

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

GOVERNMENTAL OPERATIONS

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JUNE 20, 2019
Start: 1:05 P.M.
Recess: 1:56 P.M.

HELD AT: Committee Room - City Hall

B E F O R E: FERNANDO CABRERA
Chairperson

COUNCIL MEMBERS:
Ben Kallos
Alan N. Maisel
Bill Perkins
Keith Powers
Ydanis Rodriguez
Kalman Yeger

A P P E A R A N C E S (CONTINUED)

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SERGEANT-AT-ARMS: This is sound check for the Committee on Governmental Operations being recorded by Israel Martinez. This is taking place Committee Room City Hall June 20th, 2019. Scheduled for 1 p.m.

CHAIRPERSON CABRERA: Good afternoon. I am the Chair of the Committee on Governmental Operations. Council member Cabrera. I am joined by Council members Yeger, Kallos, and Powers. Today, we're having a first hearing on Intro 747, sponsored by myself in relations to prohibiting the distribution of public matching funds to candidates previously convicted of certain felonies. Introduction 773, sponsored by Council member Powers in relation to amending the definition of business dealings with the city to include certain uncertified applications to the Department of City Planning. And Intro 774, also sponsored by Council member Powers in relations to the [inaudible 00:01:53] contributor amount of public funding threshold for eligibility.

Since 1998, New York City's Campaign Finance Act, administered by the campaign Finance Board, have provided candidates who choose to participate in the city's public financing program

with matching funds to help finance their campaigns. The intent of the public financing program is to prevent corruption, to enhance public confidence in the local government, but reduce any improper influence of the dollar campaign contributors and to increase engagement with local communities by encouraging candidates to raise small dollar contribution from average New Yorkers.

Regarding Introduction 747, while the Campaign Finance Act and the CFB rules innumerate various reasons from which CFB may determine a candidate is ineligible to participate in the public financing program. Neither prevents candidates convicted of general crimes relating to public corruption or fraud from receiving public matching funds, if otherwise eligible. Rather CFB rules provide that if a participant has committed fraud in the course of program participation or if the CFB believe a participant engaged in conduct detrimental to the program, that is in violation of any other applicable law, then CFB can withhold public funds from participating candidate.

Intro 747 will prohibit the distribution of public matching funds to candidates who have been

convicted of certain felonies relating to public corruption and fraud. This would apply to candidates convicted of felonies offenses replayed it to bribery involving public servants, corrupting the government, grand larceny in connection the theft of public funds, first-degree offenses for falsifying business records, tampering with public record, or offering a false instrument if in connection to public funds, defrauding the government, theft, or bribery concerning programs receiving federal funds, federal fraud offenses, or any felony attempt or conspiracy to commit any of these crimes. Candidates will not be denied public matching funds as their convictions were vacated or pardoned by the governor where relevant.

Regarding Intro 773 by Powers, the Campaign Finance Act places limits on contributions of participating candidate being accept by a person who has business dealings with the city as defined by the act. It further provides that such contributions are not eligible to be matched with public funds. Business dealings with the city include applications for approval under the uniform land use review procedure, as well as applications for zoning text

amendment, but only once the City Planning Commission has certified an application is complete. Into certification, the land use applicants may make maximum contributions to candidates and candidates may receive public matching funds for such contribution. Intro 773 will amend the definition of business dealings with the city to include persons who has filed application on the ULRP, an application for zoning text amendments, regardless of whether the application has been certified. Excuse me.

Finally, regarding Introduction 774 by Powers, under the Campaign Finance Act, contributions under 10 dollars, while matchable, do not count towards the qualifying threshold for-- do not count towards the qualifying threshold for matching funds. Concerns have been raised that this minimum contribution of 10 dollars can impose a financial burden from New Yorkers from economically disadvantaged areas of the city and functionally exclude most vulnerable New Yorkers from the process. The result, candidates can struggle to raise the number of matchable contributions from district residents necessary to qualify for public funds. Under Intro 774, candidates much still meet the total

contribution threshold applicable to the office they seeks, as well as their required number of contributions. However, instead of contributions of at least 10 dollars counting towards the qualifying threshold, the bill would allow contributions as low as five dollars to count towards the qualifying threshold for public matching fund. The bill would apply to candidates for every cover office.

I would like to thank our staff whose work made this hearing possible: Danielle Collins, Elizabeth Cronk, Emily Forjum (sp?), Sebastian Rachi (sp?), and Charlotte Martin, as well as my own legislative director, Michael Bain. And I asked my colleagues, Council member Powers to speak on his legislation.

COUNCIL MEMBER POWERS: Thank you. Good afternoon. Thank you to the Chair for hearing these bills and also for your comments. I have two bills before this committee today. The first is a simple, but, I think, an effective bill that lowers the contribution qualifying-- [inaudible 00:07:21] contribution from 10 dollars from what it is today to five dollars. So, for many of us, when we are running for office, in order to qualify for matching

funds for Council, we had to go ahead and receive 75 in district contributions of 10 dollars or more. And, for me and others, we had to go out and do that and talk to our neighbors and talk to our folks in our district and, to me, is actually a, for a perfectly reasonable threshold, you have to go out-- a number, you have to go out and show support, but I think for many candidates I heard just a simple question of why it was 10 dollars and not five dollars. And I think, as we approach 2021, we have a large-scale collections in the city for as many seats, and city Council seat, as well, it would be an easier way to encourage people to get into the matching funds program and make it easier and use that burden for people in terms of getting into the program. And I'll note-- While I think one dollar is matchable, but this would be how-- already, but would sort of be getting you into the program easier and more effectively.

The second one is a bill that would start the doing business limitations for contributions earlier in the process which is predominately, as I see it, for land use applications. Today, when somebody has a land use application, they go into the

doing business database at the point where they certify the application by City Planning, rather than at an earlier period of time. And I know in my district and throughout many other districts, these projects start early, so, occasionally they start years before with the conversations around the particular application and it seems to me, if we're going to have a system by which we limit contributions for those who are doing business, we should do it at the point where those business dealings begin, rather than sort of somewhere when they begin the actual ULRP timeline and clock. In this is actually a recommendation that came to me through an individual sum. Back and I thought it was a sensible and reasonable one to get more assurances to people that the doing business database reflects those who are doing business. So and I just want to know and I will hear from them momentarily, the 10 dollars to five dollars, I believe, is also a recommendation from the Campaign Finance Board and one of their reports, so I thank them for that recommendation, as well, and, with that being said, I look forward to hearing comments on both bills and I

want to thank the Chair for giving me the opportunity to hear these bills today.

CHAIRPERSON CABRERA: Well, thank you so much, Council member Powers, and thank you for championing these two bills. You know, my district-- and I have to list here-- we are literally the fourth in terms of giving. We had the average amount of contribution, we have the four lowest. And I can tell you, in a community like mine, this is going to be helpful for people running for city office, so I really appreciate leading the way. And, with that, let me turn it over to the Council to [inaudible 00:10:18] the administration.

LEGAL COUNSEL: If you could both raise your hands. Do you affirm to tell the truth, the whole truth, and nothing but the truth in your testimony before this committee and to respond honestly to Council member questions?

AMY LOPREST: I do.

LEGAL COUNSEL: Okay. Thank you. If you could introduce yourselves before starting.

AMY LOPREST: Okay. Thank you. Good afternoon, Chair Cabrera and members of the Committee on Governmental Operations. My name is Amy Loprest.

I am the executive director of New York City Campaign Finance Board. With me today is Eric Freedman who is the Campaign Finance Board's assistant executive director for public affairs. Thank you for the opportunity to provide testimony today on Intros 747, sponsored by Chair Fernando Cabrera, and Intros number 773 and 774, sponsored by Council member Keith Powers.

The CFB is supportive of all three measures before the committee today. Each bill is based on a board proposal included among the legislative recommendations in our 2017 post-election report and we are pleased to be discussing them here today. Each of the three bills would make simple, but important changes to the campaign finance act that will enhance the matching funds program by further increasing the role of small contributors and further reducing the risk or appearance of corruption.

Intro number 747 would prohibit the distribution of matching funds to candidates convicted of felonies related to public corruption. As you may recall, one participating candidate for city Council in 2017 has previously served 21 months

in prison for mail fraud and conspiracy, for steering Council discretionary funds to a nonprofit that were ultimately used to pay staff members for campaign work. However, he met the threshold to qualify and receive public funds for his 2017 campaign. Ensuring that individuals with a track record of fraud do not receive public funds is not only good public policy, but it's fundamental to the integrity of the matching funds program. Connecticut's citizen election program has a similar policy in which candidates who have been previously convicted of a felony related to that individual's holding of public office are disqualified from receiving public money. We recommend that where Intro number 747 references sections of the penal code that are fairly broad such as wire fraud, language should be added to explicitly tie these crimes to an individual's actions as an elected official or candidate. Additionally, we think that this legislation should also apply to people who criminally violate election laws. The Council may also want to consider extending Intro number 747 to cover misdemeanors related to corruption particularly in connection with government funds, as candidates tend to plead to misdemeanors to

avoid a felony conviction. For example. A 2013 candidate who was recently indicted on seven felony counts related to engaging in a straw donor scheme, admitted to the scheme and plead to a single misdemeanor charge. The Council should consider extending Intro 747 to cover misdemeanors that are specifically related to corruption and the misuse of government funds. This is an important and necessary step for maintaining public trust in the matching funds program. Additionally, we urge the Council to consider including a time limit that people are not permanently barred from receiving public funds once they have served their sentences and reformed. For example, the Council might consider having this apply for five years for misdemeanors and 10 years for felony convictions.

Intro number 773 would amend the definition of business dealings with the city to include uncertified land use applications which expand the coverage of the doing business database. Currently, the New York City Campaign Finance Act limits contributions from anyone seeking land use approvals once the City Planning Commission has certified their application. But this does not

include those that have declared their intent to seek an approval by filing an application which may be months or even years before certification. An applicant could, therefore, give a maximum contribution after the application is filed, but before it is certified. The timing of such contributions suggest that they may have been made with the intent to influence decisions. Intro 773 is an effective way to ensure that matching funds program is doing everything it can to curb corruption and the appearance of corruption. This bill would also ensure that the doing business restrictions more effectively fulfilled their intent. In this spirit, there are further changes to the acts of doing business provisions that the Council may want to consider. Some of the land use proposals from the 2019 Charter Revision Commission could require the Council to alter the bill. It is our understanding that this bill's aim is to move the doing business start date to the earliest formal date for a particular project at the start of the uniform land use review procedures. However, the potential charter amendment would create a new formal first step in that process: the filing of a project

information form. The Council should also take into consideration and amend the bill language to include the project information form before moving the legislation forward. Additionally, current legislation keeps those on the doing business database for a ULRP action on the database for 120 days after the Council has completed its disposition of the matter. All other doing business actions require people to remain on the database for one year after the end of the transaction. We suggest the Council consider whether the ULRP coverage period should be similarly extended to one year. The CFP is happy to work with the Council and relevant staff on other ways to enhance the doing business database process.

Finally, Intro 774 would lower the minimum contribution counted towards meeting the threshold for public funds from 10 dollars to five dollars. Currently, all contributions, even those as low as one dollar, are eligible for match, but contributions under 10 dollars do not count for meeting the threshold to receive public funds. We have heard from candidates in wealthy districts that 10 dollars is a tough ask for many of the supporters.

Lowering the amount to five dollars would allow more residents to participate in helping their favorite candidates qualify for matching funds and more candidates would be able to meet the threshold sooner in the election year. Lowering the minimum contribution to five dollars is a simple and effective way to engage more New Yorkers in our democratic process. We are happy to see our legislative recommendations reflected in the legislation being heard today. These bill will further enhance the matching funds programs and amplify the voices of every day New Yorkers. Thank you for the opportunity to provide testimony and I'm happy to answer any questions.

CHAIRPERSON CABRERA: Thank you so much and I appreciate-- I'm sure Council member Powers is going to address these bills, but your recommendation to make 747-- Intro 747 stronger, a better bill and I love your suggestions, so we'll definitely implement them. And, with that, I'm going to pass it on to my colleague, Council member Powers.

COUNCIL MEMBER POWERS: Thank you. I appreciate it. You had-- I just-- a couple questions on the bills. And I appreciate the

testimony in the support for them and the recommendations for some additions or amendments to them. The first one I wanted to ask is just the-- your recommendation in, I think, one of your post-campaign reports was to do the-- or the-- or make the change from 10 to five. Is there a reason you wouldn't go down to one dollar, for instance? Five is a round number, maybe that's why one chose it, but, you know, I think-- and I noted in testimony after this there was a recommendation to even go down to three or one dollar just to say, basically, if you're going to go down, you might as well-- you might as well lowered down to the matching. The same as the matching number.

AMY LOPREST: I guess one of the reasons for the threshold, to begin with, is to demonstrate that candidates have support in their community. And, so when we were making the recommendation, we thought, you know, it's to make sure it's a serious showing of support in their community. That five dollars made more sense-- you know, obviously, we want to, you know, listen to the concerns that we've heard that 10 dollars is a big ask. Five dollars seemed, you know, a balance between showing that

there's a serious support for that candidate and the, you know, burdens of-- the financial burdens of people in certain districts.

COUNCIL MEMBER POWERS: Got it. And have you done any sort of look yet in past elections in terms of how many contributions were at the 10 dollar level, versus the five dollar level versus the one dollar level in terms of-- you know, presumably, to me, there is that point which is that there is a difficulty, so some people might to the 10, but, obviously, five would be easier for them. But has there-- have you guys done any sort of number crunching on impact?

AMY LOPREST: I mean, we've done some number crunching, but I'm going to let Eric-- you know, we can get you more information about it. I think that, again, there aren't that many one dollar contribution, but--

COUNCIL MEMBER POWERS: Right.

AMY LOPREST: I think, you know, part of it is the-- sometimes the law drives the ask, so--

COUNCIL MEMBER POWERS: Right.

AMY LOPREST: you know, it's hard to predict what will happen change what the ask is.

ERIC FREEDMAN: [inaudible 00:19:21]

Because the law requires the 10 dollar ask, candidates are asking for 10 dollars. So, there will be fewer contributions for five dollars than there would normally be if we lower the threshold. So, I mean, we're happy to follow up with more numbers. I don't know that they would provide a lot of meaningful information to--

COUNCIL MEMBER POWERS: Right.

ERIC FREEDMAN: one way or the other about this bill.

COUNCIL MEMBER POWERS: And the-- and, for me, I just want to make a statement that, for me, like the process of meeting my qualifying thresholds was important both from the certainty of knowing that or some higher-level certainty of knowing that, but also, as I was talking to folks to be able to say that I admit that and I think that, if you have some contributions at the five dollar level, maybe even lower that could qualify but don't today, that that would give some certainty to some folks about getting into the program and that was part of the intention. I wanted to move to the question or the comments related to the bill on the doing business database

and you mentioned the charter consideration of a project information form. I probably should be more familiar with what that is, but can you give us some information on what that is that they are looking at and when in the process of your, you know, consideration of your application that you would have to file that form?

AMY LOPREST: I mean, again, I'm like-- I'm also not like-- you know, the proposals are not completely flushed out for the charter revision commission because they haven't issued their final report.

COUNCIL MEMBER POWERS: Uh-hm.

AMY LOPREST: They, of course, are-- I mean, one of the goals of that stated goals of the commission is to formalize the process and revamp the process allowing more input from the community earlier in the process that people are talking about making changes to, you know, zoning a law and a particular individual project. So, this would be a form that would be completed earlier in the process as people are thinking about-- even earlier than you file the ULRP application. Exactly the parameters of that, I am not 100 percent familiar, but, again, the

i-- since the goal of our recommendation and, I think, of your legislation is to include people as earlier as possible in the doing business database to avoid the perception or actual, you know, influence thinking of giving mind contributions that the doing business database seeks to avoid. It would be important to move that to the earliest possible date that you-- someone declares their interest in a land-use process.

COUNCIL MEMBER POWERS: Got it. And are there other-- I mean, as we're talking about the doing business database and ways to, you know, make sure that the intention of the law, I guess, reflects the reality of the practice and the law, are there other areas where you feel that, if we're looking at this particular situation which is the one that I was most aware of, are there other areas of where one has to enter into the doing business database where we should be looking at starting that at a different time point? It could be whether you're bidding on a city contract or you're registering as a lobbyist or some other method or means for by which you have to go in to the database. Are there other

recommendations about when we should maybe start time points earlier?

AMY LOPREST: We're happy to talk to you and the staff about more, but these are the primary recommendations because most of the other processes, like in the contracting process, it starts, you know, when you declare-- like when you are responding to a request for proposal, you're declaring your intention to be part of the contracting process. So, it's-- that is, pretty much, the earliest process that someone is declaring their intention, so there's not a lot of other places where earlier is not covered.

COUNCIL MEMBER POWERS: I got it.

ERIC FREEDMAN: So, one other just piece of information I would add to what Amy said. So, people in the database for land-use actions represent really only about one percent of the names in the database overall. I mean, so it's the extent that-- I mean, this bill seeks to more accurately capture the universe of people who may have interest in a particular land-use decision and ensure that the law covers their political giving. I mean, that's a good thing. That's a good place to look. You know, if

there is a place where activity is kind of underrepresented, then, I think, again, land use is--

COUNCIL MEMBER POWERS: [interposing] And you know that one percent of the doing business database is reflected-- is based on land use applications. That's the number you use. But I-- My assumption without having done this in any is that amount like-- some-- a lot of people are doing business with the city via city contract may not be contributing to candidates in the same way where somebody who has a very discretionary action before the cou-- before the Council, before the borough president, before the mayor's office may do that. Have you done any analysis of larger picture of the actual contribution? Like what part of the pie do contributions take shape form of relative to doing business database? Like my assumption being that, even though it's a small about of doing business database, it's a larger share of money that's being donated by any group of people in the doing business database.

AMY LOPREST: I mean, so, in the post-election, our 2017 post-election report, we did an analysis of people in the doing business database and

their percentage of contributions. We didn't look at it a granular way of, you know, which-- but we definitely have that-- you know, I think we have the capacity to do that, so we can look at that more. I mean, again--

COUNCIL MEMBER POWERS: Okay.

AMY LOPREST: is a pretty small number and the-- once you are in the database, your contribution numbers are pretty low, so it's-- you know, that's part of the-- not far as total contributions, it is a very low amount and, again, like Eric said, it's only one percent of the people that are in the doing business database are in there because of their doing land-use transactions.

COUNCIL MEMBER POWERS: Got it. And have you had any conversations with the mayor's office or contract services or city planning about this legislation and their feedback on it and also any-- have they given you any understanding of how many text amendments or ULRPs would now be included that are not currently included?

AMY LOPREST: So-- Okay. So, there-- So, we have had conversations with the Mayor's Office of Contract Services about this and so they are on board

with the concept. There aren't a large number of people that are in City Planning that have-- there-- so there are 87 ULRP applications in the Department of City Planning that have-- for zoning actions that have-- and zoning actions that have been applied for, but not certified. So, it's only 87. Of course, you know, it's unclear, you know, from the 87 applications, how many individual people that would be. It's at least 87, but it-- so it's not a huge number, but, again, it's important and to have this database reflect-- you know, we have one of the most comprehensive doing business laws in the country and so, to really make sure that it covers slowly as possible everyone involved to her seeking influence over the government.

ERIC FREEDMAN: And just for purposes of comparison, so there are 403 people in the database because of land-use relationships. So, just to give a sense of the--

COUNCIL MEMBER POWERS: Okay.

ERIC FREEDMAN: magnitude that we'd be having [inaudible 00:27:07].

COUNCIL MEMBER POWERS: Okay. I appreciate that. And do you anticipate any behavior that one

could use to avoid inclusion if one so desired is they passed this law? Meaning holding off on submitting an application or is there a process that's discretionary in terms of when you go to City Planning that might-- one might hold if somebody decided to be nefarious in the way they approach this? Is there any way that they could avoid or have you had any conversations with City Planning about one-- waves one might avoid having to go into this?

AMY LOPREST: I mean, there-- again, there may be. I think that, I mean, unlike contracting where, you know, a city agency controls the timing of releasing of the contract and of an RFP and, you know, certain land use decisions have people asking for the government's interaction-- have more control over the timing of that than in certain other kinds of doing business actions. So, there may be some real man I don't know how you would completely control for that.

COUNCIL MEMBER POWERS: Okay. Well, if we could talk after the hearing, but, you know, one thing we want to make sure is that it covers those scenarios that we are intending to cover. And I just-- this is a question I know the answer to

already, but I wanted to just be having on the record. This would not apply to anybody who has an as-of-right project in New York City with no discretionary action.

AMY LOPREST: That's correct.

COUNCIL MEMBER POWERS: Is that correct?

And final question. Have you done any-- calculated how many contributions in the 2017 election cycle this would have impa-- I know we have the numbers of who-- how many are in today the doing business database. There is 80-- 403, I think, was the number and 87 ULRPs that are uncertified before City Planning. Have we looked-- have you done any analysis of the 2017 election to look at how many uncovered contributions-- how many contributions become covered by that?

ERIC FREEDMAN: Yeah. That's not a number we have, but we are happy to look into performing that analysis--

AMY LOPREST: Yeah.

ERIC FREEDMAN: and sharing the numbers with you.

AMY LOPREST: It may be difficult to do that, so the just to measure expectation because,

again, those applications-- you know, it's like it's at any particular point in time, so, you know, you would have to calculate at ev-- everybody's contribution at any particular time. So, I mean, I think it is doable, but it's not, you know, and ready-- like the five dollar and one dollar analysis is readily--

COUNCIL MEMBER POWERS: Yeah. Yeah. I understand.

AMP LOPREST: is done.

COUNCIL MEMBER POWERS: I understand. Ok thank you from answering the questions and for the day there, as well. It's helpful to understand the impact in the scope for today and thank you again to the Chair for giving me time to ask questions.

CHAIRPERSON CABRERA: Oh. Absolutely. Thank you so much. I just had a few questions just for the record. I know you mentioned in your analysis of the 2017 election cycle you noted one participating candidate who served prison time for fraud. Are you aware of any other candidates in the 2017 or prior to that?

AMY LOPREST: Who have received public funds after being convicted of fraud? There

definitely was not one candidate. I mean, they're-- there both have been candidates who have been accused of fraud. I'm trying to think if there is any-- I-- to my recollection, there is a person who has actually been convicted and then received-- I don't know of any other--

CHAIRPERSON CABRERA: You don't recall.

AMY LOPREST: specific example of that.

CHAIRPERSON CABRERA: Okay. Would you amend the list of offenses included in the-- in Intro 747 to include more offenses or exclude some of the offenses? Do you have a list of particular misdemeanors relating to corruption you expanded-- you had expanded this bill to include or is it just misdemeanor versions of the bells existing list or do you have any other misdemeanor crimes in mind?

AMY LOPREST: So, in addition to the violations-- criminal violations of election law, some of which are misdemeanors, there are the-- what we would recommend are the misdemeanors associated with the latest that are already in the law. So there is, you know-- there's certain sections enumerated in the ones that are skipped over are-- they're in, I think, section 200 of the criminal code

and I will get back to you and make sure that I'm not misstating it, but there are some misdemeanors listed-- crimes listed in that section 200 that wouldn't be covered now, but we recommend it be covered.

CHAIRPERSON CABRERA: I understand-- Thank you. I understand that you are recommending adding a sunset provision to the bill that would allow people with conviction to again qualify for program participation five or 10 years later. Why, if at all, may such sunset date be appropriate or necessary and, to be clear, are you proposing this to be five or 10 years following release from prison or parole, probation, or would you count years in prison towards that sunset date?

AMY LOPREST: No. We're happy to-- So, for the latter question, we're happy to discuss that more with you. We have-- we are in the process of looking at what is public available, you know, so that, obviously, you know, some information about people's convictions and term of service and time served are readily publicly available and some are not. And so, we are-- you know, before making a recommendation of where that sunset provision what

exactly run from, we are doing some more research and do what is publicly available because we don't want to be intrusive and the people-- you know, asking every candidate about this or things like that. But want to make sure that the information is publicly available. And the reason, you know, do have a sunset provision is because, you know, the trend in election law and, you know, in our recommendations and many other cases, is that people who are convicted of crimes, you know, have done their time and so they shouldn't be permanently barred from participating in this program. The five years seemed reasonable for people convicted of a misdemeanor and 10 years convicted of a felony. But, again, we are happy to discuss with you more about, you know, when that time should run from and the specifics of how many years that should run.

CHAIRPERSON CABRERA: Thank you. You recommended limiting certain offenses delineated in the bill to be limited to cases where the candidate factions related to public office or election. The bill Ready Justice with regards to felony grand larceny and falsifying business records, tampering with public records, or offering a false instrument.

Do you have any concerns with limiting language and requiring CFB to investigate the underlying factual basis for any conviction, be it administrative way for it in some for CFB?

AMY LOPREST: So, it's more-- that, and is more related to the federal crimes of wire and mail fraud in general because there's, you know, many, many different kinds of things. You know, you could-- someone can be convicted of that and so, what we were suggesting and we can, again, work-- our staff can work with your staff on language of, you know, how to describe the-- because we would-- I know the intent of the law is to cover crimes that are related to the misuse of government funds. And so, making sure that those broader wire fraud and mail fraud offenses are tied to that is an important limiting factor. Again, of course, as I just said about the time served, you know, we would want to make sure that it's not-- it's clear and that it would be not administrative burden. We went in the judging people's various convictions. There would be a clear standard of which things were covered and which things weren't. But we are happy to work with you more on that.

CHAIRPERSON CABRERA: All right. let me just mention the last piece here of my line of questioning, but let me just recognize we have been joined by Council member Maisel. And that is your post 2017 election cycle report cites Connecticut's clean election program which, since 2012, has prevented public grants to candidates who have been convicted of a felony related to the individuals public office. Are you aware of any hurdles Connecticut has faced in implementing this provision that we should take into account? Should we pass Intro 747 into law? Has Connecticut-- has the Connecticut program been successful in preventing public funds from going to candidates convicted of such felony use? I'll come back to two more questions related. I don't want to overload you.

AMY LOPREST: So, I'll give you the legal answer and Eric, who worked in-- as a reporter covering politics in Connecticut, is itching to tell you some of the stories about how successful this has been, so I'll turn it over to him. But there was a constitutional challenge to the law and the law was upheld by the federal court in Connecticut. So, there is no constitutional bar to imposing a

restriction like this, primarily based on the idea that it doesn't limit your free speech to exclude you from receiving additional, you know, public benefit.

ERIC FREEDMAN: That's exactly right. I'm not sure that they're kind of broad lessons to take away from the application of this bar in Connecticut, but, you know, that's because, hopefully, and, I think actually, you know, cases of corruption among public officials is pretty rare, right? And it shouldn't apply generally to a lot of people. The largest kind of high profile example that Amy mentioned was a case involving the former and current Mayor of Bridgeport, Connecticut who, in 2003, was convicted for a series of offenses related to kind of a kick-back scheme he had kind of going with some city contractors who would funnel kind of six figure payoffs through a PR firm that was associated with him and it was a very, very high profile case and generated a lot of interesting coverage around Connecticut. After he served his term, he came back and ran for-- ran successfully for Mayor of Bridgeport. He sought the democratic nomination for governor in Connecticut for 2018 and he was barred by the state's clean elections program

from participating. So, as Amy mentioned, he challenged that law in federal court and the law was upheld because, you know, declining to subsidize a candidate's free speech is not the same thing as depriving him of free speech. And, you know, there is a significant and substantial legitimate government interest in preventing corruption and the appearance of corruption, as well as protecting the public [inaudible 00:38:26] and maintaining confidence in the way those funds were being used. And so, all of those interests apply to our program here in New York City. So, that is why we made the proposal we did and why we support the legislation here today.

CHAIRPERSON CABRERA: You actually answered the next question I was going to ask, but I want to go back to my first question. Did it have any hurdles in implementing the law in Connecticut that you know of?

AMY LOPREST: I think, actually, because the law was passed after someone was convicted of bribery and then ran and received 80,000 dollars in public funds and there was such a public uproar. Oh, this person was convicted in 2005 of bribery and now

we just received 80,000 dollars in public funds. That there was, you know, I kind of public outcry about, you know, using the public funding program for that. And so, that-- it didn't have many hurdles getting passed and, again, the constitutional hurdle was also overcome.

ERIC FREEDMAN: And I would just actually add one--

CHAIRPERSON CABRERA: [interposing] But the implementation piece, there was other than the court case implanting the whole process, there was no problems, right? No hurdles?

AMY LOPREST: No.

CHAIRPERSON CABRERA: No challenges?

AMY LOPREST: No.

CHAIRPERSON CABRERA: Okay. And you don't know any other jurisdiction, municipality that have implemented such a law where they have been challenged?

AMY LOPREST: I mean, there aren't that many significantly public financing-- we can look into it. I mean, whether Los Angeles has a similar provision, it's, again, you know, one of the more long-standing public financing programs. Whether

Arizona does, so we can look into that. But, I think that-- it's a common sense, I think, you know, to avoid the corruption or the appearance of corruption.

CHAIRPERSON CABRERA: Well, it's my hope that once we pass it, God willing, that other municipalities have follow suit and follow our lead and with that--

AMY LOPREST: And as Eric said, of course, this-- the conviction for public corruption are very, very rare, so it's not like there's, you know, a huge experience for--

CHAIRPERSON CABRERA: Right.

AMY LOPREST: in implementing this.

CHAIRPERSON CABRERA: Indeed. Any questions from my colleagues? Any questions? No?

[background comments]

CHAIRPERSON CABRERA: Oh. Eric. You were going to say something?

ERIC FREEDMAN: Oh. I--

CHAIRPERSON CABRERA: I'm so sorry.

ERIC FREEDMAN: I was just going to add one detail to the story that Amy explained about the genesis of the law in Connecticut. So, the state representative who was convicted in 2005 for

accepting a bribe came back and ran for reelection in the clean elections program in 2012. He actually was convicted for qualifying for the program fraudulently in that 2012 race.

AMY LOPREST: Yeah. [inaudible 00:41:14]

ERIC FREEDMAN: So that-- It was after that--

AMY LOPREST: Yeah. I'm sorry.

ERIC FREEDMAN: that--

AMY LOPREST: That extra detail pushed it right along. It--

ERIC FREEDMAN: Right. That was--

AMY LOPREST: Yes. Yes.

ERIC FREEDMAN: Really helped make the case for this law in Connecticut. So--

CHAIRPERSON CABRERA: Well, I know I can speak on behalf of the committee. We want to thank you for the suggestions. Thank you for being a catalyst and bringing integrity into a process that sometimes there can be loopholes that people can try to take advantage of and that's why we're here. We're here to make sure that things are done correctly and, with that, thank you so much and we'll move--

AMY LOPREST: Yeah.

CHAIRPERSON CABRERA: the one other panel that we have. Thank you so much.

[background comments]

CHAIRPERSON CABRERA: Oh. Okay. From Reinvent Albany, Alex Camarda. Good to have you, Alex.

[background comments]

ALEX CAMARDA: Should I begin?

CHAIRPERSON CABRERA: You can begin.

Thank you, Alex.

ALEX CAMARDA: Good afternoon, Chair Cabrera and members of the City Council Committee on Governmental Operations. My name is Alex Camarda. I'm the senior policy advisor from Reinvent Albany. Reinvent Albany advocates for accountable and transparent New York State government. We are also part of the leadership of the fair elections campaign seeking to establish a public matching system in New York State which is inspired by the model here in New York City. The three bills before you today we support all of them and, rather than read all my testimony, I think I'll just summarize briefly for age bill lively support the legislation.

So, for the first bill, Intro 747, which, as described previously, prohibits the distribution of public matching funds to candidates previously convicted of certain felonies. The major reason we support this legislation is, as was said, we don't believe that government and taxpayers should be subsidizing candidates who were previously convicted of crimes, serious crimes, related to the public trust. We think that they have the right to run for office again if they have redeemed themselves in. Their public debt, but at the same time, we don't believe that the taxpayers should fund that. And so that's our reason for supporting that legislation. I do think it's worth noting that, as the CFP mentioned, this does cover quite a bit of laws related to the public trust. They are not exactly clear in the bill because the reference different sections of federal and state and local law. I can read some of them just for the record. They involve correcting the government, violations of the New York State penal law, grand larceny or larceny related to public funds, falsifying business records, tampering with public records, offering a false instrument for filing, defrauding the government, theft or bribery

concerning programs, receiving federal funds, engaging in frauds or swindles, committing fraud by wire, radio, or television or honest services fraud. So, it is a wide swath of laws. I think we are certainly open to some of the recommendations that CFB just made regarding including criminal violations of election law. I think that would be, obviously, relevant to receiving public funds for campaigns.

On the second bill, Intro 774, which lowers to five dollars the smallest contribution eligible for the public match, we again support that legislation. And the main reason for that is we want to incentivize and encourage candidates to raise money from small contributions and, from what research we did regarding fundraising, it seems that campaigns actually, more and more, are focusing on these very small contributions as a way to invite donors, small donors in the process. Regular, everyday New Yorkers. And they find that, if they get a small contribution initially, they can grow the contributions by that donor over time. So, we think it makes sense to lower the amount from 10 to five dollars. We would actually recommend going further to three dollars, as Council member Powers alluded

to. The research we've seen that actually candidates, and I think many of you have probably received these emails-- I know I have from many candidates. They actually send out communications that often start with donate three dollars, rather than five. And there's good reason for it. They find that that's the optimal amount to make an ask for of small donors. So, I think if you look at some of the research on that, you might find that three is more optimal than five. We did look at the number of donations that were made by Council members who were elected. We only looked at a smaller group than actually those who are running for office and we found that there were 186 donations that were 10 dollars or less, which is a very small percentage at 0.72 percent of the donations that went to Council members currently serving. An additional 30 were below five dollars and so we think it's worth going lower than five to maximize the impact of engaging small donors.

And then, lastly, on Intro 773 which would extend to the definition of business dealings with the city to include certain noncertified applications to the Department of city planning, we

support this legislation, as well. I know Council member Powers spoke of this when he first ran for office and I think it's very important in identifying this kind of engagement that occurs of the city which we think should be qualified as doing business and hasn't been previously. A lot of important conversations and meetings could occur when developers and other stakeholders are submitting an application to city planning, yet it's not yet certified. Some of the more important discussions might occur around the environmental impact statement, which is something that can be contentious and is always an issue with many projects. And so, for that reason, we believe that it should be the start point for the lower contributions for doing business should begin with the submission of the application. I should also know that sometimes these applications are held by city planning or are considered by the city planning for at least six months. We've even heard of accounts going as long as years. And that's a substantial amount of time. I will say that, previously, Reinvent Albany has advocated for expanding the doing business database and other ways. I know that was raised during the

previous testimony. Two of the big gaps that we see in coverage of the doing business database is clients of lobbyists. They are not included in doing business database. That came up more recently with the mayor's presidential fundraising for his federal pack and also subcontractors. You can have contractors who are subcontractors who do tens of millions of dollars of work with the city and they won't be in the doing business database. Meanwhile, a very small prime contractor will be. And the same is true of lobbyists and clients. There are clients who don't lobby the city directly. They hire a firm. They may pay 10-- 20,000 dollars a month and then you have very small nonprofits who are actually lobbyists and they are their own clients who are in the doing business database, but you have these very large clients who are not. So we think that that's in an inequity at the very least and should be addressed.

And with that, I'll close and I welcome any questions you may have.

CHAIRPERSON CABRERA: I just have one question related to your sentiments regarding CFB's suggestion to have a sunset for five years for bill

747 for five years for misdemeanor, 10 years for felony. Any thoughts?

ALEX CAMARDA: So, we didn't officially take a position of that. We are certainly open to considering that. Offhand, you know, I think that the timeframe ought to be, perhaps, longer for felonies. I mean, I think with the CFB it was recommended five years for misdemeanors, 10 years for felonies. Maybe it ought to be a bit longer than that if we are going to have a sunset. You know, this is a balance between allowing candidates to rehabilitate themselves, pay their debt to society, and run for office and let the voters decide and then, also, putting the integrity of the system, particularly when you're using taxpayer dollars.

CHAIRPERSON CABRERA: That's always the challenge. Redemption versus trust.

ALEX CAMARDA: Right.

CHAIRPERSON CABRERA: It takes time for people to gain that trust and it's hard to gauge-- we welcome, definitely, your suggestions. Any questions? I think, with that, we appreciate all your input. We've got your testimony that I know is

more thorough and we'll definitely take it into strong consideration. Thank you--

ALEX CAMARDA: Thank you, again.

CHAIRPERSON CABRERA: so much and, with that, I'd like to thank the staff. As always, you guys do a fantastic job and, with that, we close today's hearing. Thank you.

[gavel]

[background comments]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date June 30, 2019