



CITY COUNCIL AGENDA REPORT

MEETING DATE: November 16, 2020

TO: City Council Members

FROM: Douglas L. White, City Attorney

SUBJECT: Provide direction to City Staff Regarding Establishing Contribution Limits for Candidates for City Office.

RECOMMENDATION

Provide direction to City staff to do one of the following:

- (1) Prepare an ordinance or resolution for the Council's consideration establishing contribution limits for candidates for City office; or
- (2) Do nothing and default to contribution limits for candidates for City office established by state law.

BACKGROUND

Candidates running for office in the City of Sonora ("City") are not subject to contribution limits. In October 2019, the Governor approved Assembly Bill ("AB") 571. AB 571 establishes contribution limits for candidates for City office, effective on January 1, 2021. Under AB 571, candidates for City office will be subject to a four thousand seven hundred-dollar (\$4,700) contribution limit from a single source per election. The Fair Political Practices Commission (the "FPPC") will periodically adjust this limit to account for inflation.

AB 571 establishes default contribution limits. The City can establish contribution limits by ordinance or resolution that differ from the contribution limits established by AB 571. If the City establishes its own contribution limits, candidates for City office will not be subject to the contribution limits established by AB 571. The City must establish contribution limits by January 1, 2021 or default to the contribution limits established by AB 571.

DISCUSSION

Given the effects of AB 571, City staff seeks direction from the City Council regarding whether the City should establish its own contribution limits. The city Council has two (2) options:

1. **Do Nothing.** If the City council takes no action, AB 571 will take effect on January 1, 2021 and candidates for City office will be subject to a four thousand seven hundred-dollar (\$4,700) contribution limit.
 - a. By defaulting to AB 571, candidates for City office will also face (2) additional limitations on contributions: (1) AB 571 limits transfers of campaign funds from one controlled committee to another controlled committee of the same candidate; and (2) AB 571 limits loans to a candidate's campaign.

- b. AB 571, however, provides three (3) exemptions from contribution limits: (1) candidates facing a recall can establish a committee to oppose the recall and can accept contributions in excess of the contribution limits established by AB 571; (2) candidates may accept contributions after an election to pay off debts from the election; and (3) candidates can carry over contributions from one election to pay for expenses for a subsequent election for the same office.
 - c. If the City defaults to the contribution limits established by AB 571, the FFPC will enforce the contribution limits. Violation of these contribution limits will be subject to the penalty provisions of the Political Reform Act. Violations of the contribution limits will be punishable as misdemeanors.
2. **Set Own Contribution Limits**. If the City Council does not wish the City to be subject to AB 571 contribution limits, the City council can adopt its own contribution limits and can establish limits higher or lower than the FFPC limits. If the City Council decides to go down the route, City staff will prepare an ordinance or resolution for the City Council consideration.

By establishing contribution limits, candidates for City office will not be subject to state limitations on contributions. However, the exemptions from the contribution limits described above will not apply. In addition, **the City Council must establish penalties for violations of the contribution limits and bear the cost of the enforcement.** The FFPC will not enforce the City's contribution limits. Penalties for violating the City's contribution limits can include civil penalties, fines, or criminal charges. In establishing contribution limits, the City must ensure that it complies with the First Amendment. Accordingly, the City must ensure that contribution limits are not too low as to prevent candidates for City office from conducting an effective campaign.

FISCAL IMPACT

There will be no fiscal impact to the City if the City elects to default to the state's contribution limits. The City will bear enforcement costs if it establishes different contribution limits.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act requires environmental review only if a public agency action constitutes a "project." (Pub. Resources Code, § 21065.) Providing direction to City staff regarding AB 571 is not a "project", since it does not have the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Code Regs., tit. 14, § 15064, subd. (d).)

OPTIONS

The City Council's options are:

1. Do nothing and accept the contribution limits established by AB 571.
2. Direct City Staff to prepare an ordinance and resolution establishing contribution limits for candidates for City office.

ATTACHMENTS

AB 571.