



Legislation Text

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CITY of ALBUQUERQUE
TWENTY THIRD COUNCIL

COUNCIL BILL NO. R-19-165 ENACTMENT NO. _____

SPONSORED BY: Ken Sanchez, by request

RESOLUTION

Adopting Propositions To Be Submitted To The Voters At The Next Local Election To Be Held In The City Of Albuquerque Concerning Questions Amending Article II, Sections 2 And 3; Article IV, Section 4; Article V, Section 2; And Article XVI, Sections 3, 4, 6, 7, 8, 10, 12, 15, And 21, Of The Albuquerque City Charter; And Adding Section 22 To Article XVI Of The Albuquerque City Charter, Providing The Form Of The Questions And The Designation Clause For Such Questions On The Ballot (Sanchez, by request)

WHEREAS, there have been recent changes to state election laws, a certified citizen petition to amend the City Charter, and there is a need to clarify and adjust the City of Albuquerque's election and public financing processes to ensure transparency, accountability, and maintain the efficient administration of elections; and

WHEREAS, the City Council approved proposition F/S P-18-01 (enactment P-2018-001) proposing to amend Article VI of the City Charter, Section 4, and Article XVI of the City Charter, Sections 3, 4, 6, 7, 8, 12, 15, 20, and 21, and to add Section 22; and

WHEREAS, there have been significant changes to law and policy since the Open and Ethical Elections Code was enacted; and

WHEREAS, F/S P-18-01 specified that the City Clerk is required to coordinate with the Bernalillo County Clerk to prepare and file any necessary documents and agreements for an election on P-2018-001; and

WHEREAS, pursuant to Article VI of the Albuquerque City Charter and §§ 2-4-10, 11, 12, 13

and 14 ROA 1994, proponents of an amendment to Article II, Sections 2 and 3; Article IV, Section 4; Article V, Section 2; Article VIII, Section 14 and Article XVI, Sections 3, 7, 10, and 12 (“Petitioners”) circulated petitions; and

WHEREAS, Petitioners were required to gather 19,480 valid signatures from registered voters within the City of Albuquerque; and

WHEREAS, on July 31, 2018, Petitioners filed the required petitions with the Office of the City Clerk; and

WHEREAS, Petitioners acquired the signatures needed to put the proposal to a vote under Article VI.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1: That the City Clerk is instructed to place the following proposal on the next municipal election ballot, and the qualified voters of the City of Albuquerque shall be permitted to vote “for” or “against” the following propositions:

(A) QUESTIONS TO BE SUBMITTED.

- 1) PROPOSITIONS. The City Clerk is instructed to coordinate with the Bernalillo County Clerk to place the following summaries, titles, and complete text of the following proposed amendments to the City’s qualified, registered voters who shall be permitted to vote “for” or “against.” The ballot face shall be in substantially the following form:

OFFICIAL ELECTION BALLOT
LOCAL ELECTION
HELD NOVEMBER 5, 2019

PROPOSITION 1: Proposition to amend Article XVI of the Albuquerque City Charter to update public financing rules.

SUMMARY

The amendments update the language of the Open and Ethical Elections Code to reflect changes in law and policy that have occurred since the Open and Ethical Elections Code was passed in 2005. The amendments clarify the use of in-kind contributions, increase allowable seed money but require that public funds be reduced to offset any seed money collected, provide definitions

for the terms “election cycle” and “candidate,” require candidates seeking public funds to abide by contribution requirements for one year prior to seeking public funds, increase distribution amounts for mayoral candidates and set a minimum distribution for council candidates in districts with fewer than 40,000 registered voters, remove outdated language regarding matching funds, allow enforcement of the City Clerk’s administrative rules, and allow the City Council to amend the Open and Ethical Elections Code by ordinance with a vote of a majority plus two of the entire membership of the Council. The proposed changes do not increase taxes. The proposed changes to the City Charter are underlined and identified below:

TITLE AND PROPOSITION

PROPOSING TO AMEND ARTICLE XVI, SECTIONS 3, 4, 8, 12, 15, 20 AND 21, OF THE ALBUQUERQUE CITY CHARTER, AND TO ADD SECTION 22:

CITY CHARTER, ART. XVI, OPEN AND ETHICAL ELECTIONS CODE

SECTION 3. DEFINITIONS

SECTION 3(K).

IN-KIND CONTRIBUTION. A good or service, other than money, having monetary value not to exceed more than [\$2,500.00] ~~[5% of the annual salary for such office at the time of filing the Declaration of Candidacy]~~, but not including an individual who volunteers his own personal service. [Professional services, including legal services, accounting services, consulting services and similar services provided directly from the professional to the Applicant Candidate or Participating Candidate are permitted, provided no single In-Kind Contributor exceeds the \$2,500.00 limitation herein and provided the total value of all In-Kind Contributions does not exceed 10% of the applicable spending limit per regular or run-off election. Notwithstanding the foregoing, an Applicant Candidate or Participating Candidate may accept unlimited In-Kind Contributions in the following areas: 1) legal services provided directly from attorneys for the purpose of providing legal advice to comply with election laws and public financing laws, 2) professional services provided directly from the professional, including attorneys, experts and consultants, for the sole purpose of participating in a proceeding under the Code of Ethics, the Election Code, the Open and Ethical Elections Code, or the rules and regulations of the Board of Ethics and/or City Clerk,

and 3) office space. Such In-Kind Contributions shall be reported as required by Article XIII, Section 4.]

SECTION 3(R).

SEED MONEY. A contribution in support of an Applicant Candidate of no more than [\$100] [\$250.00] per Person, except for the Applicant Candidate who can contribute up to [\$500] [\$2,500.00], raised for the primary purpose of enabling Applicant Candidates to collect Qualifying Contributions and petition signatures the aggregate amount of which may not exceed [40%] [20%] of the applicable spending limit.

[SECTION 3(S)

ELECTION CYCLE. The period beginning on the day after the regular or run-off election for any municipal office and ending on the day of the next regular election for that office.]

[SECTION 3(T)

CANDIDATE. "Candidate" has the same definition that is provided in Article XIII, Section 2 of the Election Code, with the addition that "Candidate" also includes any individual who has filed a declaration of intent to seek public financing.]

SECTION 4. TERMS OF PARTICIPATION - DECLARATION OF INTENT.

[SECTION 4(E)

The declaration of intent shall specify that the Applicant Candidate has not, within one year prior to the declaration, raised or expended any monies in excess of the pre- and post- Exploratory Period contribution limitations in the Open and Ethical Elections Code with the intent or effect of campaigning for any elected office. Any Applicant Candidate who has, within one year before filing the declaration, raised or expended any monies in excess of the pre- and post- Exploratory Period contribution limitations with the purpose or effect of campaigning for elected office, shall be disqualified from receiving funds under this Code.]

SECTION 6. SEED MONEY-IN-KIND CONTRIBUTIONS.

- (A) An Applicant Candidate may accept Seed Money [during the Exploratory Period and Qualifying Period] not to exceed [\$400] [\$250.00] per Person.
- (B) An Applicant Candidate may contribute up to [~~\$500~~] [\$2,500.00] from the Applicant Candidate's personal funds for Seed Money.
- (C) Seed Money [~~that exceeds 10% of the applicable distribution to a Participating Candidate~~] shall be deducted from the revenues distributed to the [Applicant] [Participating] Candidate from the Fund.
- (D) The aggregate amount of Seed Money received and spent by an Applicant Candidate shall not exceed an amount equal to [40%] [20%] of the applicable distribution to a Participating Candidate.
- (E) An Applicant Candidate [or Participating Candidate] may accept In-Kind Contributions from the beginning of the Exploratory Period up to the regular municipal election[, or, in the event that a Participating Candidate is in a run-off, up to the run-off election]. The value of any In-Kind Contribution shall not count against the applicable limit on Seed Money contributions. The aggregate amount of In-Kind Contributions received by an Applicant Candidate shall not exceed an amount equal to 10% of the applicable spending limit.

SECTION 8. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS TO AND EXPENDITURES OF PARTICIPATING CANDIDATES.

SECTION 8(B)

A Participating Candidate shall limit total campaign Expenditures and debts to the amount of money distributed to that Participating Candidate from the Fund[.] [~~plus any collected Seed Money.~~] A Participating Candidate shall not accept contributions or loans from any other source.

SECTION 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

SECTION 12(B)

The Clerk shall distribute the [~~\$1.00~~] [\$1.75] per registered City voter to Mayoral Participating Candidates and \$1.00 per registered City voter residing in the district in which the Participating [Council] Candidate desires to represent. [Notwithstanding the foregoing, in Council districts containing fewer than 40,000 registered voters, the Clerk

shall distribute \$40,000 to each Participating Council Candidate, in lieu of \$1.00 per registered City voter residing in the district.]

SECTION 15. RUN-OFF ELECTIONS.

(A) On the Friday after a municipal election when the election results are certified, the Clerk shall issue Fund revenue to each Participating Candidate involved in a runoff election in the following amounts:

- (1) for Mayoral candidates [~~\$0.33~~] [\$0.60] per registered City voter; and
- (2) for Council candidates \$0.33 per registered City voter residing in a Council district. [Notwithstanding the foregoing, in Council districts containing fewer than 40,000 registered voters, the Clerk shall distribute \$13,200 to each Participating Council Candidate, in lieu of \$.33 per registered City voter residing in the district.]

SECTION 21. ENFORCEMENT

The [~~Clerk and~~] Board of Ethics and Campaign Practices shall enforce the Open and Ethical Elections Code pursuant to Articles XII and XIII of the City Charter [~~and pursuant to rules promulgated by the Clerk~~].

[SECTION 22. AMENDMENTS.]

The Open and Ethical Elections Code may be amended without requiring compliance with Article VI of this Charter by ordinance adopted by a majority plus two of the entire membership of the Council voting in favor of such amendment or amendments, and said ordinance being otherwise governed by Article XI of this Charter.]

FOR _____ AGAINST _____

PROPOSITION 2: Proposition to Amend the City Charter by Adding Democracy Dollars to the city's public financing system and Changing Election Dates to Comply with State Statute.

SUMMARY:

Proposing to amend the City Charter by adding Democracy Dollars to the city's Open and Ethical

Elections Code.

If passed, the Charter Amendment would provide eligible city residents with Democracy Dollars, to contribute to their choice of qualified candidates. These candidates could redeem Democracy Dollars with the City Clerk, up to a limit, for funds to spend in support of their campaigns. The amendment also directs the city council to enact an ordinance providing for the issuance, assignment, and redemption of Democracy Dollars. Currently, the charter provides that qualified candidates are eligible for an initial amount to cover allowed outreach to voters. The Charter Amendment would change the amount for mayoral candidates to \$1.75 per voter.

This amendment will also change city election dates so that they comply with the State's Local Election Act.

TITLE & PROPOSITION

PROPOSING TO AMEND ARTICLE II, SECTIONS 2 AND 3; ARTICLE IV, SECTION 4; ARTICLE V, SECTION 2; ARTICLE VIII, SECTION 14 AND ARTICLE XVI, SECTIONS 3, 7, 10, AND 12 OF THE ALBUQUERQUE CITY CHARTER:

CITY CHARTER, Art. II. ELECTIONS

Section 2. ELECTION DATES.

[R]egular municipal elections shall be held on the first Tuesday after the first Monday in [October] [November] of odd-numbered years...

Section 3. REFERENCE TO STATE LAW.

(a) [The Local Election Act] [Chapter 3, Articles 8 and 9, NMSA 1978] as amended and as supplemented from time to time, shall govern the conduct of all aspects of municipal elections, except where inconsistent with the terms of this Charter, in which event this Charter shall control.

CITY CHARTER, Art. IV, COUNCIL.

Section 4. TERMS OF OFFICE.

The terms of the office of a Councillor, unless sooner recalled or removed, shall begin on [

~~December~~ [January] 1st of the year of [following] the election and be four years or until a successor is duly elected and qualified.

CITY CHARTER, Art. V, MAYOR.

Section. 2. MAYOR'S TERM AND SALARY.

The term of Mayor, unless sooner recalled or removed, shall begin on ~~[December]~~ [January] 1st of the year of [following] the election and shall be for four years or until a successor is duly elected and qualified.

CITY CHARTER, Art. XVI, OPEN AND ETHICAL ELECTIONS CODE

Section 3. DEFINITIONS.

[(S) COUPON ("DEMOCRACY DOLLARS"). A credit of Fund revenue issued to an eligible resident of the City of Albuquerque, which may be redeemed by a Participating Candidate for Fund revenue as provided in the Open and Ethical Elections Code.]

Section 7. CERTIFICATION OF PARTICIPATION.

(A) Upon receipt of a final submittal of Qualifying Contributions by an Applicant Candidate, the Clerk shall determine whether the Applicant Candidate has:

(3) ~~[qualified as a candidate pursuant to other applicable City and State election law]~~ [submitted a nominating petition containing the number of signatures prescribed by Article II, Section 4, of this Charter, and a sworn statement attesting to the candidate's residency within the city and, where applicable, within the council district that the candidate seeks to represent];

Section 10. FUND CREATION - FUND USE.

[(F) The Council shall enact an ordinance providing for the issuance, assignment and redemption of Democracy Dollars, and any other provisions necessary to properly administer Democracy Dollars as part of the Open and Ethical Elections Code.]

Section 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

[(A) (3) For redemption of coupons on regular dates set by the Clerk to candidates who have been certified as Participating Candidates pursuant to Section 7 of the Open and Ethical Elections Code.]

(B) The Clerk shall distribute [from the Fund:]

[(1)] ~~[the \$1.00]~~ [\$1.75] per registered City voter to Mayoral Participating Candidates[,] and [to Participating Candidates for Council] \$1.00 per registered City voter residing in the district in which the Participating Candidate desires to represent[: and

(2) \$25.00 for each Coupon redeemed by a Participating Candidate; provided that, the total amount of Fund revenue redeemed by a Participating Candidate under this subsection shall not exceed the amount such candidate is eligible to receive under subsection (B)(1) of this section.

(3) City Council by ordinance may increase but shall not decrease the dollar amounts in subsections (B)(1) and (B)(2) of this section.]

(C) The amount of revenue to be distributed to a Participating Candidate [under subsection (B)(1)] shall be reduced by an amount equal to the aggregate amount of Seed Money contributions received by the Participating Candidate during the Exploratory and Qualifying Periods and by Qualifying Contributions received by the Participating Candidate during the applicable Qualifying Period.

FOR _____ AGAINST _____

SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence, word, or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.