



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Sean Murphy
Public Policy & Budget Analyst

Item Schedule:

Briefing: April 28, 2015

DATE: April 23, 2015 at 3:45 PM

RE: CAMPAIGN FINANCE REFORM OPTIONS

ISSUE AT-A-GLANCE

Paul S. Ryan, Senior Counsel at the Campaign Legal Center, will be briefing the Council on issues related to a possible campaign finance reform study and legislation. Mr. Ryan is a national expert on relevant court rulings and considerations courts have made when adjudicating campaign contribution limit cases.

Mr. Ryan will be able to discuss any legal issues related to this process and encourages Council Members to **bring any questions they have to the table. This may be the best use of the Council's time**—focusing the entire discussion around questions and concerns.

Goal of the briefing: *Discuss any issues related to the legal process of creating and instituting campaign finance limitations the Council is concerned about.*

Policy Questions for the Council

- 1) What are the pros and cons of enacting campaign contribution limits?
- 2) If the Council determines it would like to further investigate options of campaign limits, what type of public process would the Council like to engage in to refine or review the proposal below, or suggest a wholly different approach?
- 3) Do limits create a marked advantage for incumbents?
- 4) How do limits on personal contributions impact the free speech of exceptionally wealthy individuals? Individuals who are either Salt Lake residents or non-residents?
- 5) Is the Council also interested setting restrictions on campaign volunteer hours?
- 6) Does establishing campaign limits at the local government level in Salt Lake City adequately address the issues that concern advocacy groups?



- 7) Might enacting campaign limits make running for elected office within the reach of a greater number of citizens?

Policy and Procedural Questions for Paul Ryan

- 1) What level of investigation should the Council consider before enacting any type of campaign finance limits?
- 2) What impact have studies comparing before and after effects of campaign finance reform had?
- 3) **What specific legal concerns should the City consider? Are there steps to take that will bolster the City's position before passing legislation?**
- 4) We have seen arguments for conducting studies both before and after the passage of reform legislation **in order to support as a means of supporting the Council's decision-making.**
 - a. What is your opinion on the value or importance of such studies?
 - b. What about the question of studying the question before or after reform? Or both?
- 5) **Is the "stakeholder" list** from the attached brief sufficient? Excessive? Does including an exhaustive list of stakeholders in the deliberation have an impact if the City is challenged in court?
- 6) Is Salt Lake maximizing opportunities for its residents to vote and participate in local elections? Is there anything more the City can do?

ADDITIONAL & BACKGROUND INFORMATION

Substance of Brief

Mr. Ryan has expressed his ability to discuss any legal issues related to instituting campaign limits. Some brief examples:

- what have courts said about various types of reforms
 - o limits
 - o disclosure
 - o public financing
- what the courts have said about various approaches
- how to draft various reforms
- common pitfalls of different reform approaches

Mr. Ryan has also reviewed the staff report from April 14 and is prepared to discuss any points and ideas laid out in that brief. It is attached for reference.

Attachments:

- [Staff Report from April 14 work session](#)



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CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Sean Murphy
Public Policy & Budget Analyst

Item Schedule:

Briefing: April 28, 2015

DATE: April 23, 2015 at 3:46 PM

RE: CAMPAIGN FINANCE REFORM OPTIONS

When Council staff began researching campaign contribution regulations, our first step was to consult with the **City Attorney's Office**. **After the Attorney's Office researched the City's legal right** to set campaign limits on individuals, corporations, and volunteers, Council staff began looking into other suggestions the Office laid out, such as the conducting various studies to measure the impact of limits.¹

To better understand the campaign finance reform landscape in Utah, Council staff began reaching out to elections experts in the state.² The Utah Elections Commission, Administered by the Lt. Governor, recommended two state experts—Kirk Jowers, Director of the Hinckley Institute, and David Magleby, Senior Scholar **at BYU's Center for the Study of Elections and Democracy**. Staff reached out to both Mr. Jowers and Dr. Magleby, and after discussing what the Council has been asked to consider by advocacy groups, and detailing some of the policy questions presented before the Council, both Jowers and Magleby recommended contacting the same legal expert on campaign limits for municipal elections: Paul Ryan of the Campaign Legal Center.

Following up on these recommendations, Council staff reached out to Mr. Ryan and have been in touch with him over the last months, as time has allowed. Mr. Ryan has agreed to consult with the Council in person, and we **have tentatively scheduled him to appear at the April 28 work session**. Below is some information on Mr. Ryan's background from his organization's website.

¹ Some amount of research and certain studies could be conducted before an ordinance change. Other studies would be conducted after legislation was passed by the Council. Such post-reform studies would be capable of identifying specific impacts of the legislation on Salt Lake City elections.

² Staff also held extended meetings with local campaign reform advocates.



Paul S. Ryan

“Paul S. Ryan joined the Campaign Legal Center in October 2004. He has specialized in campaign finance, ethics, and election law for more than a decade and is former Political Reform Project Director at the Center for Governmental Studies (1999-2004) in Los Angeles. Mr. Ryan litigates campaign finance issues before federal and state courts throughout the United States and has published extensively on the subject of election law in journals including the Stanford Law and Policy Review and the Harvard Journal on Legislation.

“Mr. Ryan has testified as an expert on election law before Congress, regularly represents the Campaign Legal Center before the Federal Election Commission and has testified before state and municipal legislative bodies and ethics agencies around the nation. He has appeared as a campaign finance law expert on news programs of CNN, NBC, C-SPAN, NPR and other media outlets, and is quoted regularly by The New York Times, Los Angeles Times, The Washington Post, Roll Call and other news publications.

“Mr. Ryan is a graduate of the University of California, Los Angeles **School of Law’s Program in Public Interest Law and Policy** (2001) and the University of Montana (1998), and is admitted to practice law in the District of Columbia, the State of California, the Supreme Court of the United States, the U.S. Fourth Circuit Court of Appeals and the U.S. Ninth Circuit Court of Appeals.”³

About the Campaign Legal Center

“Founded in 2002, the Campaign Legal Center (CLC) is a nonpartisan, nonprofit organization that defends and protects our democracy in the areas of campaign finance, voting rights, political communication and government ethics. CLC works every day to attack laws and regulations that undermine the fundamental rights of all Americans to participate in the political process and to defend laws that protect these interests. Working in **administrative, legislative and legal proceedings, CLC shapes our nation’s laws and policies so that the right to have a voice in our free and democratic society remains the foundation of our political system.**”⁴

About the CLC’s State & Local Reform Program

“**The Campaign Legal Center’s (CLC) State & Local Reform Program engages in litigation, regulatory agency work and advocacy/policy work at the municipal, county and state levels of government.** The CLC serves as a resource for state and local government officials and staff, as well as grassroots advocates, to draft, implement and defend democracy-enhancing reforms in the areas of campaign finance and disclosure, government ethics, media policy, redistricting and voting rights.”⁵

Policy Questions for the Council

- 1) What are the pros and cons of enacting campaign contribution limits?
- 2) If the Council determines it would like to further investigate options of campaign limits, what type of public process would the Council like to engage in to refine or review the proposal below, or suggest a wholly different approach?
- 3) Do limits create a marked advantage for incumbents?
- 4) How do limits of personal contributions impact the free speech of exceptionally wealthy individuals? Individuals who are either Salt Lake residents or non-residents?
- 5) Is the Council also interested setting restrictions on campaign volunteer hours?
- 6) Does establishing campaign limits at the local government level in Salt Lake City adequately address the issues that concern advocacy groups?
- 7) Might enacting campaign limits make running for elected office within the reach of a greater number of citizens?

^{3, 4, 5} From the Campaign Legal Center’s website: <http://www.campaignlegalcenter.org/>

Policy and Procedural Questions for a Consultant or Expert

- 8) What level of investigation should the Council consider before enacting any type of campaign finance limits?
- 9) What impact have studies comparing before and after effects of campaign finance reform had?
- 10) What specific legal concerns should the City consider? Are there **steps to take that will bolster the City's** position before passing legislation?
- 11) We have seen arguments for conducting studies both before and after the passage of reform legislation **in order to support as a means of supporting the Council's** decision-making.
 - a. What is your opinion on the value or importance of such studies?
 - b. What about the question of studying the question before or after reform? Or both?
- 12) **Is the "stakeholder" list below sufficient? Excessive? Does including an exhaustive list of** stakeholders in the deliberation have an impact if the City is challenged in court?
- 13) Is Salt Lake maximizing opportunities for its residents to vote and participate in local elections? Is there anything more the City can do?

Potential Strategy

Defining an appropriate dollar amount for any campaign contribution limit is core if the Council decides to pursue a legislative change. In an attempt to define an appropriate dollar amount **for the Council's** consideration, Council staff have begun designing the following process. We will verify this with the experts in the field, but it may act as a starting point:

- Pull data from past City 10 elections (Council & Mayoral) to identify:
 - Total number of campaign contributors
 - Level of contributions
 - Relationship **between # of contributions at different amounts and the Council's proposed** limit level for different groups: individuals and corporations
- From here, we will be able to distill any trends that emerge; i.e. 85% of contributions from individuals are under \$200 and only 2% of contributors donate more than \$500
- **We may also be able to determine a limit level that enables "effective" campaigns**
- Based on this information, the Council could draft an official finding of their investigation
- Another method of establishing reasonable limits on total spending may be related to the cost of producing campaign materials in the Salt Lake market. Council staff could investigate the cost of producing marketing materials in print and online, as the relative cost of the Salt Lake television is prohibitive.

Options that could be further investigated for an ordinance

- Limit or eliminate corporate campaign contributions
 - For-profits
 - Non-profits
- Limit individual campaign contributions
- Limit total allowable campaign spending per candidate
- Limit contribution of volunteer hours

Potential stakeholders to include in a public process

The Council has been advised to include as many interested stakeholders as possible before

- Campaign & Elections focused groups
 - Move to Amend
 - League of Women Voters
 - Common Cause

- Statewide Politically focused groups
 - Political Action Committees
 - Utah Taxpayers Association
 - Accountability Utah
- Individual Citizens
 - Campaign contributors for last 10 elections (mailing list)
- Corporate Groups
 - While identifying national organizations that represent corporate interests has not been a problem, if this effort is intended to reach stakeholders specific to Salt Lake, appropriate **“corporate” stakeholders still need to be identified**
- Unions
- Government Representatives
 - **Lt. Governor’s Office (Utah Elections Commission)**
 - County Recorder
 - City Recorder
- Institutional Partners
 - University of Utah – **Director of UofU’s** Hinckley Institute of Politics
 - BYU – **Senior Scholar at BYU’s** Center for the Study of Elections and Democracy
 - Westminster College – Community Leadership Program

Additional Outreach

- Open City Hall (60 day public comment period)
- Online resource library for the public (links to both research and advocacy groups)

Roles for local advocacy groups

One local group has come forward and offered assistance for background research efforts that may assist the **Council’s** decision-making. Below are some options as to how such volunteer efforts could be organized:

- Collect examples of municipal ordinances passed around the country
 - Provide summary of key components of each ordinance
 - **Provide analysis of “pros & cons” related to each ordinance**
 - Specify whether there is any pending legal action associated with ordinances
 - Identify whether or not specific studies have been conducted before or after ordinances were passed and provide citation to the findings
- How do advocacy groups suggest answering the same policy questions presented to the Council above?
- Are there any previously conducted studies analyzing impacts in other municipalities around the country? Specifically:⁶
 - Studies that address the policy questions above?
 - Studies that address the impact of campaign contribution have had on:
 - Advantages/challenges to incumbents before and after reform?
 - Margins of victory before and after reform? (measures of competitiveness)
 - Challenger/incumbent fundraising ratios before and after reform?
 - Increase or change in number of contested elections before and after reform?

⁶ The City Attorney’s Office has highlighted concerns that other courts have raised when considering campaign limit cases. These questions stem from those insights.