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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE GOVERNMENTAL AFFAIRS DIVISION

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COMMITTEE ON GOVERNMENTAL OPERATIONS
Hon. Fernando Cabrera, Chair

December 20, 2018

Proposed Int. 748-A: By Council Members Cabrera, Diaz, Yeger and Kallos

Title: A Local Law to amend the administrative code of the city of New York, in relation to certain taxi and limousine commission-related hearing procedures of the office of administrative trials and hearings

Administrative Code: Title 19, Chapter 9

Proposed Int. 1288-A: By Council Members Kallos, Powers, Constantinides, Brannan, Lander, Levin, Espinal, Holden, Cabrera, Lancman, Richards, Deutsch, Reynoso, Cornegy, Ampry-Samuel and Salamanca

Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the campaign finance laws to be in effect for covered elections held prior to the 2021 primary

Code: Amends Charter §1052 and §1152, and Admin. Code §3-709.5

INTRODUCTION

On December 20, 2018, the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, will hold a second hearing and vote on Proposed Int. No. 748-A, sponsored by Council Member Fernando Cabrera, in relation to certain taxi and limousine commission-related hearing procedures of the office of administrative trials and hearings; and Proposed Int. No. 1288-A, sponsored by Council Member Benjamin Kallos, in relation to the campaign finance laws to be in effect for covered elections held prior to the 2021 primary. The Committee first heard a prior version of Proposed Int. 748-A (Cabrera) on April 26, 2018 and a prior version of Proposed Int. 1288-A (Kallos) on December 12, 2018.

BACKGROUND

Office of Administrative Trials and Hearings

The Office of Administrative Trials and Hearings ('OATH') was originally established by an executive order in 1979, within the Department of Personnel to conduct administrative trials and hearings at the direction of the Mayor or upon the written request and delegation of the head of a City agency, typically for civil service disciplinary matters.[1] In 1988, as part of the Charter revision ballot question that enacted the City Administrative Procedure Act, OATH became a full agency with greater responsibility to act as a tribunal separate from the referring agencies.[2] In subsequent years, the number and variety of cases referred to OATH grew significantly. Through a series of executive orders, court rulings, and local laws, OATH's jurisdiction was expanded, with

[1] Executive Order 32 of 1979, available at: http://www.nyc.gov/html/records/pdf/executive_orders/1979EO032.PDF
[2] Report of the New York City Charter Revision Commission, 1986-1988, p. 33, available at: http://www.nyc.gov/html/charter/downloads/pdf/1986-1988_final_report.pdf

entire agency tribunals being transferred to the agency.[3] With the exception of the Parking Violations Bureau, all significant agency tribunals are now adjudicated by OATH.

OATH, as currently constituted, is directed by a Chief Administrative Law Judge, appointed by the Mayor, who in turn is empowered to appoint administrative law judges, for a term of five years each, removable only for cause after notice and opportunity for a hearing.[4] Cases referred to OATH are adjudicated in either Trials Division, which handles disciplinary hearings, city contracts disputes and vehicle forfeiture cases, or the Hearings Division, which handles enforcement-related summons cases, including Taxi and Limousine Commission summonses.[5] Under the current Chief Administrative Law Judge, Fidel Del Valle, the Hearings Division has been streamlined to manage cases under an integrated system with a unified hearing process wherein hearings officers are trained to hear summonses from any covered agency.

OATH has also tried to make hearings more accessible by offering remote hearings, by phone or online, and by offering mediation services.[6] The current Chief Administrative Law Judge has said that "OATH's function is to provide due process in cases that originate from the City's numerous enforcement agencies in a forum that is in fact and in appearance truly neutral and unbiased."[7]

Taxi and Limousine Commission

[3] See: Executive Order 148 of 2011, Executive Order 18 of 2016, *Krimstock v. Kelly*, 464 F.3d 246, 249 (2d Cir. 2006), the Community Justice Reform Act of 2016, and Local Law 35 of 2008
[4] NYC Charter §1048 and §1049(a)
[5] OATH Annual Report, 2015, p. 7-9, available at: http://www.nyc.gov/html/oath/downloads/pdf/news/OATHAnnualReport2015.pdf and NYC Preliminary Mayor's Management Report, 2017, p. 104-105, available at: http://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2017/oath.pdf
[6] OATH Annual Report, 2015, p. 13-14, 25-26, available at: http://www.nyc.gov/html/oath/downloads/pdf/news/OATHAnnualReport2015.pdf
[7] OATH Annual Report, 2015, p. 4, available at: http://www.nyc.gov/html/oath/downloads/pdf/news/OATHAnnualReport2015.pdf

Established in 1971, New York City's Taxi and Limousine Commission ('TLC') was created to license and regulate the City's yellow medallion taxicabs, for-hire vehicles (liveries, black cars and luxury limousines), commuter vans and 'paratransit vehicles.' The TLC licenses over 50,000 vehicles and another 100,000 drivers throughout the city, and conducts emissions inspections on yellow medallion taxis three times a year, and twice a year on for-hire vehicles. In addition to an unpaid board of nine members, the TLC has 600 employees across multiple divisions and bureaus. The TLC's Uniform Services Bureau is the enforcement arm of the commission, tasked with ensuring its licensees abide by related state and local laws and TLC rules. Enforced violations range from standard traffic laws such as adherence to seatbelt and speeding laws, and specific TLC rules like displaying a valid license and accepting street hails without the proper license (termed an 'illegal pick-up'). Since 2011, OATH has adjudicated TLC violation summonses.[8] In order to streamline the administration of cases and ensure that all defendants have access to counsel and a fair hearing, OATH has tried to implement alternatives to in-person hearings. These alternatives include the opportunity to "fight a summons online," by mail, by phone and video conference call.

Campaign Finance Board

Since 1988, New York City has had a comprehensive campaign financing system for candidates running for local office.[9] The system is run by the Campaign Finance Board ("CFB"), an independent, nonpartisan agency also created in 1988.[10] Commonly referred to as the "Campaign Finance Act" ("the CFA"), the legislation that effectuates this system, as amended

[8] OATH Taxi and Limousine Commission Rules, (2010), *available at* http://rules.cityofnewyork.us/content/oath-taxi-and-limousine-tribunal-rules-0 last accessed February 9, 2018.
[9] This system is laid out in Chapter 7 of Title 3 of the Administrative Code of the City of New York.
[10] New York City Charter §1052.

from time to time, provides candidates who choose to participate with public funds to help finance their campaigns. Specifically, eligible portions of matchable contributions are matched with a set multiple of public dollars.[11] Candidates choosing to participate in the program must abide by expenditure limits, and all candidates for local office must abide by contribution limits.[12] The intent of the CFA is "to reduce improper influence of local officers by large campaign contributions and to enhance public confidence in local government."[13] The CFA also has the benefit of, as the CFB puts it, "encourag[ing] participants to seek small contributions, and reach out to a greater number of their prospective constituents."[14]

The Mayoral Charter Revision Commission of 2018

Mayor De Blasio established a charter commission earlier this year which made the following campaign finance recommendations in order to reduce the influence of big dollars in New York City elections:

- Reduce contribution limits[15]
- Increase the public match to 8:1[16]
- Raise the cap on public funds disbursed[17]
- Increase dollars attributed to qualifying thresholds[18]

[11] New York City Administrative Code §3-705(2)(a).
[12] *See generally* New York City Administrative Code §3-706 and §3-703, respectively.
[13] New York City Local Law 8 of 1988, §1.
[14] "Why Should I Join?" New York City Campaign Finance Board website, *available at* http://www.nyccfb.info/candidates/candidates/whyJoin.aspx.
[15] NYC Mayoral Charter Revision Commission. (2018). *Abstracts: Questions #1: Campaign Finance*. Accessed at:https://www1.nyc.gov/assets/charter/downloads/pdf/2018_charter_revision_commission_abstracts_1_pdf.PDF
[16] *Id.*
[17] *Id.*
[18] *Id.*

- Disburse public funds earlier[19]

On the November 6, 2018, the New York City General Election ballot included a question asking voters to vote on the proposed campaign finance reforms described above. The ballot proposal passed with 80% of total recorded votes.[20] Under that ballot question, the proposed campaign finance reforms will be implemented for campaigns who choose to have the reforms applied for the 2021 election cycle. The reforms will apply broadly to all campaigns in the following election cycle, beginning in 2022.[21]

Analysis of Legislation

Proposed Int. No. 748-A

Proposed Int. No. 748-2018 (Cabrera) would establish certain hearing procedures for adjudications of TLC violations by OATH. The bill first defines relevant terms. Next, the bill requires TLC, as petitioner, to appear at violation hearings either in person, through an authorized representative, or through a remote appearance method, and the hearing would not be permitted to proceed without such an appearance. The bill also would permit respondents to appear by remote method, including the use of internet video, provided that such method permits the respondents identity to be verified.

The bill next provides administrative law judges and hearing officers with discretion to reduce violation penalties "in the interest of justice," by considering a series of enumerated factors, such as the seriousness of the violation, the extent of the harm, the weight of evidence, the character

[19] *Id.*
[20] New York City Board of Elections. (2018). *General Election Certified Results*. Accessed at: http://vote.nyc.ny.us/downloads/pdf/election_results/2018/20181106General%20Election/00050100000Citywide%20Campaign%20Finance%20Citywide%20Recap.pdf
[21] NYC Mayoral Charter Revision Commission. (2018). *Abstracts: Questions #1: Campaign Finance*. Accessed at: https://www1.nyc.gov/assets/charter/downloads/pdf/2018_charter_revision_commission_abstracts_1_pdf.PDF

of the respondent, the impact on the community of a reduction, and other similar factors. This reduction would be subject to TLC review. Since introduction, this provision was amended to remove certain violations, including those for refusing to pick up passengers or for trying to ascertain a passenger's destination in advance, from those that can be reduced.

The bill also requires the dismissal of substantively identical violations when the respondent has proof of such.

The bill further establishes requirements for timeliness of hearings. Respondents would have 90 minutes in which to appear and be considered timely, from which the petitioner would have 30 minutes in which to appear. Once both the respondent and petitioner are present, OATH would have three hours in which to hold the hearing, or else dismiss the violation.

The bill would take effect 180 days after it becomes law.

Proposed Int. No. 1288-A

Proposed Int. No. 1288-A (Kallos) would amend the New York city charter to apply changes instituted under Ballot Proposal Question #1, from the 2018 General Election, to all covered elections - special elections, primary, general and runoff elections - prior to the primary election in 2021. Participating candidates would thus have an option on whether to follow the system in effect prior to or after January 12, 2019, while non-participating candidates would follow the system in effect prior to January 12, 2019.

Participating candidates in covered elections prior to the primary in 2021 would be required to select between Option A (the contribution limit, matching formula, qualifying threshold, public funds cap and distribution schedule established by the ballot question) and Option B (the

contribution limit, matching formula, qualifying threshold, public funds cap and distribution schedule in effect prior to January 12, 2019).

Any participating candidate for a special election to be held in 2019 that files or filed a certification prior to January 12, 2019 without indicating a choice of either Option A or Option B would be required to file an amended certification with such information, no later than January 15, 2019.

For any special election in 2019, a candidate who elects Option A would be required to refund any portion of a contribution received prior to January 12, 2019 in excess of the contribution limitation applicable under such option. Additionally, any matchable contributions received for such a special election would be subject to the matching formula under the Option selected, regardless of the date such contribution was received.

Next, to account for unique properties of special elections, most importantly its compressed timeframe and reduced contribution limits, this bill would halve the qualifying threshold dollar amount that citywide candidates would need to raise in order to participate in the campaign finance program for a special election.

Finally, the threshold to qualify to participate in a debate for a special election would be lowered. Under this bill candidates would be required to have raised and spent an amount equal to or more than one and one-quarter percent of the expenditure limitation for the office they are seeking.

Since introduction, the bill was amended to clarify the term ‘eligible contribution,’ and as well as to make technical edits.

This local law would take effect immediately, provided that if this local law becomes law after January 2, 2019, it is retroactive to and deemed to have been in effect as of January 2, 2019.

Proposed Int. No. 748-A

By Council Members Cabrera, Diaz, Yeger and Kallos

A Local Law to amend the administrative code of the city of New York, in relation to certain taxi and limousine commission-related hearing procedures of the office of administrative trials and hearings

Be it enacted by the Council as follows:

Section 1. Title 19 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

CHAPTER 10

SPECIAL HEARING PROCEDURES APPLICABLE TO VIOLATIONS OF TAXI AND LIMOUSINE COMMISSION LAWS OR REGULATIONS

§ 19-1001 Definitions. For purposes of this chapter, the following terms have the following meanings:

Administrative law judge. The term "administrative law judge" means a person appointed by the chief administrative law judge of the office of administrative trials and hearings pursuant to section 1049 of the charter.

Appeals unit. The term "appeals unit" means the unit authorized under section 6-19 of title 48 of the rules of the city of New York to review administrative law judge and hearing officer decisions.

Commission. The term "commission" means the New York city taxi and limousine commission.

Hearing officer. The term "hearing officer" means a person designated by the chief administrative law judge of the office of administrative trials and hearings, or such judge's designee, to carry out the adjudicatory powers, duties and responsibilities of the tribunal.

Petitioner. The term "petitioner" means the city agency authorized to issue notices of violation returnable to the tribunal.

Respondent. The term "respondent" means the person against whom the charges alleged in a summons have been filed.

Summons. The term "summons" means the document, including a notice of violation,that specifies the charges forming the basis of an adjudicatory proceeding before the tribunal.

Tribunal. The term "tribunal" means the office of administrative trials and hearings hearings division, which includes the administrative tribunal referenced in section 19-506.1.

§ 19-1002 Appearances at commission-related hearings. a. At a hearing before the tribunal on a violation of a law or regulation enforced by the commission, the petitioner shall appear in one of the following ways:

1. In person;

2. By sending an authorized representative who is an attorney admitted to practice law in New York state or another authorized representative as the office of administrative trials and hearings permits by rule; or

3. When the tribunal offers the opportunity to do so, by remote methods as the office of administrative trials and hearings permits by rule.

b. Such hearing shall not proceed without the appearance of the petitioner.

c. The tribunal shall dismiss such violation if a petitioner fails to appear within thirty minutes of the timely appearance by the respondent or to make a timely request to reschedule pursuant to title 48 of the rules of the city of New York. The tribunal shall carry out such dismissal in accordance with its rules of practice, pursuant to title 48 of the rules of the city of New York.

d. At a hearing before the tribunal on a violation of a law or regulation enforced by the commission, the respondent may appear by remote methods, including the use of internet video, provided that any such method provides a visual image of the respondent sufficient to permit the respondent's identity to be verified. The office of administrative trials and hearings and the commission shall establish a process for the submission of evidence by respondents who choose to appear by a remote method.

§ 19-1003 Administrative law judge and hearing officer discretion to reduce commission penalties. a. If an administrative law judge or hearing officer finds a violation, except for a violation under section 19-507, such administrative law judge or hearing officer may, in the interest of justice, and upon the petition of the respondent, reduce the penalty for such violation set by the commission after determining that such reduction is appropriate because one or more compelling considerations or circumstances clearly demonstrates that imposing such penalty would constitute or result in injustice. In determining whether such compelling consideration or circumstance exists, the administrative law judge or hearing officer shall, to the extent applicable, consider, individually and collectively, the following factors:

1. The seriousness and circumstances of the violation;

2. The extent of harm caused by the violation;

3. The evidence supporting or refuting the violation charged, whether admissible or inadmissible at a hearing;

4. The history, character and condition of the respondent;

5. The effect of imposing upon the respondent the penalty set by the commission;

6. The impact of a penalty reduction on the safety or welfare of the community;

7. The impact of a penalty reduction on public confidence in the commission, the office of administrative trials and hearings and the implementation of laws by the city;

8. The position of the petitioner regarding the proposed fine reduction with reference to the specific circumstances of the respondent and the violation charged; and

9. Any other relevant fact indicating whether a decision to impose the penalty set by the commission on the respondent would serve a useful purpose.

b. Upon determining that a penalty for a violation set by the commission should be reduced, the administrative law judge or hearing officer shall set forth the amount and the reasons for such reduction in the record. Such reasons and determination shall be transmitted to the chairperson of the commission.

c. Within 20 business days of receipt of such reasons and determination, pursuant to subdivision b, the commission, or the chairperson of the commission acting pursuant to rules of the commission, may, in the commission or chairperson's discretion, remove such reduction if the commission or chairperson determines such a reduction would not be in the interests of justice, pursuant to the factors in subdivision a, or lower such reduction.

§ 19-1004 Administrative law judge and hearing officer dismissal of a duplicate notice of violation. a. An administrative law judge or hearing officer shall dismiss a notice of violation in relation to a hearing before the tribunal on a violation of a law or regulation enforced by the commission upon determining that such notice of violation is substantively identical to a violation received for the same act under commission rules or provisions of law other than commission rules, provided that such substantively identical violation has not already been dismissed by the relevant adjudicatory body.

b. In order for such administrative law judge or hearing officer to determine whether to dismiss such notice of violation, the respondent shall provide proof to such administrative law judge or hearing officer at such hearing in the form of summonses pertaining to the duplicate or substantively identical violations.

§ 19-1005 Commission-related hearing deadline. A respondent, or their representative, shall be considered to have made a timely appearance for a hearing provided they appear, whether in person or pursuant to subdivision (d) of section 19-1002, within 90 minutes of the scheduled time set forth in the summons. If a hearing does not begin within three hours of the timely appearance of both the respondent and the petitioner then the tribunal shall dismiss the notice of violation without prejudice.

§ 2. This local law takes effect 180 days after it becomes law, except that the office of administrative trials and hearings and the New York city taxi and limousine commission shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

JJ/BJR
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12/12/2018 8:08PM

Proposed Int. No. 1288-A

By Council Members Kallos, Powers, Constantinides, Brannan, Lander, Levin, Espinal, Holden, Cabrera, Lancman, Richards, Deutsch, Reynoso, Cornegy, Ampry-Samuel and Salamanca

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the campaign finance laws to be in effect for covered elections held prior to the 2021 primary

Be it enacted by the Council as follows:

Section 1. Paragraph 18 of subdivision a of section 1052 of the New York city charter, as added by a ballot question approved by the voters in the 2018 general election, is amended to read as follows:

18. Notwithstanding any other provision of law, the threshold for eligibility for public funding for participating candidates in a primary or general election[, or special election to fill a vacancy,] shall be in the case of: (i) mayor, not less than $250,000 in matchable contributions comprised of sums up to $250 per contributor including at least 1,000 matchable contributions of $10 or more; and (ii) public advocate and comptroller, not less than $125,000 in matchable contributions comprised of sums of up to $250 per contributor including at least 500 matchable contributions of $10 or more; provided that the threshold dollar amount of summed matchable contributions shall be halved for any special election to fill a vacancy for mayor, public advocate or comptroller. The thresholds for eligibility for public funding for participating candidates for the offices of mayor, public advocate or comptroller described in this paragraph shall replace the thresholds for eligibility for public funding for participating candidates for the offices of mayor, public advocate or comptroller set forth in subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 of section 3-703 of the administrative code and shall be applied to the same extent and in the same manner and subject to the same restrictions as described in this section and chapter 7 of title 3 of the administrative code. Any reference in this charter, the administrative code or any other

local law to the thresholds for eligibility for public funding for participating candidates for the offices of mayor, public advocate or comptroller set forth in subparagraphs (i) and (ii) of paragraph (a) of subdivision 2 of section 3-703 of the administrative code shall be deemed a reference to this subdivision.

§ 2. Subparagraphs (a), (b), (c), (d), and (e) of paragraph (1) of subdivision l of section 1152 of the New York city charter, as added by a ballot question approved by the voters in the 2018 general election, are amended to read as follows:

(a) Except as otherwise provided in this paragraph, the amendments to the charter adding paragraphs 16 through 22 of subdivision a of section 1052, approved by the electors on November 6, 2018, shall take effect on January 12, 2019, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(b) Officers and employees of the city shall take any actions as are necessary and appropriate to prepare for the implementation of such amendments prior to January 12, 2019, including the implementation of such amendments for any special election to fill a vacancy held in the year 2019.

(c) [With respect to candidates seeking office in any covered election held prior to the primary election held in the year 2021, such amendments shall not apply and the law as in effect prior to January 12, 2019 shall govern.] With respect to candidates seeking office in any special election to fill a vacancy held in the year 2019, such amendments shall apply prior to January 12, 2019, as provided in this paragraph.

(d) (i) Candidates seeking office in covered elections held prior to the covered primary election to be held in the year 2021 and covered primary, run-off primary, and general elections

held in the year 2021 who intend to participate in the voluntary system of campaign finance reform described in this section and chapter 7 of title 3 of the administrative code shall file with the campaign finance board a nonbinding written statement declaring whether they intend to select the terms, conditions, and requirements for contribution limits and for the provision of public matching funds, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, under Option A or Option B provided in clause (iii) of this subparagraph. Such statement shall be made on the date of the filing of the first disclosure report required pursuant to section 3-703 of the administrative code, provided that candidates seeking office in a covered primary, run-off primary, or general election held in the year 2021 who intend to participate in such system who filed such first disclosure report prior to January 12, 2019 shall file such non-binding written statement with the campaign finance board no later than July 15, 2019, and provided further that such non-binding written statement shall not be required if a candidate has already complied with clause (ii) of this subparagraph as of the date of the filing of the first disclosure report. Failure to file the statement required pursuant to this clause (i) shall not be deemed to preclude a candidate from choosing to participate in the voluntary system of campaign finance reform described in this section and chapter 7 of title 3 of the administrative code pursuant to paragraph (c) of subdivision 1 of section 3-703.

(ii) Participating candidates seeking office in covered elections held prior to the covered primary election to be held in the year 2021 and covered primary, run-off primary, and general elections held in the year 2021, shall state in the written certification filed pursuant to paragraph (c) of subdivision 1 of section 3-703 of the administrative code, whether they agree to the terms, conditions, and requirements for contribution limits and for the provision of public matching funds, including those pertaining to the matching formula, qualifying threshold, public funds cap, and

distribution schedule, under Option A or Option B provided in clause (iii) of this subparagraph, provided that participating candidates seeking office in a covered primary, run-off primary, or general election held in the year 2021 who filed such certification prior to January 12, 2019 shall file an amended certification with such information with the campaign finance board no later than January 15, 2021, and further provided that participating candidates seeking office in a covered special election to fill a vacancy held in the year 2019 who filed such certification prior to January 12, 2019 and did not indicate a choice of Option A or Option B in such certification shall file an amended certification with such information with the campaign finance board no later than January 15, 2019.

(iii) Option A. The contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, as in effect on and after January 12, 2019.

Option B. The contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, as in effect prior to January 12, 2019.

(e) For participating candidates and their principal committees seeking office in covered elections held prior to the covered primary election to be held in the year 2021 and covered primary, run-off primary, and general elections held in 2021, the campaign finance board shall administer and enforce the contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule in accordance with whether the participating candidate has chosen Option A or Option B pursuant to subparagraph (d) of this paragraph, provided that: (i) for any special election to fill a vacancy held in the year 2019, a candidate who elects Option A shall be required

to refund the portion of any contribution received prior to January 12, 2019 that exceeds one half the limitations set forth in subparagraph b of paragraph (17) of subdivision (a) of section 1052 of the New York city charter; and (ii) for any special election to fill a vacancy held in the year 2019, matchable contributions received for such special election to fill a vacancy, regardless of date received, shall be subject to the matching formula in effect on or after January 12, 2019 if a candidate elects Option A and to the matching formula in effect prior to such date if such candidate elects Option B.

§ 3. Subparagraph (h) of paragraph (1) of subdivision l of section 1152 of the New York city charter, as added by a ballot question approved by the voters in the 2018 general election, is amended to read as follows:

(h) The campaign finance board shall promulgate rules necessary to implement the provisions of this paragraph, which shall include provisions addressing contributions made prior to January 12, 2019, provided that: (i) for any covered election other than a special election to fill a vacancy held in the year 2019, candidates who received [eligible] contributions prior to January 12, 2019 shall not be required to refund such [eligible] contributions or any portion thereof solely by reason of electing Option A as set forth in subparagraph (d) of this paragraph; and (ii) for any covered election other than a special election to fill a vacancy held in the year 2019, [eligible] matchable contributions received prior to January 12, 2019 shall be subject to the matching formula in effect prior to such date, regardless of whether the participating candidate [choses] chooses Option A or Option B.

§ 4. Subparagraph (i) of paragraph (b) of subdivision 5 of section 3-709.5 of the administrative code of the city of New York is amended to read as follows:

Except as otherwise provided in subparagraph (ii) below, each debate for a primary, general

or special election shall include only those participating candidates or limited participating candidates the sponsor of each such debate has determined meet the non-partisan, objective, and non-discriminatory criteria set forth in any agreement between the sponsor and the board; provided, however, that the criteria for the first debate for a primary[,] or general[, or special] election shall include financial criteria requiring that a participating candidate or limited participating candidate shall be eligible to participate in such debate if he or she has, by the last filing date prior to such debate, (I) raised, and (II) spent, an amount equal to or more than two and one half percent of the expenditure limitation provided in subdivision one of section 3-706 for the office for which such candidate seeks nomination for election or election; provided, further, that the criteria for the first debate for a special election shall include financial criteria requiring that a participating candidate or limited participating candidate shall be eligible to participate in such debate if he or she has, by the last filing date prior to such debate, (I) raised, and (II) spent, an amount equal to or more than one and one quarter percent of the expenditure limitation provided in subdivision one of section 3-706 for the office for which such candidate seeks election; and provided, further, that the second debate for a primary, general, or special election shall include only those participating candidates or limited participating candidates who the sponsors have also determined are leading contenders on the basis of additional non-partisan, objective, and non-discriminatory criteria set forth in any agreement between the sponsor and the board. For the purpose of determining whether a participating candidate or limited participating candidate has met the financial criteria to be eligible to participate in any debate, only contributions raised and spent in compliance with the act shall be used to determine [whether] the amount that the candidate has raised and spent [two point five percent] as a percentage of the expenditure limit provided in subdivision one of section 3-706; further, money "raised" and "spent" does not include outstanding

liabilities or loans. Nothing in this provision is intended to limit the debates to the two major political parties.

§ 5. This local law takes effect immediately, provided that if this local law becomes law after January 2, 2019, it is retroactive to and deemed to have been in effect as of January 2, 2019.

BJR
LS 8963
12/12/18 6:58PM