



Legislation Details (With Text)

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Title: A Local Law to amend the administrative code of the city of New York in relation to strengthening and clarifying the Campaign Finance Act.

Sponsors: Eva S. Moskowitz, Maria Baez

Indexes:

Attachments: 1. Committee Report 5/2/02, 2. Hearing Transcript 5/2/02, 3. Committee Report 12/12/02, 4. Hearing Transcript 12/12/02, 5. Committee Report 1/24/03, 6. Hearing Transcript 1/24/03, 7. Committee Report 1/29/03, 8. Hearing Transcript 1/29/03, 9. Fiscal Impact Statement, 10. Local Law, 11. Hearing Transcript - Stated Meeting - 1/29/03

Date	Ver.	Action By	Action	Result
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4/24/2002	*	City Council	Referred to Comm by Council	
5/2/2002	*	Committee on Governmental Operations	Hearing Held by Committee	
5/2/2002	*	Committee on Governmental Operations	Laid Over by Committee	
12/12/2002	*	Committee on Governmental Operations	Hearing Held by Committee	
12/12/2002	*	Committee on Governmental Operations	Laid Over by Committee	
1/24/2003	*	Committee on Governmental Operations	Hearing Held by Committee	
1/24/2003	*	Committee on Governmental Operations	Laid Over by Committee	
1/29/2003	A	Committee on Governmental Operations	Approved by Committee	Pass
1/29/2003	*	Committee on Governmental Operations	Amended by Committee	
1/29/2003	*	Committee on Governmental Operations	Amendment Proposed by Comm	
1/29/2003	*	Committee on Governmental Operations	Hearing Held by Committee	
1/29/2003	A	City Council	Approved by Council	Pass
1/29/2003	A	City Council	Sent to Mayor by Council	
2/18/2003	A	Mayor	Hearing Held by Mayor	
2/18/2003	A	Mayor	Signed Into Law by Mayor	
2/20/2003	A	City Council	Recved from Mayor by Council	

Proposed Int. No. 171-A

By Council Member Moskowitz.

A Local Law to amend the administrative code of the city of New York in relation to strengthening and clarifying the Campaign Finance Act.

Be it enacted by the Council as follows:

Section 1. Declaration of Legislative Intent and Findings.

The New York City Campaign Finance Act was adopted by the New York City Council in 1988. The Act, through its administration by the Campaign Finance Board, has succeeded in enhancing competition for elective municipal offices, limiting campaign contributions and expenditures to reasonable levels, and vastly increasing public information about the sources and uses of campaign funds. New York City's campaign finance program has been a model for the nation and a first-rate example of successful campaign finance reform in action.

After greater than a decade of experience, the Council seeks to reaffirm the fundamental goals of the Campaign Finance Act and to strengthen this landmark law through changes that are intended to encourage a continued high level of participation in the voluntary program and to protect public funds from fraud and unnecessary expenditures.

§ 2. Subdivisions 2, 3, 6, 8 and 10 of section 3-702 of the administrative code of the city of New York are amended to read as follows:

2. The term "principal committee" shall mean the authorized committee designated by a candidate pursuant to [subdivision six] paragraph (e) of subdivision 1 of section 3-703 of this chapter.

3. The term "matchable contribution" shall mean (i) a contribution, (ii) contributions or (iii) a portion of a contribution or contributions, not greater than [one thousand dollars] the applicable contribution limitation set forth in paragraph (f) of subdivision one of section 3-703 for all covered elections held in the same calendar year, [other than special elections,] made by a natural person resident in the city of

New York to a participating candidate which has been reported in full to the campaign finance board in accordance with subdivision six of section 3-703 by the candidate's principal committee and has been contributed on or before December thirty-first in the year of such election that may be matched by public funds in accordance with the provisions of this chapter. Matchable contributions comprised of up to one thousand dollars per contributor (or up to five hundred dollars per contributor in a special election to fill a vacancy) may be counted toward the threshold for eligibility of paragraph (a) of subdivision two of section 3-703. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the board may not be treated as a matchable contribution for any purpose. A loan may not be treated as a matchable contribution. The following contributions are not matchable:

- (a) in-kind contributions of property, goods, or services;
- (b) contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value; [and]
- (c) contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;
- (d) money order contributions from any one contributor that are, in the aggregate, greater than \$100; and
- (e) contributions from individuals under the age of eighteen years.

[In a special election to fill a vacancy a matchable contribution shall not be greater than five hundred dollars per contributor.]

6. The term "threshold for eligibility" shall mean the total amount of matchable contributions that a participating candidate and [the authorized committees of such candidate] his or her principal committee must receive in order for such candidate to qualify for optional public financing pursuant to this chapter.

8. The term "contribution" shall mean: (a) any gift, subscription, advance, or deposit of money or any thing of value, made in connection with the nomination for election, or election, of any candidate; (b) any funds

received by a political committee from another political committee to the extent such funds do not constitute a transfer; (c) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election, or election, of any candidate, including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a person or a political committee independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to section 14-112 of the New York state election law. For purposes of this subdivision, the term "independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to section 14-112 of the New York state election law" shall mean that the candidate or his or her agents or political committees so authorized by such candidate did not authorize, request, suggest, foster or cooperate in any such activity; and provided further, that the term "contribution" shall not include:

- (i) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,
- (ii) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate or political committee on the individual's residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars in value, and
- (iii) the travel expenses of any individual who on his or her own behalf volunteers his or her personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value.

A loan made to a participating candidate or [an authorized committee of such candidate] his or her principal committee other than in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the [primary or general election, as the case may be] first covered election in which the

participating candidate is a participant following the date of the loan, a contribution by the lender. A loan made to a participating candidate or [an authorized committee of such candidate] his or her principal committee in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the [primary or general election, as the case may be] first covered election in which the participating candidate is a participant following the date of the loan, a contribution by the obligor on the loan and by any other person endorsing, cosigning, guaranteeing, collateralizing or otherwise providing security for the loan.

10. The term "covered election" shall mean any primary, [runoff] run-off primary, special, run-off special or general election for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council.

§ 3. Paragraphs (c), (e), (f), (i), (k), and (l) of subdivision 1 of section 3-703 of the administrative code of the city of New York are amended to read as follows:

(c) choose to participate in the public funding provisions of this chapter, by filing a written certification in such form as may be prescribed by the campaign finance board, which sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds. The deadline for filing such certification for a primary and general election shall be:

(i) the first day of June in the year of the covered election, or such other later date as the board shall provide; or

(ii) the thirtieth day after a special election is held to fill a vacancy for the office sought by the candidate;

whichever is later. The deadline for filing such certification for a special election to fill a vacancy shall be on the seventh day after the proclamation of such special election. A certification may be filed on or before the seventh day after the occurrence of an extraordinary circumstance in an election, as declared by the campaign finance board, following the receipt and review of a petition submitted by a candidate in such election. For purposes of this paragraph, an "extraordinary circumstance" shall include the

death of a candidate in the election, the resignation or removal of the person holding the office sought, and the submission to the board of a written declaration by an officeholder that terminates his or her campaign for reelection[.];

(e) notify the board in the candidate's written certification as to: (i) the existence of each authorized committee authorized by such candidate that has not been terminated, (ii) whether any such committee also has been [so] authorized by any other candidate, and[,], (iii) if the candidate has authorized more than one authorized committee, [notify the board as to] which authorized committee has been designated by the candidate as the candidate's principal committee for the election(s) covered by the candidate's certification [pursuant to subdivision six of this section]; provided, that such principal committee (i) shall be the only committee authorized by such candidate to aid or otherwise take part in the election(s) covered by the candidate's certification, (ii) shall not be an authorized committee of any other candidate, and (iii) shall not have been authorized or otherwise active for any election prior to the election(s) covered by the candidate's certification. The use of an entity other than the designated principal committee to aid or otherwise take part in the election(s) covered by the candidate's certification shall be a violation of this section and shall trigger the application to such entity of all provisions of this chapter governing principal committees;

(f) not accept and his or her principal committee [and any other political committee authorized by such candidate] must not accept, either directly or by transfer, any contribution or contributions from any one individual, partnership, political committee, employee organization or other entity for all covered elections held in the same calendar year in which he or she is a participating candidate which in the aggregate: (i) for the office of mayor, public advocate or comptroller shall exceed four thousand five hundred dollars, or (ii) for borough president, shall exceed three thousand five hundred dollars, or (iii) for member of the city council, shall exceed two thousand five hundred dollars; provided that a candidate and his or her [authorized committees] principal committee may accept additional contributions which do not exceed one half the amount of the applicable limitation for any run-off primary election, additional day for voting held pursuant to section 3

-108 of the New York state election law, special election to fill a vacancy, run-off special election to fill a vacancy, delayed or otherwise postponed election, or election held pursuant to court order which is a covered election and in which the candidate seeks nomination for election or election; and provided further that if state law prescribes a contribution limitation of a lesser amount, this paragraph shall not be deemed to authorize acceptance of a contribution in excess of such lesser amount. The maximum contributions set forth in this paragraph shall be adjusted in accordance with subdivision seven of this section;

(i) not make and his or her principal committee [and any other political committee authorized by such candidate] must not make expenditures which in the aggregate exceed the applicable expenditure limitations set forth in section 3-706;

(k) not accept and [any political committee authorized by such candidate] his or her principal committee must not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any political committee for all covered elections held in the same calendar year in which he or she is a participating candidate, except as is otherwise provided for contributions by political committees pursuant to section 3-707 of this chapter; and

(l) not accept and [any political committee authorized by such candidate] his or her principal committee must not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any corporation, other than a corporation that is a political committee as defined in subdivision eleven of section 3-702 of this chapter, for all covered elections held in the same calendar year in which he or she is a participating candidate.

§4. Section 3-703 of the administrative code of the city of New York is amended by adding new subdivision 6-a, and subdivisions 2, 3, 6, 8, 10, 11 and 12 are amended, to read as follows:

2. (a) 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 two hundred fifty thousand dollars in matchable contributions including at least

one thousand matchable contributions of ten dollars or more;

(ii) public advocate and comptroller, not less than one hundred twenty-five thousand dollars in matchable contributions including at least five hundred matchable contributions of ten dollars or more;

(iii) borough president, an amount equal to the number of persons living in such borough as determined by the last census multiplied by two cents in matchable contributions including at least one hundred matchable contributions of ten dollars or more from residents of the borough, or ten thousand dollars, whichever is greater;

(iv) member of the city council, not less than five thousand dollars in matchable contributions including at least fifty matchable contributions of ten dollars or more from residents of the district in which the seat is to be filled, except that in regularly scheduled city council elections held in the year two thousand three at least seventy-five matchable contributions of ten dollars or more shall be required from residents of the borough or boroughs in which such council district is located.

(b) Any participating candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be deemed to have met the threshold for eligibility for such office in any other election, other than a special election to fill a vacancy, held in the same calendar year.

3. In order to be eligible to receive public funds in a primary election a participating candidate must agree that in the event he or she is a candidate for such office in any other election held in the same calendar year, other than a special election to fill a vacancy, that he or she will be bound in each such other election by the eligibility requirements and all other provisions of this chapter.

6. [Each participating candidate shall designate, not later than thirty days after filing the written certification required pursuant to subdivision one of this section, a single principal committee, to receive public funds pursuant to this chapter and report, to the best of the candidate's, treasurer's and authorized committees' knowledge, to the campaign finance board] Each principal committee shall report to the board every contribution, loan, guarantee, or other security for such loan received by the candidate[,] and such principal

committee [and any other authorized committee of such candidate], the full name, residential address, occupation, employer, and business address of each individual, corporation, partnership, political committee, employee organization or other entity making, or which is the intermediary for, such contribution, loan, guarantee, or other security for such loan, and every expenditure made by the candidate[,] and such principal committee[, and any other authorized committee of such candidate], including expenditures not subject to section 3-706. Disclosure reports shall be submitted at such times and in such form as the board shall require and shall be clearly legible. An intermediary need not be reported for any contribution that was collected from a contributor in connection with a party or other candidate-related event held at the residence of the person delivering the contribution, unless the expenses of such events at such residence for such candidate exceed five hundred dollars for a covered election or the aggregate contributions received from that contributor at such events exceed five hundred dollars. Contributions aggregating not more than ninety-nine dollars from any one contributor for all covered elections held in a single calendar year or for a special election need not be separately itemized in disclosure reports submitted to the board on behalf of a participating candidate, provided, however, that contributions which are not itemized shall not be matchable. The treasurer of the principal committee need not collect or disclose the occupation, employer, and business address of any contributor making contributions aggregating not more than ninety-nine dollars for all covered elections held in a single calendar year or for a special election. [Such reports shall be submitted at such times and in such form as the campaign finance board shall require and shall be clearly legible.] Disclosure reports, other than reports required to be filed every six months in accordance with the schedule specified by the New York state board of elections, need not be submitted on behalf of a [participating] participating candidate if the cumulative amount of contributions and loans accepted by such candidate and his or her [authorized committees] principal committee following the period covered in the last disclosure report submitted to the campaign finance board on behalf of such candidate is less than two thousand dollars or such higher amount as may be determined by the campaign finance board, provided, however, that disclosure reports shall be submitted on behalf of a

participating candidate if that candidate and his or her [authorized committees] principal committee have made expenditures in excess of eighty-five percent of the expenditure limitation applicable under section 3-706. The campaign finance board shall make available to the public a copy of disclosure reports within two business days after they are accepted by the board.

6-a. Any rules promulgated by the board to require that disclosure reports submitted pursuant to this chapter be submitted in an electronic format shall provide exemptions for small campaigns, as defined by board rules, and for other campaigns that demonstrate that submission in an electronic format would pose a substantial hardship.

8. [Each political committee authorized by a participating candidate that accepts contributions, loans, or other receipts or makes expenditures or transfers in a covered election shall have the same treasurer.] If a participating candidate demonstrates to the board that a political committee has not accepted contributions, loans, or other receipts or made expenditures or transfers in a covered election, and represents that such committee will not accept contributions, loans, or other receipts or make expenditures or transfers in a covered election, the participating candidate may submit to the board legible copies of financial disclosure reports, required to be filed with the city or state board of elections, for such committees in lieu of the disclosure report form [designed] designated by the board for purposes of subdivision six of this section.

10. All receipts accepted by [an authorized] a principal committee shall be deposited in an account of the [authorized] principal committee. The treasurer of the [authorized] principal committee shall be responsible for making such deposits. All deposits shall be made within ten business days of receipt; provided, however, that deposits of contributions made in the form of checks received by candidates for the office of city council more than one year before the first covered election for which such candidate is seeking nomination or election may be made within twenty business days of receipt. Each disclosure report filed pursuant to subdivision six of this [section] section shall include the date of receipt of each contribution accepted.

11. Regardless whether a participating candidate demonstrates eligibility for optional public financing

under this chapter, a participating candidate and his or her [authorized committees] principal committee are nonetheless required to abide by the requirements of paragraphs (d), (e), (f), (g), (h), (i), (k) and (l) of subdivision one of this section.

12. (a) [Any] Each participating candidate for nomination for election, or election, [to an office for which the threshold for eligibility established by subdivision two of this section is greater than five thousand dollars,] or the [authorized] principal committee of such candidate, shall submit, in a contemporaneous manner, the disclosure reports required pursuant to this chapter [in a contemporaneous manner], filed in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements, and such other disclosure reports as the rules of the board may require, in order for any contributions received during the periods covered by such reports and prior to the last date upon which such candidate may file a certification pursuant to paragraph [c] (c) of subdivision one of this section to qualify as matchable contributions.

(b) The board [may promulgate rules, applicable to candidates to whom paragraph (a) of this subdivision does not apply, to establish an optional program permitting disclosure reports to be submitted in a contemporaneous manner, in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements. Such rules shall not adversely affect in any manner the eligibility for optional public financing of any such candidate who does not participate in such program, or who terminates his or her participation in such program.] shall review each disclosure report timely submitted by a candidate prior to the last date upon which such candidate may file a certification pursuant to paragraph (c) of subdivision one of this section and issue to the candidate a review before the next disclosure report is due. Such review shall inform the candidate of relevant questions the board has concerning the candidate's: (i) compliance with requirements of this chapter and of the rules issued by the board; and (ii) qualification for receiving public funds pursuant to this chapter. In the course of this review, the board shall give candidates an opportunity to respond to and correct potential violations, before the deadline for filing a certification pursuant

to paragraph (c) of subdivision one of this section, and give candidates an opportunity to address questions the board has concerning their matchable contribution claims or other issues concerning eligibility for receiving public funds pursuant to this chapter; provided, however, this paragraph shall not apply to the last required disclosure report before the deadline for filing a certification pursuant to paragraph (c) of subdivision one of this section. Nothing in this paragraph shall preclude the board from subsequently reviewing such disclosure reports and taking any action otherwise authorized under this chapter.

§ 5. Subdivision 1 and paragraph (h) of subdivision 2 of section 3-704 of the administrative code of the city of New York are amended to read as follows:

§3-704 Qualified campaign expenditures. 1. Public funds provided under the provisions of this chapter may be used only for expenditures by [an authorized] a principal committee to further the participating candidate's nomination for election or election, either in a special election to fill a vacancy, or during the calendar year in which the primary or general election in which the candidate is seeking nomination for election or election is held.

(h) any expenditures to challenge or defend the validity of petitions of designation or nomination, or of certificates of nomination, acceptance, authorization, declination, or substitution, and expenses related to the canvassing of election results, made pursuant to subdivision four of section 3-706.

§6. Section 3-705 of the administrative code of the city of New York is amended by adding new subdivisions 6, 7 and 8 and amending the heading and subdivision 5 to read as follows:

§3-705 Optional public financing. Each participating candidate for nomination for election or election in a covered election may obtain payment to his or her principal committee [the authorized committee designated by such candidate pursuant to subdivision six of section 3-703] from public funds for qualified campaign expenditures, in accordance with the provisions of this chapter, and subject to appropriation.

5. (a) Notwithstanding any other provision of this chapter, a participating candidate in a run-off primary election held pursuant to section 6-162 of the New York state election law[, an additional day for voting held

pursuant to section 3-108 of the election law or an election held pursuant to court order,] or a run-off special election to fill a vacancy shall obtain prompt payment for qualified campaign expenditures in an amount equal to twenty-five cents for each one dollar of public funds paid pursuant to this chapter to the candidate's principal committee for the preceding election.

(b) The board shall promulgate rules to provide for the prompt issuance of additional public funds to eligible participating candidates for qualified campaign expenditures in the case of an additional day for voting held pursuant to section 3-108 of the New York state election law, an election held pursuant to court order, or a delayed or otherwise postponed election.

(c) Except as provided for by this subdivision and any rules promulgated hereby, no [additional] public funds shall be provided to any candidate for [such] any run-off primary election, run-off special election to fill a vacancy, [or] additional day for voting, election held pursuant to court order, or delayed or otherwise postponed election.

6. Notwithstanding any other provision of this chapter to the contrary, to protect the public fund from disproportionately large payments when the number of voters eligible to vote in a primary election is small, the board shall adopt rules setting a reduced maximum primary election public funds payment for participating candidates on the ballot in one or more primary elections in which the number of persons eligible to vote for party nominees total fewer than such number as shall be specified by the board in such rules, if any. Any such rules shall not apply to participating candidates opposed in a primary election by one or more participating candidates who are not subject to such reduced maximum primary election public funds payment or by a non-participating candidate who makes expenditures in excess of a specified amount for such primary election, as determined by the board.

7. Notwithstanding any provision of this section to the contrary, the amount of public funds payable to a participating candidate on the ballot in any covered election shall not exceed one quarter of the maximum public funds payment otherwise applicable under subdivision two of this section, unless:

- (a) the participating candidate is opposed by another participating candidate who has qualified to receive public funds in such election; or
- (b) the participating candidate is opposed by a candidate and the board has determined that such other candidate and his or her authorized committees have spent or contracted or have obligated to spend, or received in loans or contributions, or both, an amount which, in the aggregate, exceeds one-fifth of the applicable expenditure limit for such office fixed by subdivision one of section 3-706 of this chapter for participating candidates; or
- (c) the participating candidate has submitted a signed statement attesting to the need and stating the reason for additional public funds in such election, in which case the board shall publish such statement at the time such additional public funds are paid, including on the board's internet website.

If any of the conditions described in paragraph (a), (b) or (c) occur in such election, the board shall pay any and all additional public funds due to the participating candidate up to the maximum total payment applicable in such election under subdivisions two or six of this section or subdivision three of section 3-706 of this chapter.

8. Contributions by a principal committee of a participating candidate to other political committees shall not be a basis for reducing public funds payments, provided that: (a) such principal committee has received contributions (other than matchable contributions) that, in the aggregate, exceed the total of such contributions to other political committees and (b) such contributions in the aggregate do not exceed:

- (i) three thousand dollars, if such principal committee is the principal committee of a participating candidate seeking nomination for election or election to the office of member of the city council;
- (ii) five thousand dollars, if such principal committee is the principal committee of a participating candidate seeking nomination for election or election to the office of borough president; and
- (iii) ten thousand dollars, if such principal committee is the principal committee of a participating candidate seeking nomination for election or election to a city-wide office.

§7. Paragraphs (a) and (b) of subdivision 1 and subdivisions 2, 2-a, 3 and 4 of section 3-706 of the administrative code of the city of New York are amended to read as follows:

§3-706 Expenditures limitations; additional financing and limits. 1. The following limitations apply to all expenditures made by a candidate and his or her [authorized committees] principal committee on or after the first day of January preceding the election for which such candidate chooses to participate in the public funding provisions of this chapter and to expenditures made at any time prior to such date for services, materials, facilities, advertising or other things of value received, rendered, published, distributed or broadcast on or after such date:

(a) Except as provided in paragraph (b) of this subdivision, in each primary election, in each special election to fill a vacancy, and in each general election, expenditures by a participating candidate for one of the following offices and his or her [authorized committees] principal committee shall not exceed the following amounts:

mayor:	\$4,000,000
public advocate or comptroller:	\$2,500,000
borough president:	\$ 900,000
member of the city council:	\$ 105,000

(b) (i) The expenditure limitation in a run-off primary election held pursuant to section 6-162 of the New York state election law, an additional day for voting held pursuant to section 3-108 of the election law or an election held pursuant to court order] or a run-off special election held to fill a vacancy shall be one half the amount of the applicable limitation provided for an election for such office pursuant to the provisions of paragraph (a) of this subdivision.

(ii) The board shall promulgate rules to provide for a separate expenditure limit applicable to campaign expenditures for an additional day for voting held pursuant to section 3-108 of the New York state election law, an election held pursuant to court order, or a delayed or otherwise postponed election.

2. The following limitations apply to all expenditures made by a candidate and his or her [authorized committees] principal committee in the calendar year preceding the year of the election for which such candidate chooses to participate in the public funding provisions of this chapter and to expenditures made at any time prior to such date for services, materials, facilities, advertising or other things of value received, rendered, published, distributed or broadcast in such calendar year. Such expenditures by a participating candidate for one of the following offices and his or her [authorized committees] principal committee shall not exceed the following amounts:

mayor, public advocate or comptroller:	\$180,000
borough president:	\$120,000
member of the city council:	\$ 40,000

2-a. (a) If the expenditures made by a candidate and his or her [authorized committees] principal committee subject to the expenditure limitation of subdivision two of this section exceed the amount of the expenditure limitation applicable under such subdivision, such candidate or his or her principal committee shall not be ineligible to receive public funding for qualified campaign expenditures or be in violation of this chapter by reason of exceeding such limitation unless the amount by which such expenditures exceed such limitation is in excess of the expenditure limitation which next applies to such candidate or his or her principal committee pursuant to subdivision one of this section; and further provided that the amount of the expenditure limitation which next applies to such candidate or his or her principal committee, pursuant to subdivision one of this section, shall be reduced by the amount by which the expenditure limitation applicable under subdivision two of this section is exceeded.

(b) Nothing contained in paragraph (a) of this subdivision shall:

- (i) operate to increase or decrease the amount of public funds that may be received pursuant to section 3-705 by [an authorized committee of an eligible candidate] the principal committee;

(ii) affect the expenditure limitation set forth in paragraph (b) of subdivision one of this section; or

(iii) affect the expenditure limitation set forth in paragraph (a) of subdivision one of this section for purposes of the application of subdivision [four] three of this section or of paragraph (b) of subdivision 7 of section 3-705 of this chapter.

3. If any candidate in any [primary or general] election for an office for which public funds are available pursuant to the provisions of this chapter chooses not to participate in the public financing provisions of this chapter, and where the campaign finance board has determined that such candidate and his or her authorized committees have spent or contracted or have obligated to spend, or received in loans or contributions, or both, an amount which, in the aggregate exceeds half the applicable expenditure limit for such office fixed by subdivision one of this section for participating candidates, then:

(a) such expenditure limit shall no longer apply to participating candidates in such election for such office; and

(b) the principal committees of such participating candidates shall receive payment for qualified campaign expenditures of five dollars for each one dollar of matchable contributions, up to one thousand two hundred fifty dollars in public funds per contributor (or up to six hundred twenty five dollars in public funds per contributor in the case of a special election)[, except that]; provided, however, that (i) participating candidates in a run-off election shall receive public funds for such election pursuant to subdivision five of section 3-705 and shall not receive any additional public funds pursuant to this section, and (ii) in no case shall a principal committee receive in public funds an amount exceeding two-thirds of the expenditure limitation provided for such office in subdivision one of this section.

4. (a) Expenditures made for the purpose of complying with the provisions of this chapter or the election law, including legal fees, accounting fees, the cost of record creation and retention, and other necessary compliance expenditures, and expenses to challenge or defend the validity of petitions of designation or

nomination or certificates of nomination, acceptance, authorization, declination or substitution, and expenses related to the canvassing of election results, shall not be limited by the expenditure [limitation] limitations of this section.

(b) In reviewing claims that expenditures are exempt from expenditure limitations by reason of paragraph (a) of this subdivision, the board shall not require the participating candidate or principal committee to provide detailed documentation substantiating such exempt expenditure claims unless the board has reason to believe that expenditures have been erroneously or falsely claimed to be exempt in disclosure reports.

(c) Notwithstanding paragraph (b) above, a participating candidate shall be required to provide detailed documentation substantiating all exempt expenditure claims made pursuant to this subdivision if the aggregate exempt expenditure claims made by the participating candidate exceed an amount equal to seven and one-half percent of the participating candidate's applicable expenditure limitation.

§8. Subdivision 7 of Section 3-708 of the administrative code of the city of New York is amended to read as follows:

7. (a) The board [may] shall render advisory opinions with respect to questions arising under this chapter [. Such advisory opinions may be rendered on] upon the written request of a candidate, an officer of a political committee or member of the public, or [may be rendered] upon its own initiative. The board shall promulgate rules regarding reasonable times to respond to such requests. The board shall make public the questions of interpretation for which advisory opinions will be considered by the board and its advisory opinions, including by publication on its internet website.

(b) The board shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this chapter. The board shall prepare and make available educational materials, including compliance manuals and summaries and explanations of the purposes and provisions of this chapter. These materials shall be prepared in plain language. The board shall prepare and make available materials, including, to the extent feasible, computer software, to facilitate the task of compliance with the disclosure and

record-keeping requirements of this chapter. When disclosure reports are generated by use of the board's disclosure software, the board shall provide an opportunity for participating candidates to test their electronic filings on any of the three business days prior to the deadline for the filing of such disclosure reports.

§ 9. Subdivisions 6 and 7 of section 3-709 of the administrative code of the city of New York are amended to read as follows:

6. (a) No moneys shall be paid to participating candidates in a [runoff] run-off primary election held pursuant to section 6-162 of the election law or in a general election any earlier than the day after the day of the primary election held to nominate candidates for such election.

(b) No moneys shall be paid to participating candidates in a run-off special election held to fill a vacancy any earlier than the day after the day of the special election for which such run-off special election is held.

7. No moneys shall be paid to any participating candidate who has been finally disqualified or whose designating or nominating petitions have been finally declared invalid by the New York city board of elections or a court of competent jurisdiction. Any payment from the fund in the possession of such a candidate or his or her [authorized committees] principal committee on the date of such final disqualification or invalidation may not thereafter be expended for any purpose except the payment of liabilities incurred in qualified campaign expenditures before such date and shall be promptly repaid to the fund.

§10. Paragraph (c) of subdivision 2 of section 3-710 of the administrative code of the city of New York is amended to read as follows:

(c) If the total of contributions, other receipts, and payments from the fund received by a participating candidate and his or her [authorized committees] principal committee exceed the total campaign expenditures of such candidate and [committees] committee for all covered elections held in the same calendar year or for a special election to fill a vacancy such candidate and [committees] committee shall use such excess funds to reimburse the fund for payments received by [the principal] such committee from the fund during such calendar

year or for such special election. Such reimbursement shall be made not later than ten days after all liabilities have been paid and in any event, not later than either the closing date of the final disclosure report, or the day on which the campaign finance board issues its final audit report for such participating committee, for such covered election, as shall be set forth in rules promulgated by the campaign finance board. No such excess funds shall be used for any other purpose, unless the total amount of the payments received from the fund by the [authorized] principal committee has been repaid.

§11. Chapter seven of title three of the administrative code of the city of New York is amended by adding a new section 3-710.5 to read as follows:

§ 3-710.5 Findings of violation or infraction. The board shall determine whether a participating candidate, his or her principal committee, principal committee treasurer or any other agent of a participating candidate has committed a violation or infraction of any provision of this chapter or the rules promulgated hereunder, for which the board may assess a civil penalty pursuant to section 3-711 of this chapter. The board shall promulgate rules defining infractions, and such definitions shall include, but not be limited to, failures to comply with the provisions of this chapter or the rules promulgated hereunder that are limited and non-repetitive. The board shall give written notice and the opportunity to appear before the board to any participating candidate, his or her principal committee, principal committee treasurer or any other agent of a participating candidate, if the board has reason to believe that such has committed a violation or infraction, before assessing any penalty for such action.

§12. Subdivisions 1 and 2 of section 3-711 of the administrative code of the city of New York are amended to read as follows:

§ 3-711 **Penalties.** 1. Any participating candidate whose principal committee fails to file in a timely manner a statement or record required to be filed by this chapter or the rules of the board in implementation thereof or who violates any other provision of this chapter or rule promulgated thereunder, and any principal committee treasurer or any other agent of a participating candidate who commits such a violation or infraction,

shall be subject to a civil penalty in an amount not in excess of ten thousand dollars. The board shall publish a schedule of civil penalties for common infractions and violations, including examples of aggravating and mitigating circumstances that may be taken into account by the board in assessing such penalties. This schedule shall reflect that infractions are less serious failures to comply with the provisions of this chapter.

2. In addition to the penalties provided in subdivision one of this section, if the aggregate amount of expenditures by a participating candidate and such candidate's [authorized committees] principal committee exceed the expenditure limitations contained in this chapter, such candidate and [authorized committees] principal committee shall be subject to a civil penalty in an amount not to exceed three times the sum by which such expenditures exceed the applicable expenditure limitation.

§ 13. Paragraph (b) of subdivision 1 of section 3-713 of the administrative code of the city of New York is amended to read as follows:

(b) the amount of public funds provided to the [authorized committees] principal committee of each candidate pursuant to this chapter and the contributions received and expenditures made by each such candidate and the [authorized committees] principal committee of such candidate, in each election during the four preceding calendar years;

§14. Section 3-716 of the administrative code of the city of New York is amended to read as follows:

§3-716 **Application of the contribution and expenditure limitations to certain political activities.**

[Candidate appearances.] 1. Nothing in this chapter shall be construed to restrict candidates or their agents from making appearances at events sponsored or paid for by persons, political committees, or other entities that are not in any way affiliated with such candidate or any agent of such candidate. The costs of such events shall not be considered contributions to or expenditures by such a candidate pursuant to this chapter solely because such an appearance is made; provided that this [section] subdivision shall not apply to any event in relation to which contributions are solicited on behalf of such candidate.

2. The following activities in support of other candidates by a participating candidate or his or her

principal committee shall not be considered contributions to or expenditures by such participating candidate or his or her principal committee, except to the extent such activities are paid for by the participating candidate or his or her principal committee for a covered election:

(a) The act alone of endorsing or appearing with another candidate for public office, party nomination or party position.

(b) The insubstantial communication of such endorsement or appearance described in paragraph (a), such as where the participating candidate's name is one of several names appearing on the communication and is of equivalent prominence as the other names.

(c) Fundraising assistance to another candidate in the form of written communications that do not promote the participating candidate, such as the appearance of the participating candidate's name or signature on a letter soliciting funds for another candidate or the appearance of the participating candidate's name on fundraising material where the participating candidate's name appears alone or with other names and is of equivalent prominence as the other names.

(d) A typical communication by a political club to its members, which includes the name of a participating candidate, provided that the participating candidate is already a member of the political club, the political club has fewer than 500 members, and the communication does not solicit funds on behalf of or otherwise promote the participating candidate's campaign for a covered election.

3. The communication of an endorsement or appearance which is not insubstantial under paragraph (b) of subdivision two, fundraising assistance which is promotional under paragraph (c) of subdivision two and a political club communication which does not meet the requirements of paragraph (d) of subdivision two, shall be contributions to and expenditures by the participating candidate. Among the factors the board shall consider in determining the value of the contribution to and expenditure by the participating candidate are the following factors:

(a) the focus of the communication;

- (b) the geographical distribution or location of the communication;
- (c) the subject matter of the communication;
- (d) the references to the participating candidate or the participating candidate's appearances in the communication;
- (e) the relative prominence of a participating candidate's references or appearances in the communication, including the size and location of such references and any photographs of the participating candidate; and
- (f) the timing of the communication.

§15. Sections 3 and 7 of this local law shall not have any effect on any adjustments made prior to the effective date of this law pursuant to subdivision 7 of section 3-703 or paragraph (e) of subdivision 1 of section 3-706 of the administrative code.

§16. Notwithstanding any provision of this local law to the contrary, an authorized committee, as such term is defined in section 3-702 of the administrative code, authorized by a participating candidate to aid or take part in a covered election scheduled to be held before January first, two thousand and four, that was in existence as of December first, two thousand and two, may continue in existence as such candidate's principal committee, as such term is defined in this local law, notwithstanding that such committee had been authorized or otherwise active for any prior election.

§17. This local law shall become effective immediately, except the amendments to subdivision 12 of section 3-703 contained in section 4 of this local law, which shall become effective December thirty-first, two thousand and three.