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Testimony before the New York City Council Committee on
Governmental Operations, State & Federal Legislation
Concerning Int. 0076-2024 & Int. 0077-2024

Ethan A. Carrier
General Counsel, NYC Conflicts of Interest Board
April 19, 2024

Good morning, Chair Restler and members of the Committee on Governmental Operations, State & Federal Legislation. I am Ethan A. Carrier, General Counsel at the New York City Conflicts of Interest Board. With me is the Board's Executive Director, Carolyn Lisa Miller. We are here on behalf of COIB to offer testimony about Int. 0076-2024 and Int. 0077-2024.

Since its creation by the voters of the City of New York in 1989, COIB has been entrusted to administer the City's conflicts of interest law, found in Chapter 68 of the City Charter, to fulfill a critical mission: "to preserve the trust placed in the public servants of the city, to promote public confidence in government, to protect the integrity of government decision-making and to enhance government efficiency" (City Charter Section 2600). COIB supports the Council's interest in furthering this mission. However, when considering proposed amendments to Chapter 68, it is critical to maintain the delicate balance of both public interests at play here: the need to limit the reality and the appearance of undue influence by former public servants on government decision-making versus the need to continue to attract highly qualified people to City positions. By seeking to amend Chapter 68 through legislation rather than through a Charter Revision Commission, that balance may not be achieved, the interests of the impacted stakeholders will likely not be fully accounted for, and unintended consequences could well result.

First, some brief historical background.

The first post-employment communication ban imposed on former public servants in New York City was proposed by the 1986-1988 Charter Revision Commission and approved by the voters in November 1988. That restriction, found in Charter Section

2604(d)(2), was narrowly tailored and straightforward, prohibiting almost every public servant from “appearing” – a defined term in Chapter 68 that essentially means “communicating for compensation” – before their former City agency for one year. (For elected officials, deputy mayors, and the heads of six named City agencies, the restriction extended to the branch of government served, which for Council Members was the City Council and for the other named officials was the entire executive branch.) This new prohibition supplemented two long-standing post-employment restrictions: Charter Section 2604(d)(4), which prohibits a former public servant from profiting from or communicating with any City agency about a particular matter on which they worked at the City; and Charter Section 2604(d)(5), which prohibits a former public servant from using or disclosing confidential information obtained from City service. In essence, Charter Section 2604(d)(2) was added to serve as a one-year “buffer” for former public servants communicating with their former City agency even on matters that they had nothing to do with in their City work and that involved no confidential information.

Charter Section 2604(d)(2) remained unchanged for 32 years. During that 32-year period, COIB provided extensive guidance and education to former public servants about the application of the one-year post-employment communication ban, issuing 31 anonymized advisory opinions and countless pieces of formal and informal advice to individual public servants.

The first and only changes to the original one-year post-employment communication ban were proposed by the 2019 Charter Revision Commission created by the City Council. The proposals substantially increased the complexity of the ban by creating a multi-tiered restriction:

- The **first tier** is most public servants, still subject to the same one-year ban.
- The **second tier** is elected officials and the same small group of high-level officials identified in the original first-year post-employment ban for a branchwide prohibition; they have the same branchwide prohibition but now for two years instead of one.
- The **third tier** is a new group of public servants: the head of an agency that is not a board or commission; the executive director or highest-ranking public servant employed by a board or commission; and any paid member of a board or commission. For this third tier, they are now subject to a two-year ban, but only for their agency served.

The proposed amendments were approved by the voters in November 2019 and became effective for public servants who left City service after January 1, 2022.

I. Concerns About Process for Proposed Changes to Post-Employment Communication Ban

These significant changes are the only changes to the restrictions to Chapter 68 since it was approved by the voters in November 1988, and they took effect just over two years ago. Two years is too short of a time to judge the impact of those Charter amendments, in

particular the impact on that delicate balance between limiting the appearance and reality of undue influence on government decision-making with the need to attract the best professionals to City service. There may come a time when it becomes clear that amendments to the post-employment communication ban are necessary, but now is not that time.

Moreover, if such a time should come, proposals to amend the Charter should be considered through a Charter Revision Commission process. This is how the prohibitions of Chapter 68 have been amended historically, and for good reason: a Charter Revision Commission engages in a longer deliberative process and seeks, through multiple public hearings, the input of a large cross-section of stakeholders. Here, such stakeholders would include the current public servants impacted by a change in their post-employment job opportunities; hiring managers at City agencies such as the Department of Housing Preservation and Development who have struggled to retain and replace essential professionals in the current job environment; and those who work in transition teams or appointment offices on the recruitment, appointment, and retention of agency heads and people to serve on City boards and commissions.

Finally, if any changes to Charter Section 2604(d)(2) were to be made now, they should be limited to the referendum on the conduct of elected officials (Int. 76). To proceed as now proposed, that is, to enact both Int. 76 and Int. 77, would effectively restrict the conduct of non-electeds first. Then, if and when such referendum was on the ballot, there would be no real choice for voters, because what voter would want a ban on elected officials to be less restrictive than other senior government officials?

II. Concerns About Substance of Proposed Changes to Post-Employment Communication Ban

Chapter 68 itself, and the 2019 amendments, were the result of an extensive deliberative process with substantial input and consideration. Any serious change to the regulation of former public servants' conduct should be crafted carefully and as narrowly as possible to balance the admirable purpose of ensuring the integrity of government decision-making while not unduly restricting the future professional lives of current public servants. Any additional restrictions might have serious collateral consequences for the recruitment of qualified people for important positions throughout City government.

COIB's concerns about the substance of Int. 77 reflect only what this agency has identified in the brief time it has considered this legislation. We would anticipate that additional, substantial concerns would come from the many voices that would emerge in a Charter Revision Commission process.

A. Part-Time and Unpaid Policymakers

Chapter 68 imposes lesser restrictions on the conduct of part-time public servants, with the implicit understanding that their public service must co-exist with their primary private employment. Int. 77 erases this distinction by adding "public servants charged with

substantial policy discretion” (“policymakers”) to the category of those with a two-year post-employment communication ban. Many policymakers are part-time public servants, largely those who are members of most boards and commissions. And some part-time members of policymaking boards and commissions are unpaid. Int. 77 would impose a one-year post-employment Citywide communication ban on part-time unpaid policymakers followed by a second year of an agency-specific ban. The unwanted consequences of this proposed change are demonstrable in one such commission: Landmarks Preservation.

LPC commissioners are policymakers who serve part-time and unpaid. Under Charter Section 3020, the 11 commissioners of the LPC shall include at least three architects, one historian qualified in the field, one city planner or landscape architect, and one realtor. Under the current law, an architect serving as an LPC commissioner is prohibited from communicating with LPC during their City service and for one year after departure. Under Int. 77, the architect would be prohibited from communicating with LPC during their City service but after departure would have a much more extensive restriction: Citywide for one year and then LPC for a second year. A Citywide communication ban would effectively preclude an architect from maintaining their practice in the City by prohibiting them from communicating with agencies essential to construction, such as the Department of Buildings, the Department of Transportation, and the Department of Environmental Protection. The City needs industry professionals to be willing to serve on LPC. It is difficult to imagine any architect, city planner, or realtor willing to make that level of professional sacrifice for an unpaid City position, and it is likely that current LPC commissioners who are active industry professionals would resign before Int. 77 takes effect.

The same circumstance exists for many other similarly situated City boards and commissions, including many barely paid members of boards and commissions. And the recruitment challenges would impact elected officials other than the Mayor. The Taxi and Limousine Commission and the Board of Correction, for example, both have part-time unpaid board members appointed by the City Council and would be subject to a two-year post-employment communication ban, including a Citywide ban for the first year.

B. Full-Time Policymakers

“Policymakers,” a term defined in Board Rules Section 1-02, are public servants designated as such by their agencies. The designation criteria are imprecise and vary greatly, depending on agency size, hierarchy, and service structure (whether operating centrally or in district or borough offices). Mindful of this, over much of 2023, the Board worked to amend Board Rules Section 1-02 to create a more uniform set of policymakers across differently sized and structured City agencies but failed to identify criteria that would not be either overinclusive or underinclusive. Without a better option, the Board elected to leave the policymaker definition as is and engage in more fact-finding and auditing instead. In its current form, “policymakers” is a widely overbroad category upon which to impose a two-year post-employment communication ban; it includes likely hundreds of public servants without the portfolios or responsibilities that would cause them to have any influence on an agency other than their own.

For policymakers at agencies already experiencing difficulties with hiring and retention – approximately 60 at the Department of Housing Preservation and Development, over 100 at the Department of Health and Mental Hygiene, for example – there is a strong possibility that there would be resignations before Int. 77 took effect and even greater challenges in recruiting good candidates.

C. Other Overbroad Categories

While there may be others, COIB has identified two other anomalies that would result from Int. 77's new multi-tiered structure:

1. In Int. 77's second category, the executive director or highest-ranking public servant employed by a board or commission would be subject to a one-year Citywide ban followed by a second-year agency-only ban. This would mean that District Managers at community boards (earning between \$75,000 and \$95,000 per year on average) would be prohibited from communicating with all of City government for one year, a result disproportionate to their influence with any City agency other than their own community board.
2. In Int. 77's third category, policymakers "in the service of the executive office of the mayor" would be subject to a two-year Citywide ban. This would mean that the 19 members of the Mayor's Advisory Committee on the Judiciary – part-time, unpaid policymakers – would be subject to a two-year Citywide communication ban. Members of Mayor's Advisory Committee on the Judiciary – who include law firm partners, arbitrators, and the CEO of a City not-for-profit – would likely resign before being subject such an expansive prohibition, and it is hard to imagine what qualified individuals would be willing and able to replace them.

III. **Conclusion**

These are just a handful of examples of the impact of the proposed amendments on the hiring and retention of qualified individuals to serve in City government, whether as full-time professionals or part-time board members. We would anticipate those who work in recruitment and hiring of agency heads and board members would have even more examples. COIB stands ready to work to advance, as the Charter mandates, both the integrity and efficiency of City government, and we are available to answer any questions the Council Members may have.



**Reinvent Albany Testimony to
Council Committee on Governmental Operations**

Oversight Hearing on NYC Lobbying

RE: Enact 3-Year Revolving Door Ban, Improve Lobby Filings and Open Data

April 19, 2024

Good morning Chair Restler and members of the Committee on Governmental Operations. My name is Rachael Fauss, and I am the Senior Policy Advisor for Reinvent Albany. Reinvent Albany advocates for transparent and accountable government in New York State and City. Thank you for holding this hearing today.

First, we support the intent of the three bills you are considering today to reduce the undue influence of deep-pocketed political interests and slow the “revolving door” of city government employees lobbying their former employer – the City of New York.

However, we strongly urge the City Council to aim much higher. At a minimum, New York City should have a three-year lobbying revolving door ban. Florida has a [six-year ban](#) that was passed by public referendum in 2018. Six year ban. Surely, New York City can pass a ban half as long as Florida’s.

New York needs you to renew your oversight of lobbying activity, which is exploding. We urge you to please:

1. **Ensure the City Clerk finally implements the 2013 change allowing smaller lobbying clients to file twice yearly**, instead of six times. It has been 11 years since the Council adopted this modest change. By our count, there were about 140 small lobbyists active from 2018-2022 that did not hire outside lobbyists and spent less than \$10,000 a year.
2. **Ensure the City Clerk meets its pledge to publish lobbyists’ fundraising and political consulting reports as open data** by the end of 2024.

3. **Pass a bill requiring lobbyists to report whether they are supporting or opposing bills** or NYC government actions, as is done in Montana, and which specific sections of budget bills are being targeted, as is done in Idaho ([see the National Conference of State Legislatures' analysis here](#)).

Now specifically on the legislation on today's agenda, we have the following comments:

1. **[Intro 76-2024 \(Restler\)](#), Post-employment activities of former elected officials.** This bill would bar former elected officials from lobbying any city agency for two years after termination from city service. We note that the bill removes the current two-year restriction for certain high-ranking officials. Therefore, this legislation must be passed together with Intro 77 of 2024 (below), or be combined as an omnibus bill to ensure that all current restrictions continue, or are expanded.
 - Given the large amount of direct knowledge and connections former elected officials have that can directly benefit private interests, **we support extending this prohibition to three years.**
2. **[Intro 77-2024 \(Restler\)](#), Post-employment activities of certain former public servants.** Under this bill, former agency heads and high-level employees of the Mayor's Office, the City Council, or the Law Department would be barred from lobbying any city agency for two years. High-level staffers, including policymakers at other agencies, boards, and commissions, as well as paid board members, would be prohibited from lobbying any city agency up to one year after they leave city service, and would be prohibited from lobbying their former agency for a total of two years.
 - As with the first bill, **we support a three-year ban for these individuals lobbying any city agencies – not just the agency where they left service.**
3. **[Intro 742-2024 \(Brewer\)](#), Lobbying prohibitions in connection with campaign-related fundraising or political consulting.** This bill would prohibit a person or organization who has engaged in fundraising or political consulting for certain candidates for city office from lobbying the elected candidate for a period of one year, if the person was elected within two years after the occurrence of the fundraising or political consulting. The Campaign Finance Board would be required to develop notices to disseminate through print and electronic media that notify campaign-related fundraisers and political consultants of this lobbying prohibition. Any person that knowingly and willingly violates the prohibition would be subject to civil penalties, and second and subsequent violations would constitute a Class A misdemeanor.

- Again, **we urge the Council to extend the prohibition period for political consultants and fundraisers to three years**, rather than one year, and to also **expand this prohibition beyond just the former candidate to at least executive staff, i.e. staff of the Mayor’s Office, or a City Councilmember’s staff, and department heads appointed by the Mayor.** Former campaign staffers of mayoral candidates frequently serve as high-ranking officials in the administration, who have deep connections with former campaign consultants. For mayoral candidates, staff members or department heads could be lobbied instead, who would simply relay the request.

Regarding NYC’s lobbying laws and their implementation, we have concerns in a number of areas, and encourage the Council to either monitor implementation, or introduce new legislation in the following areas:

2. Fix City Clerk’s failure to implement twice-yearly reporting for small lobby spenders. In 2013, the City Council [passed legislation](#) implementing the recommendations of the Lobbying Commission, which included that for organizations that do not hire outside lobbyists and only spend between \$5,000 and \$10,000, that they only need to file two reports a year, instead of six. **It is astounding that more than a decade later, this provision has still not been implemented.**

- We strongly urge the City Council to work with the City Clerk’s office to implement this provision of the law reducing the filing burden for smaller lobbyists. Even if it requires additional resources to update the eLobbyist filing system to accommodate this change, it could be a boon to all filers if additional improvements are made to the lobbying filing system.
- According to our review of the [City Clerk’s filing data](#), it appears that from 2018-2022, there were approximately 140 filers that spent an average of \$10,000 or less, and did not pay outside lobbyists for any services. These include a number of well-known NYC nonprofits and institutions, a sampling of which is below (full list provided as an appendix to this testimony).
 - The Bronx Defenders
 - Community Service Society of New York
 - Habitat For Humanity New York City, Inc.
 - The New York Botanical Garden
 - Queens Borough Public Library
 - New York Civil Liberties Union

3. **Fix City Clerk's sadly lagging effort to publish open data.** We appreciated [seeing](#) eLobbyist data published as open data by the City Clerk in 2019, which was the result of years of advocacy by watchdog groups. Unfortunately, this is the only City Clerk's office dataset published on the city's open data portal.
 - However, the Office of Technology and Innovation's [2023 Open Data Plan](#) lists the City Clerk's Lobbyists' Fundraising and Political Consulting data as [scheduled for future publication](#) by 12/31/2024. This dataset was put on this list because it has been FOILED by the public, thanks to the City Council's Local Law 7 of 2016 that requires FOIL requests be used to determine new datasets for open data publication. **We ask the Council to ensure that the Lobbyists' Fundraising and Political Consultant dataset is published in 2024, as promised.**

4. **Pass bill reporting of support or opposition to bills or other NYC determinations.** New York State and City lobbying laws do not currently require lobbyists to report whether their activity is in support or opposition to a bill, budget, or other governmental action. Additionally, reporting on budget lobbying is not required to list specific sections or appropriations. This lack of information greatly lessens the usefulness of lobbying disclosures. We ask the Council to introduce legislation requiring reporting of whether lobbyists support or oppose specific bills, budgets, and other city government actions. Other jurisdictions require this reporting. The specific position taken is required in Montana, and Idaho requires the specific section be reported for appropriations bills (see the [NCSL list](#) of lobby reporting requirements.)

Appendix: List of NYC Lobbying Clients that Spent Less than \$10,000 and Did Not Hire
Outside Lobbyists, 2018-2022

Reinvent Albany Analysis: NYC Lobbying Clients Spending Less than \$10,000 on Average and Not Hiring Outside Lobbyists, 2018-2022 (data linked here)						
Client Name	2018	2019	2020	2021	2022	Grand Total, 2018-22
AB CarVal Investors, L.P.					\$140	\$140
Actis GP LLP		\$465				\$465
Aermont Capital LLP on behalf of Aermont Capital LLP and Aermont Capital Management S.A.R.L.	\$159					\$159
AllianceBernstein LP	\$1,500	\$2,000	\$2,500	\$3,000	\$3,000	\$12,000
American Cancer Society Cancer Action Network, Inc		\$9,442	\$3,275	\$4,726		\$17,443
American Heart Association, Inc.	\$1,542	\$5,890				\$7,432
American Prison Data Systems, PBC	\$5,383	\$2,739	\$2,034	\$832	\$1,437	\$12,425
APICHA Community Health Center	\$440	\$537		\$701	\$291	\$1,969
Apple Inc.	\$6,864	\$4,738	\$636			\$12,238
Barclays Capital, Inc.	\$78	\$140				\$218
BC Partners Advisors L.P.	\$5,292	\$5,292	\$4,460			\$15,044
Brigade Capital Management, LP	\$1,050	\$50	\$100			\$1,200
Brooklyn Bridge Park Conservancy, Inc.	\$248					\$248
Brooklyn Navy Yard Development Corporation		\$46			\$192	\$238
CarVal Investors, L.P.				\$732	\$355	\$1,087
Carval Investors, LLC	\$105	\$23	\$58			\$186
Catholic Charities Community Services, Archdiocese of New York			\$1,083			\$1,083
Catholic Charities of the Archdiocese of New York			\$161			\$161
Catholic Community Relations Council of New York, Inc.	\$282	\$254	\$191	\$60	\$50	\$837
Catholic Guardian Services					\$195	\$195
Center For Employment Opportunities, Inc		\$25	\$105		\$2,821	\$2,951
Charter Communications Operating, LLC			\$3,291	\$2,015	\$2,269	\$7,575
Cheyne Capital US, LP	\$230	\$163				\$393
Chinese-American Planning Council, Inc.		\$3,331	\$400			\$3,731

**Reinvent Albany Analysis:
 NYC Lobbying Clients Spending Less than \$10,000 on Average and
 Not Hiring Outside Lobbyists, 2018-2022 (data linked [here](#))**

Client Name	2018	2019	2020	2021	2022	Grand Total, 2018-22
Citizens Union of the City of New York	\$1,878	\$1,668	\$1,094	\$1,792	\$2,558	\$8,991
Coalition for the Homeless, Inc.	\$3,634	\$13,022	\$3,354	\$8,909	\$5,253	\$34,172
Coller Capital LTD	\$59					\$59
Community Food Advocates, Inc.		\$258			\$222	\$480
Community Service Society of New York	\$1,780	\$508	\$611	\$483	\$376	\$3,758
Comvest Advisors, LLC	\$192	\$89	\$170			\$451
Crow Holdings Capital Partners, L.L.C.	\$280					\$280
CSC Holdings LLC		\$38				\$38
Cypress Hills Local Development Corporation, Inc.		\$361				\$361
District Council 37	\$500	\$500	\$400	\$525	\$450	\$2,375
Earthjustice					\$7,065	\$7,065
EQT Partners Inc.	\$4,458	\$1,513	\$5,385	\$34		\$11,390
Equity Advocates, Inc.			\$5	\$11		\$16
FedEx Corporation					\$511	\$511
Food Bank For New York City	\$262	\$665				\$927
Food Industry Alliance of New York State, Inc.	\$315	\$219	\$117	\$148	\$133	\$931
Friends of the Upper East Side Historic District, Inc.				\$591		\$591
Ghost Management Group, LLC				\$6,500	\$25,465	\$31,965
God's Love-We Deliver, Inc.		\$5				\$5
Goldman Sachs Asset Management, L.P.	\$148				\$54	\$202
Graham Windham		\$146	\$213	\$124		\$483
Greater New York LECET Fund	\$3,750	\$4,840	\$840			\$9,430
Habitat For Humanity New York City, Inc.			\$1,980			\$1,980
Housing Conservation Coordinators, Inc.	\$1,605	\$2,252	\$354			\$4,211
HSBC Bank USA, NA	\$38					\$38
Integrum Holdings LP				\$1,275	\$600	\$1,875
Island Investment Management LLC				\$50		\$50
J.P. Morgan Securities LLC	\$915					\$915
Jewish Association for Services for the Aged	\$15					\$15

**Reinvent Albany Analysis:
NYC Lobbying Clients Spending Less than \$10,000 on Average and
Not Hiring Outside Lobbyists, 2018-2022 (data linked [here](#))**

Client Name	2018	2019	2020	2021	2022	Grand Total, 2018-22
Jewish Board of Family and Children's Services, Inc.	\$119					\$119
Jewish Child Care Association of New York			\$420			\$420
Jewish Community Council of Greater Coney Island, Inc.		\$310		\$1	\$299	\$610
Jews for Racial and Economic Justice	\$62					\$62
Justice Committee, Inc.				\$47		\$47
Legal Services NYC	\$1,058	\$903	\$332	\$59	\$487	\$2,838
Lenox Hill Neighborhood House		\$1,610	\$149	\$43		\$1,802
Leonard Green & Partners, L.P.		\$104				\$104
Lincoln Center for the Performing Arts, Inc.	\$72	\$195			\$99	\$366
LIVEON NY	\$1,114	\$1,010				\$2,124
Long Island Board of Realtors, Inc			\$81			\$81
Long Island University			\$189			\$189
Make the Road New York	\$1,765	\$1,899	\$611	\$2,258	\$4,046	\$10,579
Maplebear, Inc.				\$5,700	\$3,961	\$9,660
Metropolitan Council on Jewish Poverty				\$4,605		\$4,605
MGM Resorts International Operations, Inc.				\$190		\$190
Monarch Alternative Capital LP		\$38				\$38
Museum of the City of New York, Inc.		\$581	\$322			\$903
National Institute For Reproductive Health Action Fund, Inc.		\$360				\$360
National Restaurant Association	\$1,771		\$28,500	\$12,500		\$42,771
National Waste & Recycling Association	\$625					\$625
Natural Resources Defense Council, Inc.	\$4,335		\$20			\$4,355
New Economy Project, Inc.		\$836	\$290	\$113	\$14	\$1,253
New York Association of Convenience Stores, Inc.		\$88				\$88
New York City Alliance Against Sexual Assault, Inc.					\$3,337	\$3,337
New York City Community Learning Schools Initiative Inc	\$459	\$750				\$1,209

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Client Name	2018	2019	2020	2021	2022	Grand Total, 2018-22
New York City Educational Construction Fund	\$28					\$28
New York Civil Liberties Union, Inc.	\$600	\$600	\$600	\$600	\$600	\$3,000
New York Common Pantry, Inc.					\$285	\$285
New York Communities For Change, Inc.	\$2,552	\$1,055	\$1,460	\$8,403	\$2,890	\$16,359
New York Farm Bureau, Inc.					\$692	\$692
New York Restoration Project (NYRP)				\$6,000		\$6,000
New York Road Runners, Inc.	\$17					\$17
New York State Laborers-Employers Cooperation and Education Trust		\$301		\$3,260		\$3,561
New York State Vapor Association, Inc.		\$5,433	\$11,750			\$17,183
Nonprofit Coordinating Committee of New York, Inc.		\$55				\$55
Nonprofit New York			\$1,109	\$36	\$358	\$1,503
Nordic Capital X Limited on behalf of Nordic Capital X, L.P.			\$450			\$450
Nordic Capital XI Limited on behalf of Nordic Capital XI, L.P.				\$425	\$625	\$1,050
North Star Fund Inc. for the benefit of Communities United for Police Reform					\$1,766	\$1,766
NYC NOWC, INC.		\$141	\$1,536	\$1,238	\$59	\$2,974
OpenPlans, Inc.					\$2,120	\$2,120
P.S. 1 Contemporary Art Center, Inc.				\$278		\$278
People for the Ethical Treatment of Animals, Inc.	\$56	\$855	\$1		\$1,130	\$2,042
Phipps Houses	\$150	\$150	\$150	\$150	\$150	\$750
PIMCO LLC	\$149	\$1,370	\$969	\$338		\$2,827
Planned Parenthood of Greater New York, Inc.				\$436		\$436
Planned Parenthood Of New York City, Inc.		\$14				\$14
Primary Care Development Corporation	\$150	\$169	\$171	\$177	\$174	\$841
Professional Staff Congress/CUNY, AFT Local 2334					\$4,500	\$4,500
Prospect Park Alliance, Inc.	\$6,600					\$6,600

**Reinvent Albany Analysis:
NYC Lobbying Clients Spending Less than \$10,000 on Average and
Not Hiring Outside Lobbyists, 2018-2022 (data linked [here](#))**

Client Name	2018	2019	2020	2021	2022	Grand Total, 2018-22
Providence Strategic Growth Capital Partners L.L.C.				\$183		\$183
Queens Community House, Inc.					\$54	\$54
Reclaim New York Initiative, Inc.	\$1,849					\$1,849
Reinvent Albany					\$54	\$54
Retail, Wholesale and Department Store Union	\$98					\$98
Rudin Management Company, Inc.	\$394	\$386	\$21			\$801
SAS Institute Inc.				\$2,665	\$1,570	\$4,235
Schroder Investment Management North America Inc		\$380				\$380
Selfhelp Community Services, Inc.			\$465	\$247		\$712
Skinny Labs Inc.		\$185				\$185
Supportive Housing Network of New York, Inc.		\$4,713	\$3,444	\$8,084	\$3,542	\$19,783
TCG Securities, L.L.C.	\$355					\$355
The Alliance for a Greater New York, Inc.	\$221					\$221
The Bronx Defenders					\$232	\$232
The Carnegie Hall Corporation				\$693	\$350	\$1,043
The Historic Districts Council Inc.	\$250					\$250
The Museum of Modern Art	\$4,698	\$15,876	\$5,000		\$14,855	\$40,429
The New York Botanical Garden	\$4,170	\$4,170	\$3,475	\$4,170	\$4,170	\$20,155
The Partnership for New York City, Inc.	\$727	\$2,024	\$969	\$784	\$1,328	\$5,832
The Partnership for the Homeless, Inc.				\$100		\$100
The Queens Borough Public Library	\$9,717	\$5,947	\$9,912	\$10,113	\$10,618	\$46,306
Theatre of the Oppressed NYC, Inc.	\$2,423	\$750				\$3,173
Thoma Bravo, LLC	\$231					\$231
Tides Advocacy		\$96				\$96
Torchlight Investors, LLC					\$40	\$40
Uber Technologies, Inc. on behalf of Social Bicycles LLC		\$4,021				\$4,021
United Neighborhood Houses of New York, Inc.	\$12,904	\$7,306				\$20,211

**Reinvent Albany Analysis:
 NYC Lobbying Clients Spending Less than \$10,000 on Average and
 Not Hiring Outside Lobbyists, 2018-2022 (data linked [here](#))**

Client Name	2018	2019	2020	2021	2022	Grand Total, 2018-22
Varde Partners, Inc.	\$238	\$222	\$210	\$252	\$244	\$1,167
Visiting Nurse Service of New York		\$1,763	\$603		\$10,400	\$12,766
Vista Equity Partners Management, LLC	\$1,478			\$5,491	\$27,252	\$34,221
West Harlem Environmental Action, Inc.				\$1,385		\$1,385
Westbeth Corp. Housing Development Fund Co, Inc.				\$2,876	\$276	\$3,151
White Oak Global Advisors, LLC	\$48					\$48
Wildlife Conservation Society	\$16,702	\$4,534	\$7,656	\$5,319	\$7,593	\$41,804
Yaffed, Inc.		\$170				\$170
Zagster, Inc.	\$91					\$91



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony before the City Council Committee on Governmental Operations,
State & Federal Legislation
City Hall – April 19, 2024

Oversight Hearing: New York City Lobbying Laws and Reform
Intro 76-2024, Intro 77-2024, Intro 742-2024

Good morning, members of the New York City Council Committee on Governmental Operations. My name is Ben Weinberg, and I am the Director of Public Policy at Citizens Union. Citizens Union is a nonpartisan good government group, working to combat corruption, fight for political reform, and ensure fair and open elections.

We appreciate the opportunity to provide comments today, and we commend Chair Lincoln Restler for holding an oversight hearing dedicated solely to the city’s lobbying laws, a first in many years in this Council. Citizens Union played a pivotal role in previous rounds of lobbying reforms, including landmark legislation passed in 2006 (Local Laws 15, 16, and 17 of 2006) and the work of the 2011 City Lobbying Commission, which culminated in disclosure and transparency improvements (Local Law 129 of 2013).

More than a decade has passed since those last revisions, and it is certainly time for a review of the city’s lobbying system. We note that in 2013, the Council mandated that a new lobbying commission be established in 2016 or 2017, and that requirement is still part of city law (Ad. code §3-212(g)).

Our testimony will focus on the involvement of lobbyists and lobbying firms in political campaigns, contributions to campaigns, and their disclosures. We include comments on the three bills before the Committee today.

SUMMARY OF RECOMMENDATIONS

- Pass Intro 742-2024, which would restrict lobbyists who served as political consultants or fundraised for campaigns from lobbying their former clients.
 - o We ask that the bill be amended to ensure lobbying firms do not avoid compliance by setting up new divisions and affiliated LLCs,
 - o and to apply the lobbying restriction to appointees and staff of former clients.

- Improve transparency of lobbyists’ fundraising and political consulting activities reporting.
 - o The City Clerk should release fundraising and political consulting disclosures on NYCOpenData, include aggregated analysis pulled from those disclosures in the Lobbying Bureau’s annual reports, and provide more details on its enforcement and investigations into compliance with political consulting and fundraising disclosure.
- Introduce and pass legislation that would ban donation bundling by lobbyists and individuals on the Doing Business Database.
- Amend Intro 77-2024 to exclude public servants on the policymaker list and members of boards and commissions from the proposed post-employment restriction on any city agency.
 - o We support expanding the post-employment restriction on any agency for policymakers at the Mayor’s Office and the City Council and for other high-ranking government officials with broad, inter-agency powers.
 - o We support extending the post-employment restrictions for officials at the Mayor’s Office for two years, in line with rules for employees at the Executive Chamber.

RECOMMENDATIONS IN DEPTH

Watchdogs, scholars, and ethics regulators have long been concerned about the perceived or actual undue influence lobbying firms have on the political process. The involvement of lobbyists in campaigns – by supporting candidates financially or professionally - carries the risk of triggering reciprocal favors by a candidate once they become officeholders.

Cognizant of that danger, City lawmakers have restricted the participation of lobbyists in campaigns in several ways: lowered the donation limits for lobbyists who contribute to candidates, made these donations ineligible for public matching funds, made donations bundled by lobbyists ineligible for public matching funds, and required that lobbyists disclose their fundraising and campaign activity.

However, legal loopholes still allow lobbyists, particularly large lobbying firms, to exert improper and unfair influence on elected officials due to their involvement in political campaigns. The following recommendations would help to close those loopholes.

INTRO 742-2024: LIMITS CAMPAIGN CONSULTANTS FROM LOBBYING THEIR FORMER CLIENTS

Summary of bill

Under proposed Intro 742-2024, certain persons and organizations who provided paid political advice for candidates or solicited or collected contributions for candidates would be banned from lobbying those candidates for one year after they were elected to city office.

The restriction would apply to: people who engaged in fundraising or political consulting themselves, divisions in firms that engage in fundraising or political consulting, the employees of those divisions, officers and employees of people who engage in fundraising or political consulting on behalf of firms, and the spouses or domestic partner and unemancipated children of all of the above. The restriction

would only apply if the fundraising or political consulting Services occurred within the two years before the election.

The bill also requires the Campaign Finance Board to provide notice of the new restrictions and sets penalties for violations.

Statement of support

Citizens Union supports Intro 742-2024 (Brewer), which would create a cooling-off period for lobbyists who served as political consultants for campaigns or who fundraised for campaigns.

As anyone who has worked on a campaign knows, the bonds forged in the heat of competition for office can be quite strong. Campaign advisors, managers, consultants, and fundraisers are essential for a campaign's success. Lobbyists who serve political campaigns leverage these bonds to advance their clients, who seek business before city government. Their support of the candidate's election potentially creates a predisposition on the part of the elected officeholder to reciprocate by giving special access or even taking official actions. They are at a much greater advantage to achieve their policy goals than the average constituent of an elected official who seeks to have their voice heard.

Due to that inherent conflict of interests, since 2007, lobbyists and lobbying firms have been required to disclose information about their political consulting and fundraising activities to the City Clerk in a periodic report that details the individuals providing these services, the candidates receiving such services, the charges for the services, and the amount of money raised for each candidate.

Disclosure was a necessary first step. Yet, this 17-year-old legal arrangement has not reduced the number of dual-service firms that support campaigns and lobby city government.

Our analysis of campaign finance and lobbying databases finds that **of the top 50 companies earning the most money for campaign consulting and professional services in the 2021 election cycle, 12 (24%) were lobbyists.**¹ This is a higher rate of dual-service firms in an election than had existed only a few years after the disclosure law was passed.²

This practice is especially beneficial for large lobbying firms, which can provide services to multiple campaigns while representing numerous clients with business before City Hall. For example,

- Pitta LLP provided campaign consulting services to five different campaigns, including winning candidates for mayor, borough president, and the city council, earning a total of \$795,694 in the 2021 election. In the two years following that election, Pitta Bishop & Del Giorno lobbied the City on behalf of more than 120 clients, including before the same elected officials it consulted as candidates, and their appointees. In the process, it made over \$12.7 million from lobbying.
- The Parkside Group provided services to 10 different campaigns in the 2021 election. This was a boon for its lobbying business: though Parkside was not one of the top ten lobbying firms in the

¹ They include: Red Horse Strategies, Mercury Public Affairs, Pitta LLP, HZQ Consulting, Connective Strategies, Greenberg Traurig, Stu Loeser & Co., The Advance Group, Millennial Strategies, Tusk Strategies, Distinctive Public Affairs, Thies & Grenell

² A 2011 Citizens Union report found that 11.5% of the companies earning over \$100,000 for campaign-related services in the 2009 election cycle were lobbyists. Citizens Union, Lobbying Reform Recommendations to the 2011 City Lobbying Commission, May 11, 2011.

years prior to that election, its list of clients grew right after, and it became one of the highest-earning lobbying firms in the city, making more than \$4.2 on lobbying in 2023.

- Most of the major mayoral candidates in the 2021 election received political consulting services from lobbyists or lobbying firms. Lobbying firms involved in mayoral campaigns included Pitta, Tusk Strategies, Greenberg Traurig, Global Strategy Group, Adams Advisors, and others.³ Other large firms, like Davidoff Hutcher & Citron, Cozen O'Connor, and CMW Strategies, organized fundraisers.⁴

The data indicates that disclosure laws have not curbed the problematic practice. As New York heads into another citywide election, it is critical that we move to limit the ability of firms and individuals to lobby the candidates they helped get elected. **New York City won't be the first jurisdiction to try and create a buffer between campaign and lobbying activities:**

- San Francisco forbids campaign consultants and their companies to lobby elected officials who are current clients or were clients in the five years prior, with some exceptions.
- Philadelphia prohibits lobbyists from serving as officers of campaign committees for city office candidates or for PACs controlled by such candidates.
- Alaska bars lobbyists from serving as campaign managers or treasures in campaign committees for statewide or state legislative offices.
- Maryland prohibits lobbyists from serving as treasurer for a candidate for statewide or legislative office, serving on their fundraising committee, or soliciting contributions for them.⁵

Comments on the bill

To strengthen this bill and ensure lobbying firms do not skirt the new restrictions, Citizens Union recommends:

- **Expand proposed lobbying restrictions beyond the campaign division of a lobbying firm**
Under the proposed definition of "person," lobbying restrictions would apply to the division of an organization that engages in fundraising or political consulting. Firms that use one division for lobbying and another for campaign services would not be affected, allowing them to skirt the goal of this policy. Citizens Union recommends including in the definition of "person" the entire organization, if it engages in campaign consulting or fundraising, instead of only a division.
- **Ensure affiliated companies are also restricted from lobbying former clients**
Some lobbying firms provide campaign services under a different LLC, allowing them to legally separate the two activities, even if both companies share personnel and space. The bill should be amended to ensure lobbying restrictions apply to other entities where the campaign consultant/fundraiser is a principal. The Lobbying Law (§ 3-216.1) currently requires fundraising

³ See also, Gotham Gazette, Consultants, Advisors and Staff: Who's Running the Democratic Mayoral Campaigns. May 26, 2021. <https://www.gothamgazette.com/city/10486-consultants-advisors-staff-who-is-running-mayoral-candidate-campaigns>

⁴ NY1, Lobbyists fundraise for Adams 2021 campaign, MAY. 24, 2023 <https://ny1.com/nyc/all-boroughs/politics/2023/05/24/exclusive--lobbyists-fundraise-for-adams-2021-campaign>

⁵ San Francisco Campaign and Gov't Conduct Code, Article II, Chapter 1, [§ 2.117](#); Philadelphia Code [§ 20-1205 \(2\)](#); AK Stat [§ 24.45.121\(a\)\(8\)](#) (2023); MD. General Provisions Code [§ 5-715\(d\)](#) (2022)

and political consulting activities to be reported “whether they are conducted directly by the lobbyist, or through any other entity of which such lobbyist is a principal.”

- **Expand lobbying restrictions to appointees and staff of the elected officials**

Proposed § 3-252 prohibits consultants and fundraisers from lobbying before their former clients once they are in office (“any such candidate or such public servant”), but still allows them to lobby the officeholder’s appointees or staff. However, when lobbying firms serve mayoral candidates, the risk of leveraging campaign relationships for their clients applies to much of the administration, not only the mayor. We recommend applying the lobbying prohibition to subordinates, staff members, or appointees of the former client (“any such candidate or such public servant”). In addition, broader restrictions – for example, limiting lobbying before all the executive branch - can be tailored to persons who provided services to a mayoral campaign.

REPORTING OF LOBBYIST’S POLITICAL ACTIVITIES AND FUNDRAISERS BY THE CITY CLERK

Implementing Intro 742-2024 would be easier if the transparency of lobbying disclosures of fundraising and political activities would be improved. Although lobbyists are required to file a fundraising and political consulting report (“FRPCR”) with the City Clerk’s Lobbying Bureau, those reports are not easily accessible. They are uploaded as PDF files attached to a lobbyist’s periodical filing and are not searchable in the e-lobbyist online database. That information is thus under-utilized by the press and watchdogs, making it harder to identify patterns, violations, or needed improvements.

Fundraising and political consulting disclosures should be released on NYCOpenData and updated regularly. We are encouraged to see that it has been included in the latest Open Data Plan and is scheduled to be published by the end of 2024.

The Lobbying Bureau should also include information from the Fundraising and Political Consulting Reports in its annual reports. The Lobbying Bureau’s annual reports aggregate and analyze important data points pulled from lobbying filings, such as top lobbyists, clients, contracts, topics, and lobbying targets, allowing the public better to understand the lobbying industry in New York City. The same is not done with fundraising and political consulting filings data, except for a basic pie chart about the positions fundraised for. The Lobbying Bureau should publish an analysis of those filings, including the number of fundraisers held by lobbyists, the number of political consulting activities reported by lobbyists, the top lobbying firms per fundraising and political consulting, the aggregate amount raised in those activities, top political committees in fundraising and political consulting reports, and more.

The City Clerk should also provide more details on its enforcement and investigations into compliance with the political consulting and fundraising disclosure. Based on the Lobbying Bureau’s reports, its overall enforcement work is primarily confined to administering late fees, and conducting 45 audits a year. Very few civil penalties have been imposed - a total of \$10,000 in penalties since 2018 - and none have been related to political consulting and fundraising disclosure. The Clerk has never banned a lobbyist from lobbying for “knowing and willful” violations, although it has the power to do so (Ad. Code §3-223(a)). It is unclear whether the Clerk conducts proactive investigations and how many cases it refers to the DOI.

When compared to the political consulting activities reported by political campaigns, it is clear that very few disclosures of political consulting activities are filed by lobbyists. The City Clerk should provide the public with more details on its enforcement activities to find lobbyists who failed to report their political activities or filed incorrect information.

RECOMMENDATION: BAN DONATION BUNDLING BY LOBBYISTS AND INDIVIDUALS ON THE DOING BUSINESS DATABASE

Another way that lobbyists can lend support to candidates or officeholders is by providing financial means for their campaigns. To limit such cases of real or perceived pay-to-play, New York City severely restricts lobbyists and people with business ties to city government from donating money to candidates. Currently, individuals on the Doing Business with the City Database (DBD), including registered lobbyists, can contribute up to \$400 to a citywide candidate, \$320 to a candidate for borough president, and \$250 to City Council candidates. Those donations are not matched with public funds.

However, because of a loophole in city law, those individuals can still skirt their fundraising limit by "bundling" donations from other people and delivering the total amount collected to a candidate.

Citizens Union believes the law should be amended to forbid individuals on the DBD from acting as an "intermediary."

Bundlers, defined as "intermediaries" in the Campaign Finance Act, have raised \$1.4 million in the 2021 election, and almost half a million dollars in the 2023 City Council election. Over 400 people served as intermediaries in the 2021 election, many of them campaign supporters collecting small donations from their friends or associates.

However, a lobbyist's incentive to bundle donations together for elected officials who are in a position to benefit or hurt its clients creates a very real perception of interest-buying. By providing a large amount of money to campaigns, insiders can receive greater access to officeholders once elected.

That is why the American Bar Association recommends banning bundling by lobbyists⁶ and why the State of North Carolina and the City of San Francisco have implemented a similar ban.⁷

Data suggests that in New York City, individuals on the DBD constitute a small portion of intermediaries, but they bundle together larger donations and are responsible for collecting more money than other intermediaries.

While complete data on the number of lobbyists and people on the DBD who are intermediaries is not readily available, it can be deduced by comparing data collected by MOCS and the CFB. Because names are not standardized throughout different databases, aggregated numbers are only an assessment.

A Citizens Union analysis found that of the 414 individual bundlers in the 2021 election, 23 (or 6%) were listed on the Doing Business Database, and they collected only about 2% of the total number of donations bundled in that cycle. Yet the average size of donation they collected (\$580) was more than

⁶ Lobbying Law in the Spotlight: Challenges and Proposed Improvements, Report of the Task Force on Federal Lobbying Laws Section of Administrative Law and Regulatory Practice American Bar Association, January 3, 2011. Accessed through https://campaignlegal.org/sites/default/files/ABA_Task_Force_Reprt_-_Lobbying_Law_in_the_Spotlight_-_Challenges_and_Proposed_Improvements.pdf

⁷ NC Gen Stat [§ 163-278.13C](#) (2022); San Francisco Campaign and Gov't Conduct Code [§ 2.115](#)

double, on average, that of other intermediaries (\$260), and together, they were responsible for about 9% of all money bundled that election.

For example, a president of a company with contracts before the city, whose donation limit was set at \$400, bundled \$45,700 for a mayoral candidate. A registered lobbyist from Queens who represents several real-estate companies and could legally give only up to \$250 for a City Council candidate managed to bundle over \$13,000 in donations for the reelection campaign of Chair of the Land Use Committee. Several top lobbyists bundled for multiple candidates. Lobbyists affiliated with Constantinople & Vallone Consulting, among the largest lobbying firms in New York City, bundled more than \$40,000 total in that election.

Because the 2023 election attracted fewer individual small donations and received less public interest, the share of lobbyists and DBD individuals among bundlers was larger. Citizens Union analysis found that about 10% of intermediaries were on the DBD, collectively raising about 14% of the total money bundled in that election. **In fact, 9 of the 10 bundlers who collected the most money in the last city election were either lobbying firms, their employees, or officials in companies doing business with the city.**

This clear loophole of the city's campaign finance and lobbying laws should be closed before the 2025 election gets closer. Allowing people on the Doing Business Database to use this loophole undermines the goals of our pay-to-play system.

INTRO 76-2024 AND INTRO 77-2024: EXPANDING POST-EMPLOYMENT RESTRICTIONS

Citizens Union is keenly aware of the revolving door problem in city government and has long supported implementing certain restrictions on public employees after they leave government. In recent years, reports of high-ranking officials who left public service, went on to set up lobbying firms, and were able to represent clients before city government in apparent conflicts of interest, have exposed a problem with the city's post-employment restrictions.⁸ Citizens Union supports amending the City Charter to ensure government officials do not misuse their power and leverage after their public service to unfairly benefit private interests.

Intro 77-2024 (Restler) would extend the time former employees are forbidden from appearing before city agencies, expand the agencies former officials are forbidden to contact, and increase the number and types of city employees covered by the new restrictions. Intro 76-2024 (Restler) would expand and extend the post-employment restrictions for elected officials. It would require approval by voters.

Citizens Union comments on the bill

- We support the proposed extension of the post-employment restrictions for officials at the Mayor's Office for two years, which would bring it in line with the restrictions on officials at the Governor's Executive Chamber.

⁸ PoliticoNY, Adams' chief of staff to launch global consulting firm, January 4, 2023. <https://www.politico.com/news/2023/01/04/adams-chief-of-staff-to-launch-global-consulting-firm-00076436>; The New York Post, Corey Johnson looking into government relations consulting, December 18, 2021 <https://nypost.com/2021/12/18/corey-johnson-looking-into-government-relations-consulting/>

- We support the proposed expansion of post-employment restrictions on any city agency for public servants on the policymaker list at the Mayor's Office and the City Council and for other high-ranking government officials with broad, inter-agency powers. Those officials impact policies in different parts of city government, and their influence reaches beyond their own agency. Most media reports on this issue in recent years have stemmed from the post-employment activities of these top officials.
- We do not support the proposed expansion of the post-employment restrictions to cover any city agency for all public servants on the policymakers list and all paid members of boards or commissions, and we ask the Council to exclude them from the bill. Citizens Union believes that applying citywide restrictions to such a large group of people – between 2500 and 3000 public servants – would be too prohibitive in cases that do not necessarily rise to the level of conflicts of interest. Most people on the policymaker list work primarily within their own agency, and are covered by other lifetime restrictions that apply to all city employees (related to working on particular matters and disclosing confidential information). We are concerned this restriction could have an adverse effect on the city's ability to recruit and maintain personnel, at a time when city government is struggling with understaffing and filling positions. Similarly, we fear this change would discourage people from joining boards and commissions, where members are often professionals who work in their industry and whose occupation sometimes depends on communicating with city government. We note that board and commission members who are not considered full public servants are not restricted from appearing before any agency of city government while they serve on a commission or board.

Thank you for giving us the opportunity to address you today.

For further information, please contact Ben Weinberg, Director of Public Policy, at bweinberg@citizensunion.org.

APPENDIX: TOP 50 COMPANIES EARNING THE MOST MONEY FOR CAMPAIGN CONSULTING AND PROFESSIONAL SERVICES IN THE 2021 ELECTION CYCLE

Company	Income from political consulting and professional services	Income from all services provided to campaigns	Company lobbying City Government?
Red Horse Strategies	2,357,712	7,444,268	Lobbyist
Mercury Public Affairs	1,817,210	1,817,210	Lobbyist
Assemble	1,562,352	2,105,531	
AKPD	1,555,647	3,463,573	
Left Hook Strategy	1,324,050	4,354,951	
Dunton Consulting	973,444	1,034,944	
Van Ness Creative Strategies L	949,305	949,305	
North Shore Strategies LLC	877,058	2,334,996	
The Strategy Division	873,129	1,332,817	
Pitta LLP	758,747	796,932	Lobbyist
Win Creative LLC	641,461	3,233,943	
Trip Yang Strategies LLC	620,576	1,128,862	
Deliver Strategies	493,418	857,093	
Van Ness Creative Strategies	484,949	817,139	
HZQ Consulting	462,660	508,300	Lobbyist
Conscious Voter	445,936	468,198	
MAURIELLO ENTERPRISES	433,420	461,065	
Connective Strategies	430,218	480,644	Lobbyist
Change Media Group	425,140	1,337,955	
Hamilton Campaign Network	416,654	500,464	
Tulchin Research	372,060	615,090	
Putnam Partners, LLC	347,239	346,652	
Greenberg Traurig	327,438	343,070	Lobbyist
Main Street Communications, LL	310,000	310,000	
Stu Loeser & Co.	308,333	356,625	Lobbyist
The Advance Group	304,304	750,952	Lobbyist
Millennial Strategies LLC	263,282	658,138	Lobbyist
Sole Strategies	259,312	459,836	
New Blue Interactive LLC	256,971	252,371	
Tusk Strategies	250,568	254,304	Lobbyist
Renaissance Campaign Strategies	247,109	517,413	
Berger Hirschberg Strategies L	246,412	361,170	
Stones Phones	243,389	330,554	
In The Field Consulting	234,901	467,319	
Distinctive Public Affairs	217,344	220,056	Lobbyist

GPS Impact	206,944	4,309,168	
The Sexton Group	205,273	224,876	
Precision Strategies, LLC	204,594	849,991	
Brilliant Corners Research	202,200	202,200	
Do Big Things, LLC	200,000	620,000	
Build the Wave NY LLC	193,157	209,157	
Caplin & Drysdale	189,633	177,937	
Momentum Strategic Campaigns	188,685	194,835	
Millennial Strategies	184,641	420,317	
Chism Strategies	182,275	193,275	
Thies & Grenell, LLC	180,000	180,000	Lobbyist
Prcision LLC	176,950	221,450	
New Deal Strategies	174,232	282,295	
64 Squares Strategy Group	168,527	205,686	
Digital 99 LLC	165,394	165,394	

**WRITTEN TESTIMONY OF SUSAN LERNER
EXECUTIVE DIRECTOR, COMMON CAUSE NEW YORK**

**Before the
NEW YORK CITY COUNCIL COMMITTEE ON GOVERNMENTAL
OPERATIONS, STATE & FEDERAL LEGISLATION**

April 19, 2024

Thank you for the opportunity to testify today. Common Cause is a national nonpartisan, nonprofit organization founded to serve as a vehicle for citizens to make their voices heard in the political process. We fight to strengthen public participation and faith in our institutions of self-government, working towards a government that serves all the people. For more than 50 years, our organization has been involved in advocating for government accountability and transparency, as well as fighting the corrosive influence of money in politics. We have helped to craft and pass measures regulating lobbying across the country and in Congress. Our New York chapter is one of the largest and most active in the nation. Here in New York, we have been advocates for lobbying regulation and disclosure. We work closely with the state agencies which track lobbying and often advocate for improved and clearer lobbying disclosures. We have analyzed lobbying expenditures and practices, issued reports, and made recommendations for strengthening, improving, and clarifying lobbying disclosures. Accordingly, we are pleased to testify in strong support of the three measures before you today, Int. 76, 77 and 742.

As Zephyr Teachout has ably traced in her book, *Corruption in America: From Benjamin Franklin's Snuff Box to Citizens United*, Harvard University Press 2014, our country has had a fraught relationship with lobbying. For many decades, paid lobbying was regarded as illegal influence peddling. Most recently, lobbying has been regulated because, as the U.S. Congress has stated, “responsible representative Government requires public awareness of the efforts of paid [lobbyists](#) to influence the public decision making process in both the legislative and executive branches...” ([Pub. L. 104-65, § 2](#), Dec. 19, 1995, 109 Stat. 691). Disclosure of lobbying efforts is required to “increase public confidence in the integrity of Government.” *Id.* Even in an era where lobbying is required to be disclosed, the continued public skepticism about the influence of lobbying is perhaps well captured in the title of an article from the University of Texas at Austin’s Center for Media Engagement: “Political Speech or Legalized Bribery? The Ethical Concerns Surrounding Lobbying Practices.”

In this context, the changes to New York City’s Lobbying Law contained in the three measures before you today are most welcome. Int. 76’s clarification and expansion of the existing 2 year “revolving

door” ban to cover “former elected officials” and prohibit lobbying any agency of city government rather than only the agency in which they served is a sensible measure. This measure correctly recognizes that the influence which an elected official wields goes far beyond the body or office in which they served and adjusts the law accordingly. The clarification and expansion provided by Int. 77 is similarly based on a realistic understanding of how influence works and adjusts our city law accordingly. Passage of these measures would provide a strong statement to New Yorkers that the city council recognizes their concern that the public interest and integrity be prioritized, not only while employed in City government, whether appointed or elected, but also after leaving public service. And, we note, increasing the ban from one to two years echoes New York State’s two year revolving door ban.

For more than 10 years, I personally have been concerned with, and have spoken and written about, the potential for undue influence which the increasing confluence of political campaign consultants and lobbying activities in the same firm provides. The relationship between a candidate and their political and fundraising consultants is unique and personal. By definition it is one that engenders trust by the candidate in the opinion of the consultant and, if elected, gratitude. This relationship, by definition, provides the campaign or fundraising consultant who then seeks to lobby, or to introduce their firm to lobby, the elected official with unusual influence. Where previously consultants more frequently followed their candidate client into public service, where the requirement that they act in the public interest was express, or moved on to manage another campaign, now we see firms encompassing campaign and fundraising services seeking to cash in on their unique relationship through expanding or merging into lobbying. Where we know there is ongoing public cynicism about lobbying in general, lobbying by individuals and their firms with such a close personal connection threatens the public’s perception of the integrity of elected officials and their government.

Int. 742 is a carefully considered response to this challenge. We welcome its introduction and enthusiastically support its passage into law.





NEW YORK PUBLIC INTEREST RESEARCH GROUP

**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE
NEW YORK CITY COUNCIL COMMITTEE ON
GOVERNMENTAL OPERATIONS, STATE
& FEDERAL LEGISLATION
REGARDING THE
NEW YORK CITY LOBBYING LAWS AND REFORM
April 19, 2024
New York, New York**

Good afternoon. My name is Blair Horner, and I am the Executive Director of the New York Public Interest Research Group (NYPIRG). NYPIRG is a non-partisan, not-for-profit, research and advocacy organization. Consumer protection, environmental preservation, health care, higher education, and governmental reforms are our principal areas of concern. We appreciate the opportunity to testify on the proposals to strengthen oversight of the lobbying industry that impacts New York City government.

To summarize our comments, NYPIRG supports the measures that are under consideration by the committee. New York City has been the state’s leader in tackling conflict of interest issues and this package will boost public participation in the City and help advance the reform agenda in Albany. While the City has been a leader, the growth of state lobbying and ethics regulations has become deeply entwined with that of the City. As a result, New York has two parallel systems, similar but different. Those differences can lead to confusion and may, unintentionally, create obstacles to policy participation by those who simply cannot handle compliance requirements that are complex at both the state and City levels, but are also different. Those voices can be silenced by these two systems.

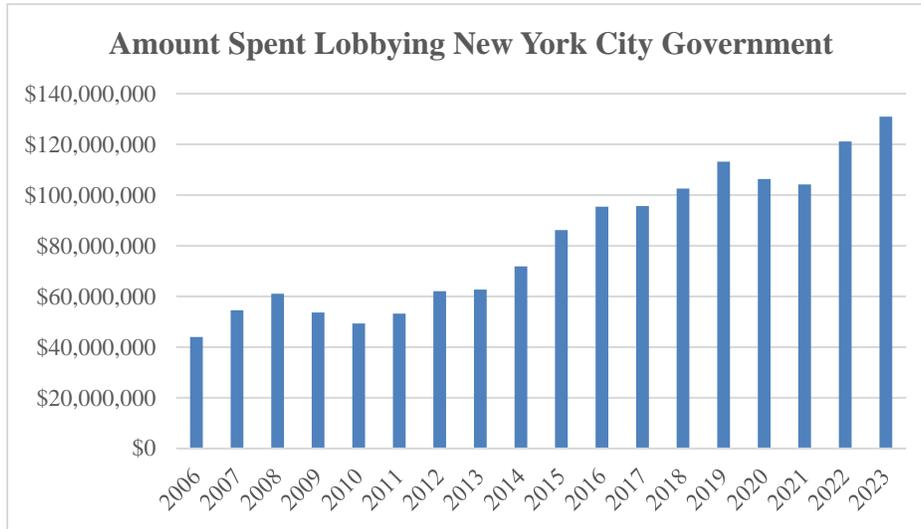
Our observations are not, however, a call for city policymakers to weaken standards in order to mirror the state. State law should be viewed as a “floor” not a policy “ceiling,” and City policymakers should continue to innovate in order to help the evolution of ethics and lobbying oversight.

The fight against conflicts of interest and the monitoring of powerful special interests has been a long slow slog, one that unfolded over generations—and of course it still isn’t over. After all, democracy itself is a work in progress. That in itself is an important observation, because sometimes people can become cynical or fatalistic about the corruption problem, and think that there’s nothing that can be done, and can conclude too quickly that this or that reform has been ineffective.

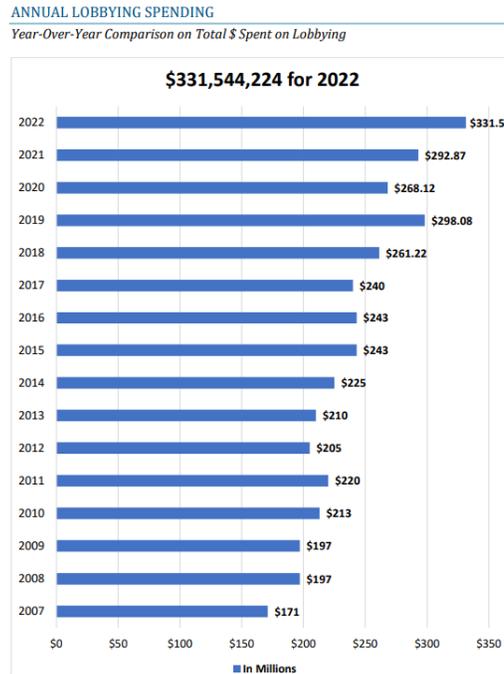
Your measures to curb the “revolving” door between public service and lobbying are important and deserve support. Approval will meet the policy “floor” standard set by the state and then raise the ante. Given the enormous amount of money that is spent on lobbying and the lucrative nature of the paid advocacy, it is critically important that those in public service are restrained in their ability to “cash in” when they leave to join the public sector.

Before we comment on the specific legislation, this testimony will highlight just how much money is in play.

As you undoubtedly know, lobbying is a big business. An industry that has shown staggering growth over time. As seen below, the amount of money spending on lobbying¹ has increased dramatically and at a rate far greater than inflation.²



The staggering growth of New York City’s lobbying industry is consistent with what has been seen in Albany. According to the most recent state data, a similar jump has been seen statewide.³



¹ Annual reports from the New York City Clerk.

² U.S. Bureau of Labor Statistics, CPI Inflation Calculator, <https://data.bls.gov/cgi-bin/cpicalc.pl?cost1=44%2C019.00&year1=200601&year2=202301>. A simple inflation increase would have lobbying spending in New York City at roughly half of what it is today.

³ New York State Commission on Ethics and Lobbying in Government, “Annual Report, 2022” <https://ethics.ny.gov/system/files/documents/2023/08/final-2022-coelig-annual-report.pdf>.

In both the city and the state, lobbying spending has not only grown dramatically, but it has also become concentrated. According to our review of the City Clerk’s annual reports, *the city’s top ten lobbying firms account for far more than half of all reported lobbying spending.*

The City has had its own lobbying reporting law since 1972. That law required regular reporting by lobbyists to the City Clerk’s office. The current lobbying reporting and oversight paradigm is largely the result of changes made in 2006.⁴ Those changes occurred at more or less the same time as Albany was grappling with changes to its lobbying law, which, in turn, were the result of lessons learned from a scandal triggered by the tobacco industry’s efforts to block public health legislation. Prior to those changes, in 2001, the state enacted legislation to require that money spent to lobby local government (including New York City) be reported to the state ethics agency responsible for monitoring the lobbying industry.⁵

Today, those seeking to advocate before state government and city government are faced with two systems, similar but different, and which can lead to serious consequences if mistakes are made.

Measures to curb the lobbying “revolving door.”

“I seen my opportunities and I took ‘em.”
George Washington Plunkitt⁶

New York State law: Public Officers Law § 73(8)(a) contains two types of post-employment restrictions: a “two-year bar” and a “lifetime bar.”

The purpose of the post-employment restrictions (“revolving door prohibitions”) is to prevent a public official from using the knowledge, experience, and professional contacts gained throughout their career in public service to benefit someone, thereby securing unwarranted privileges, consideration, or action.

What the state law says:

“No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.” Public Officers Law §73(8)(a)(i)

As part of the 2007 Public Employee Ethics Reform Act, the two-year bar for former Executive Chamber employees was significantly expanded. Any officer or employee of the Executive Chamber is prohibited from “appearing or practicing” before any State agency for a period of two years.

“No person who has served as a State officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any State agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.” Personal

⁴ Office of the City Clerk, Clerk of the Council, “Special Report The New Lobbying Bureau at One Year,” January 17, 2008, <https://www.cityclerk.nyc.gov/assets/cityclerk/downloads/pdf/Anniversary.pdf>.

⁵ Levy, C., “Charities Fight Rule on Local Lobbying,” The New York Times, March 12, 2001, <https://www.nytimes.com/2001/03/12/nyregion/charities-fight-rule-on-local-lobbying.html>.

⁶ “Plunkitt, Champion of ‘Honest Graft,’ Old-Time Tammany Leader Saw His Opportunities and Took Them,” The New York Times, November 23, 1924.

participation and direct concern in a specific case requires more than an awareness of or informal conversation concerning the circumstances.

“When a man assumes a public trust, he should consider himself as public property.”
Thomas Jefferson⁷

NYPIRG supports Int. No. 76, which would bar former elected officials from lobbying any agency for two years after their termination from city service. Current law applies to a specific list of public officials and places lobbying limitations before certain agencies. This bill makes it clear that former elected officials are banned from any lobbying for two years.

NYPIRG supports Int. No. 77, which would bar certain former public servants for a period of *one* year after termination of their service with the city, appear before *any* city agency. In addition, these public servants are barred for two years after termination of their service with the city from appearing before the city agency they served. Covered officials would be those who had “substantial policy discretion” within their agency.

The proposal appropriately sets a more stringent bar for those who operate at the highest levels of city government. The bill bars from lobbying *any* city agency for *two* years former agency heads and high-level employees of the Mayor’s Office, the City Council, or the Law Department.

The determination of whether that official had “substantial authority” is to be determined by the Conflicts of Interest Board.

NYPIRG supports LS 16188, which would amend the Lobbying Law to add “post-employment” type lobbying ban to individuals or organizations who have engaged in political consulting, including owners and employees of firms, from lobbying former clients who are public officials, for a period of 4 years after the end of the campaign.

Measure to curb “pay-to-play.”

NYPIRG supports LS 16185, which would amend the Campaign Finance Act to forbid individuals on the Doing Business with the City Database from acting as a campaign fundraising “intermediary.”

While lobbyists give large amounts of money directly from their bank accounts, they can deliver even more through “bundling” money on behalf of their clients. Participants in this practice multiply their political contributions and influence by aggregating checks written by members, clients, or associates. Other governments, notably New York City’s, require committees to disclose which of their donations were bundled and by whom.⁸ **Bundling is a key way in which lobby firms magnify their influence and ingratiate themselves to decision makers.** Lobbyists and others doing business with the City should not be able to magnify their influence by bundling donations. Moreover, the risks to the City’s campaign finance system and government integrity have proven too great too often to allow those with business before the City to act as fundraising intermediaries.

⁷ Cited in *Bartlett’s Quotations*. See www.bartleby.com/100/pages/page1051.html.

⁸ New York City Administrative Code Section 3-701 (12) defines bundlers as follows: “The term ‘intermediary’ shall mean an individual, corporation, partnership, political committee, employee organization or other entity which, (i) other than in the regular course of business as a postal, delivery or messenger service, delivers any contribution from another person or entity to a candidate or authorized committee; or (ii) solicits contributions to a candidate or other authorized committee where such solicitation is known to such candidate or his or her authorized committee.”

Additional NYPIRG recommendation.

As mentioned earlier, the requirements by the state and city lobbying laws are similar, but different. Penalties for errors, can be significant. This sophisticated enforcement structure, coupled with a more expansive definition of lobbying and reporting requirements, has an impact of smaller entities seeking to impact policymaking. As a result, nonprofits today spend more time and resources producing lobby reports. Commenting on the current state system, the organization “Nonprofit New York” said: “This effectively takes the voices of organizations often closest to communities out of the legislative process in New York.”⁹ Thus, New York’s system can have a *chilling effect* on these entities’ constitutional right to petition the government. This cuts against the laudable City policies that encourage and invite constituents into the public decision making process.

There should be no doubt that adding the city regulations on top of the state’s can only worsen that chill.

NYPIRG urges that this committee initiate direct discussions with their state counterparts to review the state and city laws, develop materials to help the advocacy community meet compliance standards, and propose measures to “harmonize” those laws.

Both city and state regulators review each other filings to identify organizations that report lobbying on city issues and yet do not report to the state or vice versa. Of course, that situation can exist given the differences in lobbying definitions. However, not only would the development of a standard approach to lobbying help those currently involved in such advocacy, but it may bring “off the sidelines” entities that are too cautious and thus whose voices are currently not heard.

Lobbying has the potential to contribute to the democratic process and provide decision makers directly with valuable insights and data. However, without transparency and integrity, it can be used to steer public policies away from the public interest – particularly if a small group of powerful interests use their wealth, power or advantages towards unfair advantages.

Citizens’ trust in government provides the foundation for good governance and effective policy-making. This is especially true in the current post-crisis context in which structural reforms involve difficult choices, and where the confidence of citizens and markets is critical for fostering economic and social development. However, public opinion surveys suggest that trust in government is waning. This is at least partly due to the perception that policy decisions are driven by private interests at the expense of the public good.

We urge your support for the measures under consideration. We urge that you also take steps to get state and city lobbying requirements to match.

Thank you.

⁹ Nonprofit New York, “A Place at the Table Policy Brief: New York State’s Lobbying Act,” May 9, 2022.



April 19, 2024

Testimony of Lawyers Alliance for New York Before the New York City Council Committee on
Governmental Operations

by

Laura Abel, Senior Policy Counsel

On behalf of Lawyers Alliance for New York, I respectfully submit this testimony to urge the City Council to simplify lobbyist reporting obligations for nonprofits that do a small amount of lobbying on their own behalf.

Lawyers Alliance is the leading provider of business and transactional legal services to nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our clients are, in large part, smaller and community-based organizations working in low-income neighborhoods without the resources to afford paid counsel to assist them with legal compliance or staffing to comply with extensive lobbying regulation.

I spend much of my time helping these organizations comply with federal tax law and with the federal, state and city reporting requirements regarding disclosure of lobbying activity. They are astounded to learn that they may be required to file at least 14 reports a year (8 to the state, 6 to the city), plus registrations and assorted other reports, even if their only lobbying activity consists of using their own employees to seek discretionary funding, or to urge the City Council to fund the basic services their community needs. This is a heavy tax on constitutionally protected speech, and it is unaffordable for small nonprofits with no administrative staff.

Alot of this reporting is completely redundant. Virtually all city lobbying is also reported to the state, and the discretionary funding tracker indicates which elected official awarded which funding to which organization.

Local Law 129 of 2013 requires the City Clerk to simplify the reporting process for organizations using their own employees to lobby (known as lobbyist/client filers) and spending under \$10,000/year. The law allows these organizations to file just two periodic reports with the City, instead of the usual six. As far as I can tell, that change has never been implemented. It is more than time to make that change.

But the Council should go farther by exempting lobbyist/client filers from the obligation to register as lobbyists unless they spend at least \$10,000 annually. This is the threshold for architects and engineers, and it would still require 98% of lobbyist compensation to be reported. According to the 2024 Lobbying Bureau Annual Report, in 2023 total compensation for lobbyists and lobbyist/client filers was \$136 million. Only \$4.6 million of that amount was spent by lobbyist/client filers, and over

one-third of the \$4.6 million was spent by just ten organizations, all of which spent at least \$90,000. That leaves just \$3 million, or approximately 2%, spent by all other lobbyist/client filers.

Exempting those small filers from having to register and report would allow them to speak freely to city government, would still require most lobbyist compensation to be reported to the City, and would result in a very small loss of information even about the smallest spenders since most City lobbying is already reported to the State.

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I represent: Lawyers Alliance for NY

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