



---

# CITY CHARTER COMMISSION REPORT

---

February 18, 2020

To: Charter Review Commission 2020

From: Ann Tomkins, Dean Rudenauer, Derek Engdahl  
Campaign Finance Subcommittee

**Subject: Article XIV Municipal Campaign Financing and Conflict of Interest**

---

A. Section 1401

Section 1401(a) of the Charter provides for a voluntary expenditure ceiling of twenty-five cents per district resident for each election in the district in which the candidate is seeking office. Section 1401(b) provides for automatic increases of 25% of any increase permitted by state law. It doesn't appear that this section is being utilized and the City Clerk's office was unable to specify what the limit would currently be. The subcommittee has requested campaign finance statements for the past few elections to evaluate whether spending has been above or below the specified limit. The subcommittee is seeking input from the Commission about whether there is support for keeping or removing this section.

**Update:** Based on a review of campaign finance statements, the winning candidates for Mayor each spent between \$50,000 and \$113,000 for elections from 2008 through 2020. The average and median expenditures were approximately \$73,000 and \$81,000. Some candidates did not file any campaign finance statements and one candidate that filed statements spent less than \$10,000. Assuming a population of 150,000, the voluntary expenditure limit currently in the charter without adjustment for inflation would be \$37,500.

The campaign finance statements for City Council district elections between 2008 through 2020 showed a range of spending by candidates from \$2,693 to \$41,216, although not all candidates filed statements. The average expenditures for the winning candidates from the past three elections by district were: D1-\$18,494; D2-\$12,294; D3-\$12,941; D4-\$9,070; D5-\$28,357; D6-\$31,276. The voluntary expenditure limit is established per resident which should be equalized after redistricting. However, there are significant differences in the number of registered voters by district. Assuming a population of 25,000 per district, the voluntary expenditure limit currently in the charter without adjustment for inflation would be \$6,250.

The voluntary expenditure limit for members of the State Assembly is currently set at \$649,000 for the primary and \$1,135,000 for a general/run-off election. There are 80 Assembly members each representing at least 465,000 persons resulting in an estimated limit of \$1.40 per person for primary elections and \$2.44 per person for general elections. A similar limit for Pomona would establish a voluntary expenditure limit of \$210,000/primary and \$366,000/general election for

the Mayor's race and \$35,000/primary and \$61,000/general election for district City Council elections. The charter provision establishing twenty-five cents per person was set at one quarter of the State limit when established. One quarter of the current voluntary State expenditure ceiling would be \$52,500 primary and \$91,500 general election for the Mayor's race, and \$8,750 primary and \$22,875 general election for district Council elections.

B. Section 1402

Section 1402 provides that excess funds left over after a campaign known as "surplus campaign funds" shall be turned over to the City's General Fund within 90 days after the election. This section hasn't been enforced due to legal concerns in the past and the subcommittee recommends eliminating this provision from the Charter. Section 10-38 of Pomona City Codes also contains a provision for returning unexpended contributions over \$5,000 or donating them to charitable organizations.

**Update:** The review of campaign finance statements did not indicate that candidates were turning over funds to the City's General Fund. A copy of Pomona's Campaign Finance Ordinance including Section 10-38 is provided on the FPPC website:

[https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign Ordinances/Cities/R\\_Pomona.pdf](https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Ordinances/Cities/R_Pomona.pdf)

C. Section 1403

Section 1403 prohibits a Councilmember from voting on matters relating to any person or business entity that has contributed more than two hundred fifty dollars to the Councilmember's City election campaigns for the current term, and invalidates any vote in violation of the prohibition. Legal concerns have been raised in the past about the enforceability of this section and the lack of clarity regarding when a matter "relates" to a person or business entity. The subcommittee recommends modifying this provision to eliminate the prohibition on voting and instead provide for public disclosure of any contribution over \$500 in the Council agenda. The subcommittee seeks input from the Commission prior to requesting legal counsel draft modified language.

**Update:** The review of campaign finance statements showed a substantial number of contributions of \$249 suggesting that this provision may be limiting campaign contributions by those who live in Pomona or have interests in Pomona.

D. Campaign Contribution Limits

Pomona's Campaign Reform Act was adopted by the City Council in 1993 (Ordinance 3682) and amended in 1995 (Ordinance 3755). The Act establishes a \$500 contribution limit for City Council district elections and a \$1,000 contribution limit for Mayoral elections. There is some ambiguity in the Act whether the limits should be applied on an annual basis or per election.

Effective January 1, 2021, AB 571 provides for campaign contribution limits for cities at the same level as contribution limits for candidates for the state Assembly and Senate. The limit is approximately \$4700 per election and will be adjusted for future inflation. This is larger than the limit for City Councilmembers in Pomona's current ordinance. The subcommittee is seeking input from the Commission as to whether to establish campaign contribution limits in the City Charter and tie the limits to those established for cities under AB571. The limits could be set as a percentage of the limits in AB 571, although there may be a reduction in enforcement costs if the Charter imposed the AB 571 limit. The FPPC would have enforcement obligations for campaign contribution limits established under AB 571. This BB&K Legal Alert provides additional information: [AB 571 Sets Default Candidate Contribution Limits for City and County Offices.](#)

**Update:** The review of campaign finance statements showed a large number of contributions at the maximum amount of \$500/\$1000. However, it appears that there may not be any compliance review of the campaign finance statements and there were no statements filed by a number of candidates. Making the statements more readily available to the public may allow for greater enforcement, although the FPPC does not enforce campaign contribution limits for cities that have established limits. It is unclear whether Pomona has budgeted any funds for enforcement of campaign finance laws. Once the campaign finance statements are publicly available, there may be more requests for enforcement by the City Clerk's office pursuant to Section 10-41 of the City Codes. AB 2151 provides for campaign finance statements to be posted on City websites within 72 hours of filing deadlines:

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2151](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2151)

While the State limit is much higher than Pomona's current limits, defaulting to the State limit may assist candidates in raising funds to campaign and the public could file complaints with the FPPC if the contribution limit is violated.

This fact sheet on the AB 571 changes was made available by the FPPC:

[https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign Documents/AB\\_571\\_Fact\\_Sheet\\_Final.pdf](https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign Documents/AB_571_Fact_Sheet_Final.pdf).