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## THE COUNCIL

# **COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS Division**

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**COMMITTEE ON GOVERNMENTAL OPERATIONS**

*Hon. Fernando Cabrera, Chair*

#### November 23, 2021

**Int. 167-B:** By Council Members Maisel, Yeger, Holden, Vallone, Gibson, Levin, D. Diaz, Dinowitz, Kallos, Rose, Treyger, Koslowitz, Feliz, Gjonaj and Ulrich

**Title:** A Local Law to amend the New York city charter, in relation to requiring certain agencies to be capable of issuing warnings

**Charter**: Amends sections 556(a)(1), 753, 1403, and 2203(f)

**Int. 1784-A:** By Council Members Louis, Kallos, Rosenthal, Brannan, Ampry-Samuel, Ayala, Cornegy, Reynoso, Chin, Vallone, Lander, Riley and the Public Advocate (Mr. Williams)

**Title:** A Local Law to amend the New York city charter, in relation to establishing an office of not-for-profit organization services

**Charter**: Adds a new § 20-m

# **Introduction**

On November 22, 2021, the Committee on Governmental Operations, chaired by Council Member Cabrera, held a second hearing and vote on the following legislation: Proposed Int. 167-B, sponsored by Council Member Maisel, in relation to requiring certain agencies to be capable of issuing warnings; and Proposed Int. 1784-A, sponsored by Council Member Louis, in relation to establishing an office of not-for-profit organization services. Each bill was approved by the Committee, receiving seven votes in the affirmative, zero in the negative, and zero abstentions.

# **Background**

1. ***Warnings for First-Time Violations***

Inspectors from various city agencies—including the Departments of Health and Mental Hygiene, Sanitation, Environmental Protection, and Consumer Affairs and Worker Protection—issue notices of violation (“NOVs”) for various violations of the Administrative Code. When an agency issues an NOV, the respondent can either pay the fine prescribed or request a hearing. All such hearings are adjudicated by hearing officers at OATH. If a hearing officer rules against the respondent at a hearing, the respondent will generally have to pay a fine. Fines that remain unpaid for 90 days result in a judgment.[[1]](#footnote-1)

In some cases, the Administrative Code requires or permits inspectors to issue a written warning in lieu of an NOV for a first-time violation.[[2]](#footnote-2) Inspectors are not always able to issue such warnings, however, because they lack the equipment necessary to determine whether a violation observed in the field is a first, second, third or subsequent violation.

1. ***Programs and Support Services for Not-for-Profits in the City***

New York City partners with thousands of not-for-profit organizations to deliver critical services to communities throughout the five boroughs.[[3]](#footnote-3) The City supports these vital not-for-profit partners by providing them with various funding opportunities and other resources, including the resources described below.[[4]](#footnote-4)

1. *NYC Nonprofits*

One of the resources provided by the City is NYC Nonprofits, a city-managed webpage that serves as a single source of information for not-for-profit organizations in the City [[5]](#footnote-5) Among the resources provided on NYC Nonprofits is information about the various funding streams available to not-for-profit organizations. The primary streams include health & human services contracts, City Council discretionary funding, and funding for arts and education.[[6]](#footnote-6) The City also provides a wide range of other funding opportunities to further support the work of not-for-profit organizations. The Mayor's Fund to Advance New York City, for instance, is a 501(c)(3) not-for-profit organization that partners with other not-for-profits to provide a variety of services to fulfill ongoing initiatives with New York City agencies.[[7]](#footnote-7) Other funding resources offered by the City include: grant opportunities from the New York City Department of Small Business Services to support community-based organizations whose services strengthen and revitalize commercial districts,[[8]](#footnote-8) low-cost financing options provided by the New York City Housing Preservation and Development to organizations for the construction of affordable housing on privately- and publicly-owned land,[[9]](#footnote-9) and bond financing options and incentives programs from the New York City Economic Development Corporation to provide access to equitable financing to not-for-profit organizations.[[10]](#footnote-10)

In addition to providing information on funding opportunities on NYC Nonprofits, the City also provides information on a variety of other subjects, including training opportunities, educational materials, recruitment tools, and cost savings techniques that further support not-for-profit organizations.[[11]](#footnote-11) NYC Nonprofits also includes a guide for not-for-profits known as the NYC Good Governance Blueprint, which provides best practices, resources, and tools related to governance for not-for-profit executives and board members.[[12]](#footnote-12) The guide was developed by the NYC Nonprofit Board Development Coalition, led by NYC Service, a division of the Office of the Mayor.[[13]](#footnote-13) The Coalition includes 19 organizations with a shared mission of supporting not-for-profits in the City.[[14]](#footnote-14) The Coalition also leads the Good Governance Summer Academy, a training series based on the Blueprint that provides not-for-profit leadership with the knowledge, tools, and resources to improve their board governance practices.[[15]](#footnote-15)

1. *The Nonprofit Resiliency Committee*

In 2016, Mayor de Blasio formed the Nonprofit Resiliency Committee (the “NRC”) to provide health and human service not-for-profits with a direct voice in influencing the City’s business practices, policies, and technology solutions affecting not-for-profits.[[16]](#footnote-16) Comprised of more than 100 not-for-profit organizations, the NRC issues recommendations for improving city processes and procedures that impact the not-for-profit sector. The NRC has galvanized City leadership across 40 mayoral agencies and the Department of Education to design and implement meaningful and systemic solutions for the not-for-profit sector.[[17]](#footnote-17) Based on NRC recommendations, the City has adopted contracting policies that have resulted in not-for-profits receiving more money, earlier, and with greater spending flexibility.[[18]](#footnote-18)

During its first year, the NRC was successful in making immediate investments and policy changes to stabilize the not-for-profit sector with respect to health and human services contracts, which included increased investments in the sector by increasing funding by more than $600 million annually by Fiscal 2021.[[19]](#footnote-19) It also was successful in implementing a cash flow policy which provided a 25 percent advance on all registered City contracts to increase cash flow to service providers.[[20]](#footnote-20) Additionally, NRC implemented strategies that would allow social service organizations to continue delivering high-quality services to vulnerable New Yorkers over the long-term, such as producing a written guide on how City agencies and not-for-profits could work together to design programs and services that achieve the maximum impact for residents. Lastly, NRC offered various educational services to provide more information about the City’s procurement process to the not-for-profit community.[[21]](#footnote-21) The NRC has continued to work with the sector and provide essential information and resources to not-for-profit organizations.

1. *The Not-For-Profit Task Force*

In October 2018, under the leadership of Commissioner Jacques Jiha, the Department of Finance launched a Not-For-Profit Task Force, comprised of representatives from the Mayor’s Office, the New York City Council and members of the not-for-profit community, aimed at connecting not-for-profit property owners across the City with local government resources. More specifically, the Task Force focused on addressing several issues, largely related to the lack of clarity, information, coordination, and outreach about the not-for-profit property tax exemptions, the lien sale, charges imposed by the New York Fire Department, water and sewer charges and exemptions by DEP, and Department of Building inspections.

# **Legislative Analysis**

**Int. 167-B**

Int. 167-B (Maisel), would require the Department of Health and Mental Hygiene, the Department of Sanitation, the Department of Environmental Protection, and the Department of Consumer and Worker Protection to equip their inspectors with devices that would allow the inspector, for provisions of law that are enforced exclusively by the inspector’s department, to (i) determine whether an observed violation is a first-time violation, (ii) issue a warning for a first-time violation, if permitted by law, and (iii) after a warning has been issued, record that fact so that any subsequent violation issued by the same agency to the same person or entity under the same provision of law would not incorrectly appear to be a first-time violation.

This bill would take effect 180 days after becoming law.

**Int. 1784-A**

 Int. 1784-A (Louis) would require the Mayor to establish an Office of Not-for-Profit Organization Services. Such office would be headed by an Executive Director, who would be appointed by the Mayor or the head of a mayoral department. The Office of Not-for-Profit services may also include additional deputies and staff, subject to available appropriations.

 The Executive Director of the Office of Not-for-Profit Services would serve as a liaison to not-for-profit organizations in relation to city policies, procedures, regulations, contracting and funding opportunities, and programs and benefits. In such capacity, the Executive Director would be required to: (a) conduct outreach to not-for-profits to provide information and assistance with respect to existing city policies, procedures, regulations, contracting and funding opportunities, and programs and benefits; (b) refer not-for-profits to city services that assist not-for-profits in obtaining relevant exemptions, waivers, permits, registrations and approvals; and (c) refer individuals and organization seeking to incorporate or register as not-for-profits to relevant state agencies and other organizations that provide information and assistance with this process.

 The Executive Director would also be responsible for advising and assisting the Mayor, mayoral offices, and city agencies on streamlining and simplifying their interactions with not-for-profits. In addition, the Executive Director would be responsible for developing standing committees to establish standing advisory committees comprised of representatives from city agencies and not-for-profit organizations. Such advisory committees would be required to reflect the range of not-for-profits doing business with the city, and would be responsible for identifying challenges affecting not-for-profits, and encouraging communication, collaboration, and consultation between such organizations and the City.

 Finally, the Executive Director would be responsible for studying conditions affecting the not-for-profit sector, making recommendations to the Mayor regarding policies, programs and projects, and performing such other duties as the Mayor may assign. Within one year of the effective date of this local law, and annually thereafter, the Executive Director would be required to submit a report to the Mayor and the Speaker regarding the activities of the Office of Not-for-Profit Organization Services, any recommendations made by the Executive Director, and the implementation of any such recommendations.

 This law would take effect 90 days after becoming law.

Int. No. 167-B

By Council Members Maisel, Yeger, Holden, Vallone, Gibson, Levin, D. Diaz, Dinowitz, Kallos, Rose, Treyger, Koslowitz, Feliz and Ulrich

..Title

A Local Law to amend the New York city charter, in relation to requiring certain agencies to be capable of issuing warnings

..Body

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision a of section 556 of the New York city charter, as added by a vote of the electors on November 6, 2001, is amended to read as follows:

(1) Enforce all provisions of law applicable in the area under the jurisdiction of the department for the preservation of human life, for the care, promotion and protection of health and relative to the necessary health supervision of the purity and wholesomeness of the water supply and the sources thereof. Each inspector or other employee of the department who issues notices of violation shall, for provisions of law that are enforced exclusively by the department, have access at the time that a violation is issued to equipment allowing such person: (a) to determine if such violation is a first-time violation of the applicable provision of law, and (b) if permitted by law, to issue a warning for such violation and to record that such a warning has been issued;

§ 2. Section 753 of the New York city charter is amended by adding a new subdivision f to read as follows:

f. Each inspector or other employee of the department who issues notices of violation shall, for provisions of law that are enforced exclusively by the department, have access at the time that a violation is issued to equipment allowing such person: (1) to determine if such violation is a first-time violation of the applicable provision of law, and (2) if permitted by law, to issue a warning for such violation and to record that such a warning has been issued.

§ 3. The opening paragraph of section 1403 of the New York city charter, as amended by a vote of the electors on November 7, 1989, is amended to read as follows:

Except as otherwise provided by law, the commissioner shall have charge and control of and be responsible for all those functions and operations of the city relating to the provision of a pure, wholesome and adequate supply of water, the disposal of sewage and the prevention of air, water and noise pollution, and shall be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances and to collect and manage information concerning the amount, location and nature of hazardous substances. Each inspector or other employee of the department who issues notices of violation shall, for provisions of law that are enforced exclusively by the department, have access at the time that a violation is issued to equipment allowing such person: (1) to determine if such violation is a first-time violation of the applicable provision of law, and (2) if permitted by law, to issue a warning for such violation and to record that such a warning has been issued. The powers and duties of the commissioner shall include, without limitation, the following:

§ 4. Subdivision (f) of section 2203 of the New York city charter, as amended by local law 80 for the year 2020, is amended to read as follows:

(f) The commissioner, in the performance of said functions, shall be authorized to hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, mediate disputes, receive and evaluate complaints, conduct investigations in response to complaints or upon his or her own initiative, and take appropriate action, including referral to a federal or state agency, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of laws relating to deceptive or unconscionable trade practices, labor standards, or of related laws, and to promulgate, amend and modify rules and regulations necessary to carry out the powers and duties of the department. Each inspector or other employee of the department who issues notices of violation shall, for provisions of law that are enforced exclusively by the department, have access at the time that a violation is issued to equipment allowing such person: (1) to determine if such violation is a first-time violation of the applicable provision of law, and (2) if permitted by law, to issue a warning for such violation and to record that such a warning has been issued.

§ 5. This local law takes effect 180 days after it becomes law.

DSS/cjm

LS 172/2014/Int 90

LS 443/2018

11/11/2021

Int. No. 1784-A

By Council Members Louis, Kallos, Rosenthal, Brannan, Ampry-Samuel, Ayala, Cornegy, Reynoso, Chin, Vallone, Lander and the Public Advocate (Mr. Williams)

..Title

A Local Law to amend the New York city charter, in relation to establishing an office of not-for-profit organization services

..Body

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 20-m to read as follows:

§ 20-m. Office of not-for-profit organization services. a. Definition. As used in this section, the term “executive director” means the executive director of the office of not-for-profit organization services.

b. The mayor shall establish an office of not-for-profit organization services. Such office may be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by an executive director who shall be appointed by the mayor or the head of such department. Subject to appropriation, such office shall also include such other employees as may be appointed or designated to assist in the performance of the duties of the office.

c. The executive director shall have the power and duty to:

1. Serve as a liaison to not-for-profit organizations in relation to city policies, procedures, regulations, contracting and funding opportunities, programs and benefits affecting the not-for-profit sector and, in such capacity, shall:

(a) Conduct outreach to not-for-profit organizations to provide information and assistance to such organizations in relation to existing city policies, procedures, regulations, contracting and funding opportunities, and programs and benefits, including but not limited to maintaining a central website containing information and assistance that can be accessed by not-for-profit organizations;

(b) Work with agencies to refer not-for-profit organizations to city services that assist such organizations in obtaining relevant exemptions, waivers, permits, registrations or approvals from agencies; and

(c) Make referrals to relevant state agencies and other organizations that provide information and assistance to individuals or groups who are seeking to incorporate or register as not-for-profit organizations;

2. Advise and assist the mayor, offices established within the executive office of the mayor, including the mayor’s office of contract services, and agencies that interface with not-for-profit organizations on simplifying and streamlining interactions between not-for-profit organizations and any such offices and agencies, including such interactions regarding applications, contracts, and regulations;

3. Develop standing advisory committees comprised of representatives from agencies and not-for-profit organizations representing the range of not-for-profit organizations doing business with the city, and the range of services provided, including but not limited to health and human services, cultural, capacity building and technical support, and education, that shall serve as a central source for:

(a) Identifying challenges affecting not-for-profit organizations, including any challenges associated with procurement platforms, or with applications, contracts, and regulations, and supporting efforts to devise solutions to such challenges; and

(b) Encouraging communication, collaboration and consultation between the city and not-for-profit organizations, including the sharing and receiving of information related to not-for-profit organizations including, but not necessarily limited to, ways in which the city could improve its interaction and engagement with not-for-profit organizations;

4. Study conditions affecting the not-for-profit sector in the city and assess its health and economic well-being;

5. Recommend to the mayor policies, programs and projects which promote the well-being of not-for-profit organizations and not-for-profit service delivery in the city; and

6. Perform other duties as the mayor may assign.

d. Within 12 months of the effective date of the local law that added this section, and annually thereafter, the executive director shall prepare and submit a report to the mayor and the speaker of the council that shall include, but not be limited to, the activities of the office of not-for-profit organization services, any recommendations made by the executive director pursuant to this section, and the implementation of any such recommendations.

§ 2. This local law takes effect 90 days after it becomes law.

RKC/cjm

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1. *See* NYC Department of Investigation, Environmental Control Board Summons Enforcement & Collection: DOI Investigation Identifies Serious Gaps and Issues Recommendations for Reform (2020), at 5, <https://www1.nyc.gov/assets/doi/reports/pdf/2020/12ECB_Release_Report100120.pdf>. [↑](#footnote-ref-1)
2. *See, e.g.*, Admin Code § 17-189(c) (“Any person who violates any provision of this section shall be liable for a civil penalty not to exceed two hundred and fifty dollars for each violation, *provided that for a first such violation, such person may be issued a written warning in lieu of such civil penalty*.”); § 17-197(c): (“Any person who violates the provisions of this section or any of the rules promulgated thereunder shall, for a first offense, be guilty of a violation punishable by a fine not to exceed two hundred fifty dollars, *provided that such person shall be issued a written warning instead of such fine for such first offense where such animal was not injured as a result of being restrained in violation of this section*. For any subsequent offense within a continuous twelve-month period, such person shall be guilty of a class B misdemeanor punishable by a fine not to exceed five hundred dollars or by imprisonment of not more than three months, or both. In addition to such penalties, any person who violates this section shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars.”); § 17-1104(a)(2): (“Notwithstanding any provision of law to the contrary, an owner or owner's agent of a multiple dwelling or owner, owner's agent or a person in a position of authority for all other types of premises who violates any provision of subdivision b of section 17-1102 of this chapter or any rule or regulation promulgated pursuant thereto and any person who violates any provision of subdivision c of section 17-1102 of this chapter or any rule promulgated pursuant thereto *shall, for a first such violation, in lieu of a penalty, be issued a written warning and shall also be issued educational materials pursuant to subdivision two of section 33-1005 of the environmental conservation law. Such persons shall, however, be liable for a civil penalty not to exceed one hundred dollars for a second violation, and not to exceed two hundred fifty dollars for any subsequent violation*.”); Admin Code § 18-150(i) (“The ballfield permit holder of any league that violates the provisions of subdivisions b or e *shall receive a warning for a first violation, and shall be liable for a civil penalty of $500 for each subsequent violation*, recoverable in a proceeding before any tribunal established within the office of administrative trials and hearings or within any agency of the city of New York designated to conduct such proceedings.”). [↑](#footnote-ref-2)
3. *See* NYC Nonprofits, <https://www1.nyc.gov/site/nonprofits/index.page> (last accessed on November 18, 2021). [↑](#footnote-ref-3)
4. *See* *id.* [↑](#footnote-ref-4)
5. *See* *id*. [↑](#footnote-ref-5)
6. *See* NYC Nonprofits, Funding Opportunities, <https://www1.nyc.gov/site/nonprofits/funding-opportunities/funding-opportunities.page> (last accessed on November 18, 2021). [↑](#footnote-ref-6)
7. *See* NYC Nonprofits, Other Funding Opportunities*,* <https://www1.nyc.gov/site/nonprofits/funding-opportunities/other-funding-opportunities.page>(last accessed on November 18, 2021). [↑](#footnote-ref-7)
8. *See* *id*. [↑](#footnote-ref-8)
9. *See* *id*. [↑](#footnote-ref-9)
10. *See* *id*. [↑](#footnote-ref-10)
11. *See* NYC Nonprofits, Resources, <https://www1.nyc.gov/site/nonprofits/resources/board-governance.page> (last accessed on November 18, 2021). [↑](#footnote-ref-11)
12. *See* *id*. [↑](#footnote-ref-12)
13. *See* *id*. [↑](#footnote-ref-13)
14. *See* *id*. [↑](#footnote-ref-14)
15. *See* *id*. [↑](#footnote-ref-15)
16. *See* NYC Nonprofits, Nonprofit Resiliency Committee, <https://www1.nyc.gov/site/nonprofits/funded-providers/nonprofit-resiliency-committee.page> (last accessed on November 18, 2021). [↑](#footnote-ref-16)
17. *See* *id*. [↑](#footnote-ref-17)
18. *See* *id*. [↑](#footnote-ref-18)
19. *See* City of New York, Press Office, Mayor de Blasio Highlights Accomplishments of Nonprofit Resiliency Committee's First Year (October 11, 2017) available at <https://www1.nyc.gov/office-of-the-mayor/news/652-17/mayor-de-blasio-highlights-accomplishments-nonprofit-resiliency-committee-s-first-year>. [↑](#footnote-ref-19)
20. *See* *id*. [↑](#footnote-ref-20)
21. *See* *id*. [↑](#footnote-ref-21)