

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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January 24, 2019
Start: 10:34 a.m.
Recess: 11:00 a.m.

HELD AT: Council Chambers - City Hall

B E F O R E: FERNANDO CABRERA
Chairperson

COUNCIL MEMBERS: Ben Kallos
Alan N. Maisel
Bill Perkins
Keith Powers
Ydanis A. Rodriguez
Kalman Yeger

A P P E A R A N C E S (CONTINUED)

2 [sound check] [pause]

3 CHAIRPERSON CABRERA: Welcome, ladies and
4 gentlemen. [Speaking Spanish] [background comments]
5 Okay, I missed my calling. [pause]

6 SERGEANT-AT-ARMS: Quiet, please. [gavel]

7 CHAIRPERSON CABRERA: [coughs] Good
8 morning and welcome to this hearing of the Committee
9 on Governmental Operations. I am the chair of the
10 committee, Council Member Fernando Cabrera. Today, we
11 will be holding a second hearing and a vote on
12 Proposed Introduction 1325-A sponsored by Council
13 Member Levin in relation to authorizing the creation
14 of a legal defense trust. As we discussed previously
15 at our first hearing on this bill, when a New York
16 City public official is accused of a civil offense
17 related to his or her official duties, he or she is
18 entitled under state law to public money to pay for
19 his or her legal defense. When a public official is
20 accused of a criminal offense related to his or her
21 duties, Local Law allows for the Law Department in
22 its discretion to provide public resources for his or
23 her legal defense. However, when a public official
24 or his or her staff is accused of or investigated for
25 a criminal or civil offense that is unrelated to

1 their official duties such as in relation to a
2 political campaign issue advocacy of certain
3 governmental or administrative issues, there is no
4 law that allows for the use of public funds to pay
5 for the legal defense or the legal defense of anyone
6 else involved in the matter. In 2017, the Conflict
7 of Interest Board also known as COIB, issued an
8 advisory opinion, which said that public officials
9 could not raise funds above \$50 per donor for their
10 legal defense. That opinion, however, did
11 acknowledge the occasional need for public officials
12 to raise money for their legal defense just as any
13 private citizen might need, and indicated that
14 additional local legislation will be necessary for a
15 proper legal defense fund to be established in New
16 York City. This bill, which was recently heard and
17 has since been amended, this meant to me that need
18 that was identified by the Conflicts of Interest
19 Board, it will establish a legal framework for public
20 officials and non-public officials involved in a
21 matter to establish legal defense trust to fundraise
22 for their legal defense. Proposed Introduction 1325-
23 A would allow public officials to create stand-alone
24 trusts to pay for certain criminal and civil matters
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2 as long as those expenses aren't already being paid
3 by the city. It will set a donation limit of \$5,000
4 per donor, and will place restriction on who could
5 donate to a legal defense trust. Lobbyists, people
6 doing business with the city, corporations and LLCs
7 will not be allowed to donate, and all donations will
8 have to be reported to COIB on quarter-quarterly
9 basis and posted online. The bill will include
10 enforcement mechanism, and has substantial fines for
11 violations of the law. Since introduction, introduction,
12 the bill has been amended to clarify the issue not be
13 interpreted as prohibiting or limiting certain
14 expenditures already permissible under the Campaign
15 Finance Act. It also has been amended to require
16 disclosure information to be posted online in a
17 machine readable format. Finally, it has been
18 amended to require COIB to conduct certain annual
19 reviews by annual audits and a final audit upon
20 dissolving of the trust. I would like to thank the
21 sponsor of this legislation, Council Member Levine-
22 Levin for his advocacy and hard work on this issue.
23 I also want to thank our committee staff, Brad Reed,
24 Elizabeth Cronk and Emily Forgione, Zach Harris as
25 well as my own Legislator Director Claire McLeveigh

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2 for their hard work as well. I will now ask the
3 clerk to call the roll. [pause]

4 CLERK: William Martin, Committee Clerk,
5 roll call vote Committee on Governmental Operations.
6 Introduction 1325-A, Chair Cabrera.

7 CHAIRPERSON CABRERA: Aye.

8 CLERK: Kallos.

9 COUNCIL MEMBER KALLOS: Aye.

10 CLERK: Maisel.

11 COUNCIL MEMBER MAISEL: [off mic] Yes.

12 CLERK: Power.

13 COUNCIL MEMBER POWERS: Can I have
14 permission to explain my vote, please?

15 CHAIRPERSON CABRERA: Absolutely.

16 COUNCIL MEMBER POWERS: Thank you. I
17 have deliberated on this bill for-for-since its
18 inception, but which is only two weeks ago, and I,
19 you know, have really, you know, kind of discussed
20 both the premise of the bill, and then the actual
21 logistics of it, and how it would be implement, and I
22 am-I'm voting aye, but I wanted to just-just raise a
23 couple of ideas that have been brought up throughout
24 this process that I think that the Council should
25 take a step back after this and will re-evaluate some

2 part of the bill. For starters, I think that even
3 yesterday we received--because of the short time
4 frame here, we've received some commentary from
5 Citizen's Union, and obviously from the Conflicts of
6 Interest Board asking questions about how this would
7 be implemented particularly relative to the Campaign
8 Finance Regulations that we have in place already. I
9 will share some of their concerns about creating a
10 new campaign finance structure that we are, you know,
11 not synchronizing now with the existing structure,
12 not creating the same regulations due to the Campaign
13 Finance limits, and that we could open the door to
14 other bad behavior by virtue of the--creating a new
15 fund. I don't--I do believe that there's amending
16 (sic) that we are addressing something I think many
17 members have identified as something that could--could
18 be--should be available for a public elected official
19 or a public servant. I think that even yesterday
20 we'd be, you know, we would become of there's no
21 disclosure for--for bundling so that under this bill
22 you can bundle and nobody would have any identifying--
23 any way to identify that. For that reason, I have
24 some hesitations about the exact language of the bill
25 that we're voting today. I would ask that the

2 Council and the staff come back at some point and
3 take another look at it and try to address some of
4 the outstanding issues that have been raise, and I
5 think that we could have a bill that would give me
6 and I think others who will have raised concerns more
7 comfort about where we land on the issue. But with
8 that being said, I think—I—I've talked to many
9 colleagues about and—and hearing their thoughts on
10 it, I believe there is a feeling like there is an
11 unmet need here today, and for that reason, even with
12 some of the hesitations I have, I—I am supportive of
13 the concept, but will be looking and asking for folks
14 to consider further additions to the bill that will
15 help clarify and give more comfort around some of the
16 issues that have been raised in the last few days.
17 And—and just the last thing I'd say, I think a bill
18 like this should really have a little more time for
19 deliberation in the future. It's not a criticism, it
20 just a comment that I think something like this we
21 could make improvements on if we just had a little
22 bit more time to be able to do that. With that being
23 said, I—I thank the committee for bringing I up
24 because I know it's important to many folks to have

2 this conversation, and with that, I register my vote.
3 Thanks.

4 CLERK: Yeger.

5 COUNCIL MEMBER YEGER: Mr. Chairman, may
6 I be excused to explain my vote?

7 CLERK: Absolutely.

8 COUNCIL MEMBER YEGER: Thank you. Mr.
9 Chairman, I—I agree with what my colleague Councilman
10 Powers has said. I—I do believe that there are
11 better things we could have done with this bill and
12 frankly, in a perfect world this bill wouldn't be
13 necessary. I believe it was necessitated by
14 erroneous advice from the Campaign—from the Conflicts
15 of Interest Board, which went back on previous advice
16 that it had indicated that there was a mechanism by
17 people who needed to avail themselves of these trust
18 were able to do so, and then change its mind
19 essentially with a new advisory opinion, which
20 necessitated this legislation. We don't live in a
21 perfect world unfortunately, and I don't want to let
22 the perfect be the enemy of the good. For that
23 reason, I will support this bill. I—I've shared with
24 the sponsor and—and with my colleagues here ways that
25 we could do better things, but frankly, this bill is

2 necessary. It is—it's—it's something that was always
3 permissible until it just became impermissible, and
4 what we're doing now is although we're creating a new
5 mechanism, we're not actually reinventing something
6 and—and instituting something that had never been
7 allowed prior hereto. I was allowed until one day a
8 bunch of folks said it's not, and I don't think
9 that's reasonable. I also take solace in the idea
10 that Common Cause from the outset and long before
11 this bill was proposed had indicated its support of
12 Common Cause as the gold standard in many respects
13 for good government, a watch dog in this over the
14 work that we do here, and with respect to Citizens
15 Union is concerned, I will say this and I'll say it
16 on the record and I'll say it in public: I would be
17 more impressed with Citizens Union's words regarding
18 this topic had they been desirous of presenting them
19 to us at the time that this matter was heard, but
20 they woke up, you know, like a couple of seconds ago
21 with their important advice to us. They did not show
22 up at the hearing. The Campaign Finance Board sent
23 over its testimony. They weren't here at the hearing
24 to help us navigate some of the questions that we've
25 had, for example my questions about whether or not

2 the Campaign Finance Board would need to build
3 something from scratch or could rely on the Campaign
4 Finance Board to allow Conflicts of Interest Board to
5 use the tool that the taxpayers already paid for, the
6 CSMART System, and that's something I'll be following
7 up with after the adoption of this bill, and I hope
8 to have some of my colleagues support me with a—with
9 an idea whether it's by bill or whether it's by
10 working with the agencies to ask the CFB to simply do
11 a—a slight buildout of their CSMART tool to make it
12 more efficient for the Conflicts of Interest Board to
13 manage this and also to provide the compliance that
14 the CFB knows its CSMART tool actually provides so
15 well. With that, and Mr. Chairman, thank you for
16 indulging me for this—the vast audience here that's
17 listen to our very wise words. With that, I—I vote
18 aye and you folks up there, thank you very much for
19 being here. I vote aye and I am glad that my
20 colleagues are here to support this bill. Thank you,
21 Mr. Chairman.

22 CLERK: By a vote of 5 in the affirmative,
23 0 in the negative and no abstentions, the item has
24 been adopted by the committee.

2 CHAIRPERSON CABRERA: Alright, I want to
3 say that your comments to both of my colleagues are
4 duly noted. We will follow up and I fully agree, and
5 we'll keep the roll open for another 10 minutes, 10
6 minutes. [pause]

7 CLERK: The final vote in the Committee
8 on Governmental Operations, Introduction 1325-A is
9 adopted by the Committee 5 in the affirmative, 0 in
10 the negative and no abstentions.

11 MALE SPEAKER: That concludes this
12 hearing of the Committee on Governmental Operations.
13 Thank you. Have a good day. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date February 6, 2019