

Memo

To: Washington Public Campaigns and Advocates

From: Craig Salins

Date: June 10, 2008

Re: Achieving Voter-Owned Elections: Proposals in Seattle, Issues and Commentary

Local Option law approved: Local governments are authorized to establish programs of public financing for elections campaigns to local office, under "Local Option" legislation enacted this year by the Washington Legislature, lifting a 16-year ban imposed by Initiative 134 in 1992. The new law requires any proposed local program to be submitted to voters in a referendum for approval, in order to take effect.

Seattle, King County and several other jurisdictions are examining the opportunity. The King County Council directed staff to prepare a background and options report, and held a public Town Hall forum on the topic May 19th. The Seattle City Council and mayor jointly appointed a Public Campaign Financing Advisory Committee, tasked with recommending a program model by June 12th, for Council consideration.

This memo outlines some issues and considerations for advocates in preparation for upcoming deliberations and public hearings by Seattle City Council and perhaps other jurisdictions. Sections below:

- I. Suggested justifications for public financing programs
- II. A summary of recommendations by the Advisory Committee to the Seattle City Council
- III. Commentary on paying for a Voter-Owned Elections program
- IV. Commentary on timing of a voter referendum and program implementation - what year (election-cycle) it should begin.
- V. Also, a brief discussion of model design issues, and the case for a lump-sum model.

I. Suggested Justifications for Public Financing Programs:

The Seattle Advisory Committee briefly reviewed these suggested justifications for public financing programs, as follows. Although there was no formal vote, there seemed to be consensus that the listing provided a good measuring stick to evaluate and eventually settle on program choices and details:

- A) Reduce barriers to entry, leading to more choices for voters.
- B) Reduce the time that officeholders and challengers spend raising money, freeing up time for them to interact with voters, study up on the issues, and perform their work.
- C) Reduce the influence - or even the appearance of influence - of campaign contributors on government decision-making.
- D) Reduce incentives for campaigns to attempt to outspend one another, or to make campaign strategy decisions based on the fear that they will be outspent.

II. Summary of Recommendations to Seattle City Council:

The issues outlined in this memo were discussed and debated by the Seattle Advisory Committee during six meetings from May through June, including a meeting June 5th to finalize recommendations to the City Council. These recommendations - which the City Council may adopt or not, in whole or in part, included the following:

- 1) The preferred model (by 6 to 3 vote) is a Portland-style "lump sum" or "full-funding" model.
- 2) Under details recommended for this model, candidates qualify for public funding by gathering a set number of signatures from voters in the district (1,000 for council seats; 1,500 for mayor), each backed by a qualifying contribution (\$10); and then candidates who thus qualify would receive a lump-sum (\$150K for council; \$450K for mayor) to finance their primary campaign, and if they win, another sum to finance their general election campaign (\$100K for council; \$300K for mayor). Candidates would be allowed to raise and spend "seed" money during the qualifying period, in limited amounts, to assist with gathering necessary signatures and qualifying contributions. Limits on campaign expenditure are built into the model, because candidates who agree to accept public financing would also agree to finance their campaigns only on the public funds provided and accept no additional outside funding after qualifying. Also, "fair-fight" funds would be available on a dollar-for-dollar matching basis up to a set limit, for qualifying candidates who are outspent by a privately-financed opponent, and/or to match pro or con spending by 527 organizations or groups that engage in independent electioneering for or against a candidate.
- 3) A second model recommended by the Advisory Committee is a San Francisco-style "super-match" model. Under details recommended, candidates would raise a minimum of \$10,000 in small donations from residents of the district to qualify for public funds, and then they would receive public funds on a 3-for-1 basis matching privately-raised funds, up to the same limits set by the lump-sum model (maximum \$250K for council races; \$750K for mayor). As with the lump-sum model, fair fight funds would be available on a 1-for-1 basis matching privately-raised funds, by raising the cap on maximum spending, in increments of \$25K.
- 4) The Advisory Committee has recommended that any program approved by the Council be submitted to Seattle voters in a referendum in November, 2009, for implementation in the 2011 municipal election cycle.
- 5) There are several other recommendations concerning program design and campaign expense reporting, of lesser import than the overall model design.

III. Paying for a Voter-Owned Elections Program:

The economy and public budgets: It is apparent to all that the emerging economic slump is causing a serious shortage in projected tax revenues at state, county and local levels. King County faces a shortfall of upward of \$70 million; Seattle faces a shortfall of at least \$10-12 million, and perhaps much more. Similar cries emerge from other cities and counties around the state, and from state government itself. It's a difficult time to suggest new programs that cost real money, when established and needed government services are facing cutbacks.

Nevertheless, economic upturns and downturns might always be with us. The economy and cutbacks in public services certainly concerns everyone and will influence voter reaction to ballot proposals. For that reason, these should be strong considerations in the *timing* of a ballot referendum and proposed implementation of public financing dates. But these factors should not sideline our movement, organizing for needed strategic change in how campaigns are financed.

Campaign costs and source of financing: In talking about this, let's keep some points in mind: (1) Campaigns cost what they cost, and the expense of running for office has not been declining. (2) The funds to pay for campaigns comes from somewhere, someone. If not funded publicly, campaigns will continue to be funded by private donors and special interests - and likely with strings or expected political favors. (3) Campaigns do get funded, somehow - so obviously the wealth exists in the community to provide campaign cash - either privately or publicly. So the public policy issue is: whether, when and how to capture sufficient funds for public financing - so that the *source* of campaign financing is no longer a system which leads to an unequal financial playing field and special access to donors who seek political favors.

Affordable? Wherever public financing programs exist, they are paid for either through general fund appropriations or through dedicated funding sources, fees or taxes. It's important to stress that these programs are affordable, costing less than \$5 per resident per year (for municipal and county programs), and perhaps an additional \$5 per resident per year for all statewide and legislative campaigns, should that be enacted in the future.

We might ask the question: can we afford not to afford this .. and therefore to live with lawmaking and public policy decisions purchased by lobbyists, special interest earmarks, and elections where only the best fund raisers appear on the ballot?

Cities and counties - and advocates - will need to examine whether dedicated sources of revenue can be found to pay for public financing of campaigns. Let's frame that examination and discussion based on a realistic assessment of what voters will support - but also in the context of both the affordability and the necessity of progress toward public - rather than private - financing of campaigns.

IV. Timing of Referendum and Program Implementation:

Approval of the Local Option law opened a sudden opportunity for cities and towns, but the additional requirement to get voter approval has required fast-track action for any jurisdiction wanting to establish a program that would be up and running for the 2009 cycle of elections. Because of advance due-dates to put a measure on the ballot in November, 2008, any city or county would need to design a program (complete with funding decisions) and enact an ordinance by early August.

The general consensus has been that it's more important to design a program well than to do it quickly - even though many advocates and stakeholders would like to see a Voter-Owned Elections program available for candidate use in 2009. Also, advocates recognize that a loss in a referendum due to poor political planning or unreadiness could seriously set back the movement for Voter-Owned Elections.

Here are some considerations and questions to ponder, regarding when to place a proposed program on the ballot:

- 1) If a program is placed before voters in November, 2008, for implementation in 2009, are budget resources available and set aside to fully fund the program in a year when both council and mayoral (or executive) races will be held?
- 2) If a Voter-Owned Elections program is to be financed through a special levy or newly-created funding source, is there time to arrange any necessary approval of the funding source? (e.g. voter approval, or legislative approval).
- 3) Has there been sufficient time to draft a well-crafted ordinance and to vet the specifications and requirements with appropriate stakeholders, and to think through and close loopholes that might otherwise feed lawsuits or opposition to public financing or that might be "gamed" by special interests?
- 4) Is there a campaign plan to address voter questions, concerns and issues about any proposed VOE program and funding - along with appropriate voter education and messaging about the proposal?
- 5) Are resources available - and in-hand - to mount a campaign for voter approval of any VOE ballot proposal?
- 6) Regarding voter approval in a referendum: What other issues and races are likely to be on the same ballot, and what support or interference pattern will that generate? What is the likely voter turnout, and who will be voting? Is the proposal winnable?
- 7) Will the proposed referendum be before the voters in the same year as municipal elections - such that candidates for those local offices will be asked about the program and their views? How does this affect voter awareness and likely support for the VOE proposal?
- 8) How does a delay - in referring a program to the ballot for voter consideration - affect momentum toward public financing of campaigns? Is it a setback, or a wise decision?

V. Design decisions: Choice of model for Voter-Owned Elections:

Lastly, there has been extensive debate about which model to prefer, for public financing of election campaigns at both local and state levels. In 1978, Seattle adopted a matching-funds model, whereby public funds were available to match the first \$50, dollar-for-dollar, from any contributor to a campaign, provided the candidate also agreed to overall campaign spending limits. The program ran for five cycles - 1979 and 1981, and then again in 1987, '89 and '91, before being superceded in 1992 by the statewide ban on using public funds for campaigns in the fine print of Initiative 134.

In 1996, voters in Maine approved that state's Clean Elections Act, which provided a different model by which candidates would qualify for public funds: based on support from voters in the district, evidenced by signatures and a qualifying contribution of exactly \$5 - all of which must be validated before candidates are certified as Clean Elections-participating candidates. But also in recent decades, cities and some states have experimented with matching programs similar to Seattle's program of 1978 - often tinkering with matching rates and other details.

There are fundamental differences between a lump-sum model and a matching model. One difference is whether candidates demonstrate viability through fund raising ability or through signatures of voters. A second difference is whether candidates will have to continue to spend time fund raising, or can instead spend time with voters and studying issues.

Attached is reprinted the argument for a lump-sum model, such as the Clean Elections Act programs in Maine, Arizona and a few other states:

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The Case for a Lump-Sum, Full-Funding Model:

Now that the Seattle City Council will be evaluating a preferred model to publicly finance campaigns for public office in Seattle, I believe it's useful to consider the case for a lump-sum model (Portland-style) as a preferred alternative.

1. There are clear benefits to a lump-sum model, in meeting certain public policy goals:

- a) A lump-sum model totally sidesteps the troublesome see-saw choice between limiting maximum allowable contributions from donors (to reduce influence and to broaden the spectrum of candidates who can afford and therefore would choose to run), but thereby requiring even more donors and therefore more time dialing for dollars.
- b) A lump-sum model accomplishes - clearly, cleanly and totally - the public policy goal of candidate selection based upon community support, likely voter support and fitness for office, rather than fund raising ability. In many ways, this is the essence, the core rationale, of why public financing of campaigns is desirable.

By contrast, a matching program keeps us wedded to fund raising ability as a way to determine who can run and be competitive. Such a program design will always be hampered by this fundamental limitation. This becomes obvious as anyone struggles to arrive at details that achieve the public purpose promise of public financing within the confines of the matching fund model.

For example, a matching fund program of any design provides benefits to incumbents in likely campaign cash because it amplifies their incumbent-generated access to donors much more than would a lump-sum model where the financial playing field is inherently more equal.

2. Comparison of costs (public outlays required) suggest that a lump-sum model is nearly as affordable as a matching model, and therefore competitive and preferable on a cost-benefit basis.

The difference in cost between the matching model as proposed by the Sea-CPFAC to date, and a Portland-style lump-sum model is insignificant, contrasted with benefits to campaign finance reform achieved by the lump sum model:

- a) Selecting candidates based on community support rather than fund raising prowess;
- b) Eliminating time spent dialing for dollars by candidates;
- c) Reducing financial barriers to entry, and more easily leveling the financial playing field.

3. A majority of voters are unlikely to be swayed away from PFC simply due to relatively small differences in cost between a lump-sum model rather than a matching model, especially given the clear public policy benefits of a full-funding model.

Proposing a model that totally meets public policy goals, even if it requires a somewhat larger public outlay, is more likely to garner public support than a model which costs not much less but which is weakened by not really achieving public policy goals. This consideration carries more weight if a model is proposed for implementation in a future year when the economy and city revenues might be healthy or on the rebound such that public resources would be available for a preferred choice.

4. Lump-sum models are working in several states and at least one city, and are popular and widely supported by the public, elected officials and most stakeholders concerned about campaigns.

The "Clean Elections" programs in Maine and Arizona, North Carolina, New Mexico, New Jersey and other states, and the "Voter-Owned Elections" program in Portland, Oregon, are increasingly used by incumbents and challengers; the programs are popular and have resisted repeated attempts at repeal by opposition forces; evaluations show the programs are meeting public policy goals; and there is an increasing amount of advice and technical support to any jurisdiction that would like to follow in the footsteps or even improve on these models.

5. If implementation of any PFC model is proposed for the 2011 election cycle, there is time to work out details, develop appropriate oversight and rule making, and budget needed resources.

All along everyone seems to agree that it's more important to choose and design wisely rather than quickly. Suggesting that program implementation of any program be delayed until the 2011 cycle (placed on the 2009 ballot as a referendum to voters) - as already proposed by the CPFAC - provides ample time to work out details, prepare a well-written ordinance, decide on a funding source and arrange a necessary budget, educate voters and allow time for public input, and encourage voter support. These advantages seem to alleviate possible concerns about any public financing model, including and perhaps especially the lump-sum model.

*- Craig Salins
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