: Resolution Creating the Oakland Fair
Elections Act Ballot Measure

DATE: July 5, 2022

RECOMMENDATION

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD ESTABLISH PUBLIC FINANCING FOR ELECTIONS OF CITY AND SCHOOL BOARD OFFICIALS, INCREASE TRANSPARENCY REGARDING INDEPENDENT SPENDING ON CITY ELECTIONS, AND FURTHER RESTRICT THE ABILITY OF FORMER CITY OFFICIALS AND DIRECTORS TO ACT AS LOBBYISTS BY:

- (1) REPEALING THE LIMITED PUBLIC FINANCING ACT AND ADOPTING THE FAIR ELECTIONS ACT TO ENABLE RESIDENT ALLOCATION OF PUBLIC FINANCING FOR ELECTIVE OFFICE CAMPAIGNS;
- (2) AMENDING THE CAMPAIGN REFORM ACT AND LOBBYIST REGISTRATION ACT; AND
- 3) AMENDING SECTION 603 OF THE CHARTER OF THE CITY OF OAKLAND TO FUND PUBLIC ETHICS COMMISSION STAFF TO IMPLEMENT THE FAIR ELECTIONS ACT;

AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION

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EXECUTIVE SUMMARY

This Ordinance substantially redesigns Oakland’s campaign finance framework. Through the creation of an innovative Democracy Dollars program, this redesign will create election participation opportunities for all Adult Oaklanders. The Democracy Dollars program will provide \$100—four \$25 vouchers—for every Oakland voter to donate to the local candidate(s) of their choice.

The legislation will eliminate and replace the current Limited Public Financing Act by creating the new Oakland Fair Elections Act. The **Oakland Fair Elections Act** outlines participation criteria and benchmarks that candidates must achieve to qualify for the public financing program.

The legislation will adjust contribution limits and spending limits for campaigns by position, extend the post-employment lobbying ban by one year and add funding to the Public Ethics Commission for necessary staffing to implement the program.

BACKGROUND

The Oakland Campaign Reform Act ordinance was adopted by the City Council in 1999 and amended several times in furtherance of providing various election campaign financing reforms, including limits on contributions to the candidates.

The Oakland Limited Public Financing Act ordinance was adopted by the City Council in 2001 and amended several times in furtherance of providing a program for eligible candidates to receive reimbursement from the City for qualified campaign expenses. This law has been substantially underfunded every election cycle thereby negating the advantages of having public financing in the first place.

The Oakland Lobbyist Registration Act ordinance was adopted by the City Council in 2002 and amended several times in furtherance of requiring local government lobbyists to register and disclose their lobbying activities and prohibiting certain lobbying-related activities, such as a one-year limit on former city elected officials, department heads, and budget directors acting as local government lobbyists; and

The Oakland Public Ethics Commission was originally formed in 1996 with the goal of ensuring fairness, openness, honesty and integrity in City government and provides education and enforcement for local governmental ethics laws, including the Campaign Reform Act, Limited Public Financing Act, and Lobbyist Registration Act.

In 2014, the Oakland City Council placed a measure on the ballot, which was adopted by Oakland voters in the November election, to add Section 603 to the Charter to strengthen the Public Ethics Commission’s authority and independence, as well as providing them with a sufficient budget and minimum staffing.

Nearly half of money raised by political candidates in Oakland comes from donors outside of Oakland.¹ Residents of the three majority white zip codes in Oakland contributed 45% of contributions while only comprising 21% of Oakland’s population.² The four zip codes with less than 25% white residents contributed 16% of contributions while making up 40% of the population.³ During the last four elections, 77% were won by the candidate who raised and spent the most money.⁴

The Public Ethics Commission has found that “Oakland’s existing campaign finance system gives donors from outside of Oakland and Oakland residents in wealthier, whiter neighborhoods disproportionate influence in choosing elected officials and potentially shaping policy outcomes over everyone else.”⁵

In November of 2015, voters in Seattle, WA passed campaign finance reform that included democracy vouchers to Seattle residents. Studies have shown increased geographic and economic diversity of political donors. The Seattle program increased the number of donors by 350%.⁶ Candidates received about 270% more dollars through small donations, which are donations of less than \$200.⁷ The study also revealed an 86% increase in the number of candidates and a decrease in incumbent electoral success.⁸

Additionally, participants in the democracy dollars program are more likely to vote. A 2021 study found that a first-time eligible voter who used at least one Democracy Dollars voucher in Seattle’s 2017 municipal elections was 11.75 times more likely to vote than a similarly situated person who did not.⁹ A low-propensity voter who used at least one voucher in Seattle’s 2017 municipal elections was 7.4 times more likely to vote than a low-propensity voter who did not.¹⁰

One of the central conclusions the Public Ethics Commission reached is that a Democracy Dollars program, similar to the one on Seattle, “shows the most promise for bringing equity to the campaign finance process since it equips all voters and other eligible residents with

¹ Maplight, “Campaign Cash: The Outsized Role of Money in Oakland Elections,” March 2, 2022 Available at: https://d0a40002-6a73-4299-b2a4-ebf4fbb8064f.usrfiles.com/ugd/d0a400_5ec459335c7c43f49242518cdb5f36ec.pdf

² Id.

³ Id.

⁴ Id.

⁵ Oakland Public Ethics Commission, “Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race,” September 2020. Available at: <https://cao-94612.s3.amazonaws.com/documents/Report-Draft-Race-for-Power-9-2-20-FINAL.pdf>

⁶ University of Washington, “Seattle Democracy Vouchers Increase Donations, Number of Candidates in City Elections,” May 26, 2022. Available at: <https://www.newswise.com/politics/seattle-democracy-vouchers-increase-donations-number-of-candidates-in-city-elections>

⁷ Id.

⁸ Id.

⁹ Win Win Network, “Honest Elections Seattle Initiative: Democracy Voucher Usage and Low-Turnout Voter Engagement Evaluation in 2017 and 2019,” Aug. 14, 2021. Available at: <https://drive.google.com/file/d/1mkMHu6grajOLu2lkBxayv0H-Ucrpr-JC/view>.

¹⁰ Id.

campaign “cash” to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior engagement”¹¹

ANALYSIS

The Oakland Fair Elections Act would create the Democracy Dollars Program for local Oakland elections. The Program will transmit to each registered voter and other eligible residents four \$25 Democracy Dollars vouchers to be donated to candidate(s) of the voter’s choice. This new public financing framework will allow Oakland residents to contribute campaign funds directly. Candidates must meet specified requirements to become eligible to receive Democracy Dollars including adhering to campaign spending limits.

The Oakland Fair Elections Act would eliminate the modest Limited Public Financing Act and replace it with the Democracy Dollars Program. The Public Ethics Commission will be responsible for administration of the Democracy Dollars Program, and will create and distribute Democracy Dollars to eligible residents, conduct community outreach and educate the community on the process as well as maintain an online portal and audit all certified candidates.

Candidates must be certified to receive Democracy Dollars. Certification requirements include a written application, participation in public debates or forums and qualifying small dollar contributions. A certified candidate must limit campaign expenditures that vary depending on the office sought. Certification may be revoked if a candidate violates the certification requirements or commits other violations of state or local law.

The Program would go into effect during the 2024 elections.

The Oakland Fair Elections Act provides the Public Ethics Commission with necessary funding every two years to administer the program, including necessary full-time staff members. The legislation also provides the Public Ethics Commission with \$4 million every two years to fund the Democracy Dollars vouchers. Funding would come from Oakland’s general purpose fund. The legislation does not raise new taxes.

The Oakland Fair Elections Act also includes additional good government provisions. If passed, the law would:

- Lower the campaign contribution limit from \$900 to \$500, to encourage candidates to fundraise in smaller amounts and lean more heavily on Democracy Dollars;
- Require the top three highest contributors to be disclosed on all independent expenditures supporting or opposing Oakland candidates or measures;
- Extend the lobbying ban on former City Councilmembers and senior city officials from one year to two years after leaving office.

¹¹ Oakland Public Ethics Commission “Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race,” September 2020. Available at: <https://cao-94612.s3.amazonaws.com/documents/Report-Draft-Race-for-Power-9-2-20-FINAL.pdf>

Please see the Oakland Fair Elections Act Policy Breakdown in Attachment A for additional information.

COORDINATION & PUBLIC OUTREACH

Councilmembers Kalb, Bas and Fife worked with Public Ethics Commission staff and the City Attorney’s office regarding this legislation, and worked closely with a broad coalition of community, advocacy and good government groups to craft this measure. We have engaged with numerous stakeholders including the Bay Area Political Equity Collaborative, Oakland Rising, California Common Cause, League of Women Voters of Oakland, MapLight, ACLU of Northern California, local union leaders, City Staff and community members on this legislation. We will continue to engage with stakeholders—including the residents of Oakland, to move this forward.

FISCAL IMPACT

For the two-year budget cycle beginning July 1, 2023 and each subsequent two-year budget cycle beginning on July 1 of odd-numbered years, the City shall appropriate no less than \$4,000,000 for the purpose of funding the Democracy Dollars Fund. Any unspent revenue remaining in the Fund after an election shall remain in the Fund and accrue for making future disbursements under Subsection A.

For the two-year budget cycle beginning July 1, 2023 and each subsequent two-year budget cycle beginning on July 1 of odd-numbered years, the City shall appropriate for the Public Ethics Commission no less than \$450,000 for the purpose non-staff costs for administering the Democracy Dollars Program. For the 2023 fiscal year, or earlier, the City shall appropriate an additional amount of no less than \$700,000 for the purpose of startup costs associated with initiating the Democracy Dollars Program, with any remaining funds to be carried forward into future fiscal years.

Effective July 1, 2023, the City shall also provide additional adequate staff necessary to properly administer the Democracy Dollars Program established by the Oakland Fair Elections Act, including but not limited to one full-time Democracy Dollars Program Manager and three additional full time equivalent positions, to be determined as necessary by the Public Ethics Commission.

EQUITY IMPACT

Meaningful participation in financing the campaigns of candidates for elected office in Oakland should not be limited to people and entities with significant wealth that are able to make large contributions. The Public Ethics Commission explored best practices in other jurisdictions, including other public financing models, and concluded that a Democracy Dollars program “shows the most promise for bringing equity to the campaign finance process since it equips all voters with campaign ‘cash’ to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior engagement.”¹²

¹² Id.

The Democracy Dollars Program created by this Act will enlarge public discussion and participation in elections by amplifying the voices of Oakland residents in elections through their participation in the Democracy Dollars program. The Democracy Dollars Program will also support candidates for elected office who lack networks of wealthy contributors, and will encourage candidates across the political spectrum and from different backgrounds to seek elected office, thereby resulting in a pool of candidates that is more reflective of the diversity of Oakland residents and resulting in more competitive elections.

ACTION REQUESTED BY THE CITY COUNCIL

We respectfully request that the City Council approve the Resolution to place the Oakland Fair Elections Act on the November 2022 ballot.

For questions regarding this report, please contact Seth Steward, Chief of Staff to Councilmember Kalb, at 510-238-7013.

Respectfully submitted,



Dan Kalb
City Councilmember, District 1



Nikki Fortunato Bas
Council President, District 2



Carroll Fife
City Councilmember, District 3

Attachment A: Oakland Fair Elections Act Policy Breakdown Chart

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