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Int. No. 382

By Council Members Perkins, Comrie, Seabrook, Stewart, Vann, Gerson and Jackson

A Local Law to amend the administrative code of the city of New York, in relation to the requirements of the campaign finance program for city elections, and to amend the charter of the city of New York, in relation to appointments to the New York City Campaign Finance Board and use of government resources during an election year.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings.

The council finds that amendments to the New York City Campaign Finance Act and the charter of the city of New York will further the goals of this landmark legislation. By, among other things, lowering contribution limits, prohibiting the acceptance of contributions from organizations, enhancing the formula for

paying public funds to participants facing high spending non-participants, adjusting the expenditure limits, and improving key elements of the Debate Program, this local law will further reduce the opportunity for wealthy special interests to exercise or appear to exercise undue influence over local elected officials and will encourage greater candidate participation in a reform program that has been recognized as a national model. This local law also will adjust the treatment of exempt expenditures to simplify candidate participation and compliance.

§ 2. Subdivision 12 of section 3-702 of the administrative code of the city of New York is amended to read as follows:

12. The term "intermediary" shall mean an individual, corporation, partnership, political committee, employee organization or other entity which, 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, including those who are known to the candidate or authorized committee to have successfully solicited contributions to the candidate or authorized committee. "Intermediary" shall not include spouses, domestic partners, parents, children or siblings of the person making such contribution, or any fundraising agent, as such term is defined in the rules of the board.

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

(f) not accept and his or her principal committee must not accept, either directly or by transfer, any contribution or contributions (i) 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)] (A) for the office of mayor, public advocate or comptroller shall exceed four thousand [five hundred] dollars, [or (ii)] (B) for borough president, shall exceed three thousand [five hundred] dollars, or [(iii)] (C) for member of the city council, shall exceed two thousand [five hundred] dollars, or (ii) from a corporation, partnership, employee organization, political committee, or other entity; provided that a candidate and his or her 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 must not make expenditures which in the aggregate exceed the applicable expenditure limitations set forth in section 3-706; and

(j) meet the threshold for eligibility set forth in subdivision two of this section[;].

[(k) not accept and 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 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. Subdivisions 2, 5, 6, and 11 of section 3-703 of the administrative code of the city of New York 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 comprised of sums of up to one thousand dollars per contributor 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 comprised of sums of up to one thousand dollars per contributor 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 comprised of sums of up to one thousand dollars per contributor including at least one hundred matchable contributions of ten dollars or more from residents of the borough, or ten thousand dollars comprised of sums of up to one thousand dollars per contributor, whichever is greater;

(iv) member of the city council, not less than five thousand dollars in matchable contributions comprised of sums of up to one thousand dollars per contributor including at least [fifty] one hundred 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] one hundred 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.

5. Participating candidates who are seeking nomination or election exclusively as write-in candidates, who are unopposed in a covered election, or who are opposed in a covered election only by candidates seeking nomination or election exclusively as write-in candidates, shall not be eligible to receive public funds for such election.

6. (a) 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, the full name, residential

address, occupation, employer, and business address of each [individual, corporation, partnership, political committee, employee organization or other entity making] contributor, lender, guarantor, or provider of security [, or] and of each person or entity 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, 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.

(b) Exceptions. Notwithstanding paragraph (a) above,

(i) [An] 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[.];

(ii) [Contributions] 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[.];

(iii) [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.] expenditures of less than fifty dollars need not be separately itemized in disclosure reports submitted to the board, provided, however, that public funds may not be used to pay for such unitemized expenditures; and

(iv) [Disclosure] 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 candidate if the cumulative amount of contributions and loans accepted by such candidate and his or her 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 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.

11. Regardless whether a participating candidate demonstrates eligibility for optional public financing under this chapter, a participating candidate and his or her principal committee are nonetheless required to abide by the requirements of paragraphs (d), (e), (f), (g), (h), and (i) [, (k) and (l)] of subdivision one of this section.

§ 5. Subdivision 2 of section 3-704 of the administrative code of the city of New York is amended to read as follows:

2. Such public funds may not be used for:

- (a) [an] any expenditure in violation of any law;
- (b) payments made to the candidate or a spouse, domestic partner, child, grandchild, parent, grandparent, brother or sister of the candidate or spouse or domestic partner of such child, grandchild, parent, grandparent, brother or sister, or to a business entity in which the candidate or any such person has a ten percent or greater ownership interest;
- (c) payments in excess of the fair market value of services, materials, facilities or other things of value received in exchange;
- (d) (i) any expenditure made after the candidate has been finally disqualified or had his or her petitions finally declared invalid by the New York city board of elections or a court of competent

jurisdiction, except that such expenditures may be made:

- (A) as otherwise permitted pursuant to subdivision seven of section 3-709 of this chapter, or
- (B) for a different covered election, other than a special election to fill a vacancy, held later in the same [calender] calendar year in which the candidate seeks election for the same office; provided, however, that public funds originally received for a special election to fill a vacancy may not be retained for expenditure in any other election;
- (ii) any expenditure made after the only remaining opponent of the candidate has been finally disqualified or had his or her petitions declared invalid by the New York city board of elections or a court of competent jurisdiction, except that such expenditures may be made for a different covered election, other than a special election to fill a vacancy, held later in the same calendar year in which the candidate seeks election for the same office; provided, however, that public funds originally received for a special election to fill a vacancy may not be retained for expenditure in any other election;
- (e) payments in cash;
- (f) any contribution, transfer, or loan made to another candidate or political committee;
- (g) gifts, except brochures, buttons, signs and other printed campaign material; [or]
- (h) [any] expenditures made pursuant to subdivision four of section 3-706[.];
- (i) payment of penalties assessed or imposed by any government agency, including the campaign finance board;
- (j) expenditures to comply with the provisions of this chapter or the New York state election law, including legal fees, accounting fees, the cost of record creation and retention, and other necessary compliance expenditures;
- (k) payments to contributors, up to the amount of public funds received as a result of all contributions received from such contributors;

(l) expenditures made after the date of the last election for which the participating candidate is on the ballot;

(m) expenditures made in connection with any action, suit, or proceeding before any court, quasi-judicial, or government agency or arbitrator;

(n) expenditures which have not been itemized in a disclosure statement; or

(o) repayment of advances.

§ 6. Subdivisions 2 and 4 of section 3-705 of the administrative code of the city of New York are amended to read as follows:

2. (a) If the threshold for eligibility is met, the participating candidate's principal committee shall receive payment for qualified campaign expenditures of [four] three dollars for each one dollar of matchable contributions, up to [one thousand] seven hundred fifty dollars in public funds per contributor (or up to [five hundred] three hundred seventy-five dollars in public funds per contributor in the case of a special election), obtained and reported to the campaign finance board in accordance with the provisions of this chapter[.,].

(b) [but in] Except as otherwise provided in subdivision three of section 3-706, in no case shall [such] a principal committee receive [in] public funds pursuant to paragraph (a) above in excess of an amount [exceeding] equal to (i) for participating candidates for nomination for election or election to the City Council, \$70,000, and (ii) for all other participants, fifty-five 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[, except as otherwise provided in subdivision three of section 3-706].

(c) No funds shall be provided pursuant to this subdivision with respect to any covered election specified in subdivision five of this section.

4. The campaign finance board shall make possible payment within four business days after receipt of reports of matchable contributions, or as soon thereafter as is practicable, but not earlier than the earliest dates for making such payments as provided in subdivisions five and six of section 3-709; provided, however, that

the board may withhold up to ten percent of all public funds payments until the final pre-election payment for any given election.

§ 7. Section 3-706 of the administrative code of the city of New York is 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 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] in furtherance of the nomination for election or election covered by the candidate's certification:

(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 principal committee shall not exceed the following amounts:

mayor:	[\$4,000,000] <u>\$6,014,000</u>
public advocate or comptroller:	[\$2,500,000] <u>\$3,760,000</u>
borough president:	[\$ 900,000] <u>\$1,353,000</u>
member of the city council:	[\$ 105,000] <u>\$146,000</u>

(b) (i) The expenditure limitation in a run-off primary election held pursuant to section 6-162 of the New York state election law 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.

(c) Expenditures by participating candidates in a primary election made prior to or on the date of such

primary election shall be deemed to have been made for such primary election.

(d) The campaign finance board shall, pursuant to section 3-713, submit a report to the mayor and the council on or before September first, nineteen hundred ninety, containing its recommendations whether the expenditure limitations provided by this subdivision should be modified. Such report shall set forth the amount of, and reasons for, any modifications it recommends.

(e) Not later than the first day of March in the year nineteen hundred ninety and every fourth year thereafter the campaign finance board shall (i) determine the percentage difference between the average over a calendar year of the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics for the twelve months preceding the beginning of such calendar year and the average over the calendar year nineteen hundred eighty-seven of such consumer price index; (ii) adjust each expenditure limitation applicable pursuant to this subdivision by the amount of such percentage difference to the nearest thousand dollars; and (iii) publish such adjusted expenditure limitation in the City Record. Such adjusted expenditure limitation shall be in effect for any election held before the next such adjustment.

2. [The following limitations apply to all expenditures made by a candidate and his or her 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 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]

Except as otherwise provided for in subdivision three of this section and any rules promulgated thereunder, the expenditure limits provided for in subdivision one of this section and any rules promulgated thereunder shall be

the only expenditure limits applicable to participants for the election(s) covered by each participant's certification.

[2-a. (a) If the expenditures made by a candidate and his or her 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 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 three of this section or of paragraph (b) of subdivision 7 of section 3-705 of this chapter.]

3. (a) If any candidate in any 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)] (i) such expenditure limit shall no longer apply to participating candidates in such election for such office; and

[(b)] (ii) 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); provided, however, that [(i)] (A) 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)] (B) 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.

(b) If any candidate in any 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 one and a half times the applicable expenditure limit for such office fixed by subdivision one of this section for participating candidates, then:

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

(ii) the principal committees of such participating candidates shall receive payment for qualified campaign expenditures of six dollars for each one dollar of matchable contributions, up to one thousand five hundred dollars in public funds per contributor (or up to seven hundred fifty dollars in public funds per contributor in the case of a special election); provided, however, that (A)

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 (B) in no case shall a principal committee receive in public funds an amount exceeding 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] in connection with (a) any action, suit, or proceeding before any court or court-appointed referee for the purpose of challenging or defending the validity of petitions of designation or nomination or certificates of nomination, acceptance, authorization, declination or substitution, or (b) [and expenses related to] the canvassing of election results, shall not be limited by the expenditure 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.]

[5. The campaign finance board may adopt a regulation providing for expenditure limitations for expenditures made in the two calendar years preceding the calendar year specified in subdivision two of this section, in accordance with section eleven hundred five of the charter, provided, however, that notwithstanding any inconsistent provision of section eleven hundred five of the charter, the city council may within forty-five days after the first stated meeting of the city council following the receipt of a copy of such regulation, as

provided in subdivision c of section eleven hundred five of the charter, approve or disapprove such regulation by adoption of an appropriate resolution. Upon approval by the city council such regulation shall take effect as provided therein. If the city council disapproves such regulation, the board shall not be precluded from adopting and transmitting to the city council for its approval or disapproval any other such regulation providing for such expenditure limitations in accordance with this subdivision. If the city council does not approve or disapprove such regulation within such forty-five day period, such regulation shall be deemed to be approved on the forty-sixth day after such first stated meeting.]

§ 8. Section 3-707 of the administrative code of the city of New York is amended to read as follows:

§3-707 [Voluntary registration by political committees. 1. Participating committees may accept contributions from political committees that choose to register with the board, as provided in this section. The board shall issue rules providing for such registration. Such contributions may not exceed the amount applicable under paragraph (f) of subdivision one of section 3-703 of this chapter. The board shall regularly publish a cumulative list of political committees that have registered, including on the internet and in periodic mailings to candidates.

2. It is the responsibility of the participating candidate to determine whether he or she may accept a contribution pursuant to this section. A participating candidate who receives a contribution from a political committee that has not registered with the board prior to making the contribution shall either return the contribution to the contributor or pay to the fund an amount equal to the amount of the contribution, unless the political committee registers with the board within ten days after the publication of the next subsequent list of registered political committees by the board following the date the contribution is received.]

[INTENTIONALLY OMITTED.]

§ 9. Subdivision 1 of section 3-708 of the administrative code of the city of New York is amended to

read as follows:

1. There shall be a campaign finance board consisting of five members. Two members of the board shall be appointed by the mayor, provided that not more than one such member shall be enrolled in any one political party, and two members shall be appointed by the speaker of the council, provided that not more than one such member shall be enrolled in any one political party, and one member, who shall be the chairperson, shall be appointed by the mayor after consultation with the speaker. The members shall first be appointed to serve as follows:

- (a) one member appointed by the speaker for a term of one year;
- (b) one member appointed by the mayor for a term of two years[.];
- (c) one member appointed by the speaker for a term of three years;
- (d) one member appointed by the mayor for a term of four years; and
- (e) the chairperson for a term of five years.

Each term shall commence on April first, nineteen hundred eighty-eight. Thereafter, each member shall be appointed for a term of five years commencing on December first in the year of the appointment by the mayor or the speaker, according to the original manner of appointment, except that the terms of members who were appointed or reappointed between May eighteenth, two thousand and April first, two thousand two shall be reduced to four years and eight months. In case of a vacancy in the office of a member, a member shall be appointed to serve for the remainder of the unexpired term by the mayor or the speaker, according to the original manner of appointment. [In the case of a vacancy in the office of a member for which a member is holding over after expiration of the term for which the member was appointed, an appointment to such office made after June 1 in a year in which covered elections are scheduled shall not take effect prior to December 1 of that calendar year.] Each member shall be a resident of the city, registered to vote therein. Each member shall agree not to make contributions to any candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the council which in the aggregate are in

excess of the maximum contribution applicable to such office pursuant to paragraph (f) of subdivision one of section 3-703. No member shall serve as an officer of a political party or be a candidate or participate in any capacity in a campaign by a candidate for nomination for election or election to the office of mayor, public advocate, comptroller, borough president or member of the city council. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under section 3-213 and the employees of such lobbyists shall not be eligible to be members of the board.

§ 10. Section 3-709.5 of the administrative code of the city of New York is amended to read as follows:

§3-709.5 Mandatory debates. 1. (a) In any year in which a primary, [runoff primary,] general or special election is to be held, any participating candidate for nomination or election to a city-wide office shall participate in either of the two pre-election debates, or both, held pursuant to this section for which he or she is eligible and is required to debate as determined pursuant to this section. A participant is eligible to participate in a debate for each election in which he or she is on the ballot [except that in the second general election debate the candidate shall] if he or she has [meet] met such criteria for participation as [may] shall be specified in [the application] any agreement between [submitted by] the debate sponsor [pursuant to paragraph (b) of subdivision five of this section] and the board.

(b) In any year in which a run-off primary or run-off special election to fill a vacancy for a city-wide office is held, any participating candidate for nomination or election to such city-wide office who is on the ballot shall participate in one run-off election debate.

(c) In the case of a primary, the debate shall be among participating candidates seeking nomination of the same political party who meet the requirements provided in paragraph (a) of this subdivision. If there is no contested primary for an office in a political party then no debate for that party's nomination shall be held pursuant to this section.

(d) Each debate held pursuant to this section shall be at least one hour's duration.

2. For purposes of this section, a “debate” shall mean the moderated reciprocal discussion of issues among candidates on the ballot for the same office.

3. The campaign finance board shall select [sponsors for two debates for each election in which debates among participating candidates are] one or more sponsors for each debate required pursuant to this section. For [a] primary, general [election] and special elections, the second debate shall be a debate among the leading contenders for the office, as described in paragraph (b) of subdivision five of this section.

4. Organizations which are not affiliated with any political party or with any holder of or candidate for public office, which have not endorsed any candidate in the pending primary, special, general, or [runoff] run-off election for the city-wide office shall be eligible to sponsor one or more of the required debates. The rules for conducting such debates shall be solely the responsibility of the organizations selected but shall not be made final without consultation with the campaign finance board. The organizations selected shall be responsible for choosing the date, time and location of the debates.

5. Written applications by organizations to sponsor [an election] a debate shall be submitted to the campaign finance board on a form provided by the board not later than a date chosen by the board in any year in which an election is held for city-wide offices.

(a) The written application shall:

- (i) demonstrate that the organization and any proposed co-sponsor meet the criteria of subdivision four of this section;
- (ii) specify the election and office for which the organization seeks to sponsor the debate;
- (iii) set forth the date, time, duration, and location of the debate and the specific and exclusive circumstances under which the date or time may be changed, together with a provision for when the rescheduled debate would be held;
- (iv) provide a detailed description of the format and ground rules for the debate;
- (v) verify that the staging, promotion, and coverage of the debate shall be in conformance

with all applicable laws;

- [(vi) include an agreement to indemnify the city for any liability arising from the acts or omissions of the sponsor; and]
 - (vi) set forth plans for publicity and for broadcast and other media coverage for the debate[.];
and
 - (vii) set forth the criteria for determining which candidates are eligible to participate in each debate the organization seeks to sponsor, in accordance with paragraph (b) of this subdivision.
- (b)(i) Except as otherwise provided in subparagraph (ii) below, each debate for a primary, general or special election shall include only those participants 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, general, or special election shall provide, among other criteria, that a participant shall be eligible to participate in such debate if such participant has, by the last filing date prior to such debate, either (A) spent, contracted, or obligated to spend, or (B) received in contributions, an amount equal to or more than twenty percent of the threshold for eligibility for public funding applicable to such participant contained in subdivision two of section 3-703; provided further, that the second debate for a primary, general, or special election shall include only those participants who the sponsor has 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. Nothing in this provision is intended to limit the debates to the two major political parties.

[The second debate for a general election shall include only those candidates who the sponsor has determined are the leading contenders for the office on the basis of the objective, non-partisan, and non-discriminatory criteria. These criteria must be set forth in the sponsor's written application.]

- (ii) If [the] a debate sponsor [of the second general election debate] has determined that a candidate who is not a participating candidate [is a leading contender for the office on the basis of such criteria] has met all the non-partisan, objective, and non-discriminatory criteria applicable to participants for access to either a first or second primary, general or special election debate, the sponsor may invite that candidate to participate in [the] such debate. In the case of a [runoff] run-off primary election or a run-off special election, the sponsor may invite a non-participating candidate to participate in [the debate(s)] such debate. However, if a non-participant [leading contender] does not accept such invitation to debate or does not appear at such debate, the debate shall go forward as scheduled [with the other previously selected leading contender or contenders in the case of a second general election debate or participating candidate on the ballot in the case of a runoff election debate]; provided, however, that if there is only one candidate participating in any such debate, the debate sponsor, after consultation with the board and the candidate, may choose to cancel the debate.

[(c) In the case of the second general election debate, the application shall also provide for an alternative non-partisan voter education program that the sponsor shall provide for any participating candidates not deemed leading contenders.]

6. Prior to choosing a sponsor, the board shall provide for the receipt of comments from interested persons regarding the qualifications of potential sponsors. The [Board] board shall consider and give substantial weight to such comments submitted by candidates.

7. Based upon the criteria in subdivision [4] four above and any comments received pursuant to subdivision [6] six above, the board shall select the organization or organizations to sponsor the [election] debates and shall provide written notification to the organization or organizations so selected. In addition to the sufficiency of the application, the board shall consider the applicant's ability to reach a wide audience and present a fair and impartial debate. The board may accept an application subject to modifications as it deems appropriate and as are acceptable to the sponsor.

8. For [the two primary] all debates [and the first general election debate], the board shall provide each debate sponsor it has selected with a list of candidates who are [required] eligible to be considered to participate in such debates.

9. If a candidate fails to participate in any debate required under this section, the candidate (i) shall be liable for return of moneys previously received for use by the candidate to pay election campaign expenses [and], (ii) shall be ineligible to receive any further matching funds for that election, and (iii) may be subject to penalties pursuant to section 3-711 of this chapter. For purposes of this subdivision, each primary, general, special or run-off election shall be considered a separate election.

10. Following the submission of a petition on behalf of the candidate and a hearing before the board, the [penalty] sanction(s) provided in subdivision nine above applicable to a participating candidate for failure to participate in any debate as required under this section [shall] may be waived upon a determination by the board that the failure to participate in the debate occurred under circumstances beyond the control of the candidate and of such nature that a reasonable person would find the failure justifiable or excusable.

11. Nothing contained in this section shall preclude any candidate from agreeing to participate in any number of additional debates between any and all candidates for a city-wide office, including those candidates not participating in the campaign finance program. These debates need not be held under guidelines or the purview of the campaign finance board.

12. The city shall indemnify each sponsor for any liability of such sponsor arising out of the acts or

omissions of the city or such sponsor taken or failed to be taken in connection with the debate(s) sponsored by any sponsor or with this section 3-709.5 generally.

§ 11. Subdivision 3 of section 3-710 of the administrative code of the city of New York is amended to read as follows:

3. (a) If a participating candidate whose principal committee has received public funds is disqualified by a court of competent jurisdiction on the grounds that such candidate committed fraudulent acts in order to obtain a place on the ballot and such decision is not reversed, such candidate and his or her principal committee shall pay to the board an amount equal to the total of public funds received by such principal committee.

(b) If the board determines that a participant has fundamentally breached the terms and conditions contained in his or her certification, such participant shall return to the board all public funds previously received for all the elections covered by the certification and shall be ineligible to receive additional public funds for such elections. Such participant may be subject to additional criminal or civil penalties or other sanctions pursuant to section 3-711 of this chapter. Notwithstanding anything otherwise provided for in this paragraph, any participant whom the board has determined has fundamentally breached the terms and conditions contained in his or her certification must continue to comply with the provisions of this chapter and the rules promulgated hereunder, including but not limited to the disclosure requirements, the contribution limitations and prohibitions, and the expenditure limitations.

§ 12. Subdivision 1 of section 3-711 of the administrative code of the city of New York is 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, including any

provision of section 3-709.5, 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.

§ 13. Subdivisions 2, 5, and 6 of section 3-801 of the administrative code of the city of New York are amended to read as follows, and subdivision 10 is added as follows:

2. Candidates elected to the office of mayor, public advocate, comptroller, borough president, or member of the city council, and the entities they authorize pursuant to subdivision one of this section, shall:

(a) not use funds accepted by a political committee authorized by the candidate for any election to make expenditures for transition or inauguration into office, and shall not transfer funds from a political committee to an entity the candidate is required to register pursuant to subdivision one of this section;

(b) not accept any donation or donations of money, goods, or services from any one individual, [corporation,] partnership, political committee, employee organization, or entity which in the aggregate exceeds:

(i) four thousand [five hundred] dollars, in the case of a candidate elected to the office of mayor, public advocate, or comptroller;

(ii) three thousand [five hundred] dollars, in the case of a candidate elected to the office of borough president; or

(iii) two thousand [five hundred] dollars, in the case of a candidate elected to the office of member of the city council[.];

(c) shall not accept, either directly or by transfer, any donation, loan, guarantee, or other security for

such loan from any corporation; and (d) shall not incur any liabilities after January thirty-first in the year following the election, nor accept any donations after all liabilities are paid.

5. (a) Each transition and inauguration entity authorized pursuant to subdivision one of this section shall report to the [best of the candidate's, treasurer's, and entity's knowledge, to the] campaign finance board every donation of money, goods, or services, and every loan, it receives, 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 donation or loan, and every expenditure it makes.

(b) Donations aggregating not more than ninety-nine dollars from any one donor need not be separately itemized in disclosure reports submitted to the campaign finance board. The treasurer of such entity need not collect or disclose the occupation, employer, or business address of any donor making donations aggregating not more than ninety-nine dollars. [Such]

(c) Disclosure reports shall be submitted at such times and in such form as the campaign finance board shall require and shall be clearly legible. The campaign finance board shall make available to the public a copy of these disclosure reports within two business days after they are accepted by the campaign finance board.

6. The final disclosure report submitted by such entity shall set forth the disposition of any funds remaining after all liabilities are paid, after which the entity shall be terminated. If an entity has funds remaining after all liabilities have been paid, it shall return those funds to one or more of the entity's donors, or if that is impracticable, to the fund.

10. Notwithstanding any restriction in this section, a candidate may self-fund his or her own entity.

§ 14. Paragraph 1 of subdivision a of section 1052 of the charter of the city of New York is amended to read as follows:

1. There shall be a campaign finance board consisting of five members. Two members of the board

shall be appointed by the mayor, provided that not more than one such member shall be enrolled in any one political party, and two members shall be appointed by the speaker of the council, provided that not more than one such member shall be enrolled in any one political party, and one member, who shall be the chairperson, shall be appointed by the mayor after consultation with the speaker. The members shall first be appointed to serve as follows:

- (a) one member appointed by the speaker for a term of one year;
- (b) one member appointed by the mayor for a term of two years;
- (c) one member appointed by the speaker for a term of three years;
- (d) one member appointed by the mayor for a term of four years; and
- (e) the chairperson for a term of five years.

Each term shall commence on April first, nineteen hundred eighty-eight. Thereafter, each member shall be appointed for a term of five years commencing on December first in the year of the appointment by the mayor or the speaker, according to the original manner of appointment, except that the terms of members who were appointed or reappointed between May eighteenth, two thousand and April first, two thousand two shall be reduced to four years and eight months. Upon expiration of the term of a member, if the mayor or the speaker, as appropriate, shall fail to appoint a member within one hundred twenty days of the expiration of such term, the member whose term has expired shall be deemed appointed for an additional term of five years[, provided, however, that if the expiration of such term occurs in a year in which elections, except special elections, covered by the voluntary system of campaign finance reform are scheduled, the member whose term has expired shall be deemed appointed for an additional term of five years if the mayor or the speaker, as appropriate, shall fail to appoint a member within ninety days of the expiration of such term.] In case of a vacancy in the office of a member, a member shall be appointed to serve for the remainder of the unexpired term by the mayor or the speaker, according to the original manner of appointment. If the mayor or the speaker, as appropriate, shall fail to appoint a member within one hundred eighty days of such vacancy, then a member

shall be appointed by the board to serve for the remainder of the unexpired term, if additional time remains in such term, provided, however, that if such vacancy occurs in a year, or within ninety days prior to a year, in which elections, except special elections, covered by the voluntary system of campaign finance reform are scheduled, then a member shall be appointed by the board to serve for the remainder of the unexpired term, if additional time remains in such term, if the mayor or the speaker, as appropriate, shall fail to appoint a member within ninety days of such vacancy. Except for the chairperson, such member shall not be enrolled in the same political party as the other member appointed by the official who failed to so appoint. Each member shall be a resident of the city, registered to vote therein. Each member shall agree not to make contributions to any candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president, or member of the council which in the aggregate are in excess of the maximum contribution applicable to such office pursuant to any local law establishing a voluntary system of campaign finance reform. No member shall serve as an officer of a political party, or be a candidate, or participate in any capacity in a campaign by a candidate, for nomination for election or election to the office of mayor, public advocate, comptroller, borough president or member of the city council. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under section 3-213 of the administrative code and the employees of such lobbyists shall not be eligible to be members of the board.

§ 15. Subdivisions 1 and 4 of section 1136.1 of the charter of the city of New York are amended to read as follows:

1. It shall be a violation of this section for an officer or employee of the city or of any city agency who is a candidate for nomination or election to any elective city office or the spouse of such officer or employee:

(i) to appear or otherwise participate in any television, radio or printed advertisement or commercial or by electronic means on the Internet which is funded, in whole or part, by governmental funds or resources from January first in the year an election for such elective city office shall be held

through the day of the last election that year for that office, in which the candidate seeks nomination or election;

(ii) to use governmental funds or resources for a mass mailing that is placed in the mail less than [thirty] ninety days prior to any primary or general election for any elective city office for which office such person is a candidate for nomination or election; [and]

(iii) to use governmental funds or resources for a public communication that contains an electioneering message urging the public to elect or defeat a certain candidate for an elective city office, or support or oppose a particular political party, or support or oppose a particular referendum question, including but not limited to information placed by electronic means on the Internet[.]; and

(iv) to use governmental funds or resources for the distribution of gifts or other things of value that have the effect of promoting or advertising a candidate for an elective office.

In case of a candidate in a special election to fill a vacancy in an elective city office, the prohibitions set forth in subparagraphs (i) and (ii) of this paragraph shall apply from the day the special election is declared through the day of the special election.

4. Any officer or employee of the city or of any city agency or the spouse of such officer [of] or employee who knowingly violates this section shall be guilty of a misdemeanor. The conflicts of interest board shall have the power to investigate and determine whether any use of governmental funds or resources constitutes a violation of this section. Upon a finding of a violation by the conflicts of interest board, the campaign finance board shall determine whether any use of governmental funds or resources prohibited by subdivision one of this section constitutes a violation of section 1052 of this charter or any provision of the administrative code or rule promulgated thereunder.

§ 16. This local law shall take effect immediately and shall be applicable to all receipts, expenditures, and public funds claims for elections held after the effective date, regardless whether the receipt, expenditure,

or claim occurred prior to the effective date.

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