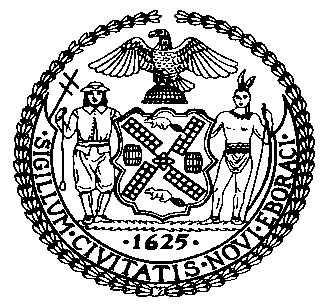
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## THE COUNCIL OF THE CITY OF NEW YORK

# **COMMITTEE REPORT of the GOVERNMENTAL AFFAIRS DIVISION**

*Jeffrey Baker, Legislative Director*

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**COMMITTEE ON GOVERNMENTAL OPERATIONS**

*Hon. Fernando Cabrera, Chair*

**April 15, 2019**

# **Proposed Int. 732-A-2018** : By Council Members Kallos, Cabrera, Powers, Cohen, Richards, Constantinides, Levin, Rosenthal, Espinal, Dromm, Lander, Brannan, Grodenchik, Vallone, Torres, Reynoso, Chin, Maisel, Cornegy, Jr., Menchaca, Rivera, the Public Advocate (Mr. Williams), Ayala, Perkins, Treyger, Lancman, Rose, Van Bramer, Levine, Adams, Ampry-Samuel, Deutsch, Koslowitz and Barron

# **Title:** A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing a full public match campaign finance system

**Charter:** Sections 1052, 1152

**Administrative Code:** Sections 3-703, 3-704, 3-705, 3-706, 3-709, 3-717, 3-721, 3-801

# **Introduction**

On April 15, 2019 the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, will hold a first hearing on Proposed Int. No. 732-A, sponsored by Council Member Ben Kallos, in relation to establishing a full public match campaign finance system. The Committee expects to receive testimony from the Campaign Finance Board and advocates.

1. **Background**

*Campaign Finance Board*

Since 1988, New York City has had a comprehensive campaign financing system for candidates running for local office.[[1]](#footnote-2) The system is administered by the Campaign Finance Board (“CFB”), an independent, nonpartisan agency also created in 1988.[[2]](#footnote-3) Commonly referred to as the “Campaign Finance Act” (“the CFA”), the legislation that effectuates this system, as amended from time to time, provides candidates who choose to participate with public funds to help finance their campaigns. Specifically, for candidates who choose to participate in the public financing program, eligible portions of matchable contributions are matched with a set multiple of public dollars in exchange for candidates abiding by expenditure limits and other requirements.[[3]](#footnote-4) Regardless of participation in the program, all candidates for local office must abide by contribution limits.[[4]](#footnote-5) The intent of the CFA is “to reduce improper influence of local officers by large campaign contributors and to enhance public confidence in local government.”[[5]](#footnote-6) Additionally, as the CFB notes, by “encouraging candidates to raise small-dollar contributions from average New Yorkers, the program increases engagement between voters and those who seek to represent them.”[[6]](#footnote-7)

According to the CFB’s 2017 Post-Election Report[[7]](#footnote-8) published in August 2018, the vast majority of candidates in the 2017 election cycle participated in the public financing program, though participation fell overall compared to the 2013 cycle: 84% of all candidates participated in the program in the 2017 primary election as opposed to 91% in the 2013 primary election. Participation rose two percentage points between general election candidates in 2017 (64%), compared to general election candidates in 2013 (62%).[[8]](#footnote-9) In the 2017 election cycle, the percentage of small contributions of $175 or less to participating candidates increased to 73% from 62% in 2013.[[9]](#footnote-10) Contributions from individuals who do business with the City made up only 2.8% of total contributions, likely due to the “pay-to-play” bills passed by the Council in 2007,[[10]](#footnote-11) which have led to a nearly 90% drop in contributions from those doing business with the City since the 2001 election cycle.[[11]](#footnote-12) In 2016, the Council passed legislation that prohibited contributions intermediated by individuals doing businesses with the City from being matched with public funds.[[12]](#footnote-13) Prior to the passage of this legislation, intermediaries doing business with the City were responsible for 46% of all contribution bundling, while after the legislation took effect on December 22, 2016, that share fell to 18%.[[13]](#footnote-14) As the data from the 2017 cycle demonstrates, the public financing program incentivizes participation in the program and reliance on small donations from individuals who are not doing business with the City. Ensuring that the administration of the program, both before and after elections, is fair and accessible to candidates enables these positive results to continue.

*Campaign Finance Reforms*

The City Council has spearheaded campaign finance reforms since the enactment of Local Law 8 of 1988, which established publicly financed campaigns in New York City.[[14]](#footnote-15) When initially enacted, the City provided a dollar-for-dollar match for the first $1,000 of each contribution. The program has since been amended multiple times, and there is a long history of improvements to the law under the Council’s stewardship. Among the many examples, in 1999, the Council passed a law to introduce a four-to-one match on the first $250 of eligible contributions. And, prior to the 2009 election, the Campaign Finance Act was amended to increase candidates’ access to public money by providing a six-to-one match for the first $175 of eligible contributions.[[15]](#footnote-16) The program has been credited with improving the democratic process by broadening the pool of potential candidates,[[16]](#footnote-17) increasing the diversity of representation of elected officials,[[17]](#footnote-18) limiting the potential impact of special-interest money, establishing greater engagement between voters and elected officials, and amplifying the value of small contributions.[[18]](#footnote-19) Donors of small contributions in particular have been found to come from more diverse neighborhoods than donors of large contributions.[[19]](#footnote-20)

The CFA is located in the NYC Administrative Code and is usually amended through local laws, as described above. However, while several courts have found campaign finance amendments to be an improper subject for Charter amendment when attempted by public petition, it has sometimes been a subject of mayoral charter revision commissions.[[20]](#footnote-21) For example, in 2018, Mayor Bill de Blasio established a charter revision commission which recommended several changes to the CFA. The commission’s Ballot Proposal Question #1 proposed amending the Charter to lower the contribution limits for participating and non-participating candidates; increase the public match to eight-to-one; raise the cap on total public funds that a participating candidate may receive per election; increase individual donor amounts citywide candidates can use to qualify for receipt of public funds; and disburse public funds earlier.[[21]](#footnote-22)These changes were proposed to apply to elections occurring after 2021 but gave candidates in elections before then the option to utilize the new program.

On November 6, 2018, voters overwhelmingly approved the recommendations as part of Ballot Proposal Question #1 on the general election ballot.[[22]](#footnote-23)

In December 2018, the Council passed legislation that applied these campaign finance changes to all elections between January 12, 2019 and the 2021 election cycle. That legislation, Local Law 1 of 2019, gave participating candidates in covered elections prior to the 2021 primary election the option to choose either the old or new program.

1. **Legislative Analysis**

**Proposed Int. No. 732-A 2018**

Proposed Int. No. 732-A 2018 (Kallos) would amend the New York City Campaign Finance Act to amend the current cap on matching funds available to candidates participating in the public financing program. Currently, as per voters’ approval of Ballot Proposal Question #1 in the 2018 general election and Local Law 1 of 2019, a candidate can receive matching funds up to 75% of the expenditure limit for the elected office sought, for those participants who opt into the new system through 2021 and for all participants thereafter. Proposed Int. No. 732-A would amend that cap and allow a participating candidate to receive matching funds in an amount such that a candidate could reach the expenditure limit through a combination of matchable contributions and public funds. For a system with an eight-to-one match ratio, this would functionally be a cap of 88.89%. The new full public match cap would be available to participating candidates who select the option for the new public financing program’s limits and thresholds in the 2021 primary and general elections. Participating candidates who do not select this option would continue to have the existing 55% public funds cap applied through 2021. Starting in 2022, the full public match cap would apply to all participating candidates.

Ballot Proposal Question #1 also provided three specific early payment dates for the dispersal of public funds. Since that time, New York State law has been amended to move the primary date from September to June. Proposed Int. No. 732-A would therefore adjust the public funds payment dates. First, the bill would increase the number of dates by which the CFB must disburse public funds, requiring that CFB schedule a first payment date on the December 15 preceding the election year, and subsequently schedule payment dates on the 15thday of each month from January through April of the election year, as well as three additional payment dates within 45 days of a covered primary election. Additionally, CFB would be required to schedule a payment date on July 15th and a minimum of four additional payment dates within 90 days of a covered general election. Finally, there would be a minimum of three payment dates within 30 days prior to any other covered election, such as a special election. No public funds may be paid earlier than December 15thor the 30th day after a special election is held to fill a vacancy, whichever is later.

Proposed Int. No. 732-A would also move the deadline by which candidates wishing to participate in the public financing program must file a written certification with the CFB accepting the program’s terms and conditions to the ninth Monday preceding the primary election (formerly the tenth day of June). This date would also be the last date by which a candidate could rescind any prior certification that was submitted, provided the candidate had not yet accepted public funds.

The bill would repeal the provisions added to the Charter by Ballot Proposal Question #1 and place the relevant provisions within the Administrative Code. The bill would also move to the Administrative Code a provision added to the Charter by Local Law 1 of 2019 that halved the qualifying threshold dollar amounts, for public funds eligibility, for special elections to fill a vacancy for citywide offices.

The bill would permit participating candidates to use public funds for costs related to defending a challenge to the validity of candidates’ petitions to get on the ballot.

The bill would adjust the contribution limits for Transition and Inauguration Entities to match those for non-participating candidates under the contribution limits to be in effect in 2022.

The bill would also remove portions of the Campaign Finance Act that have expired or been rendered unenforceable.

Finally, the bill creates a new Administrative Code section 3-721, which would sunset January 1, 2022, to apply to all covered elections prior to 2022, largely implementing or relocating items described above. Specifically, for non-participating candidates in a covered election prior to 2022, the maximum contribution limits would remain at 2018 levels. Participating candidates would be required to choose one of two options. Under Option A, for covered elections prior to the 2021 primary, candidates would abide by the new contribution limits, matching formula, qualifying thresholds, and a public funds cap set at 75% of the expenditure limit. For the 2021 primary and general election, candidates selecting Option A would abide by the new contribution limits, matching formula, and qualifying thresholds—but would receive a full public match. Under Option B, for all covered elections prior to 2022, the contribution limits, matching formula, qualifying thresholds, and public funds cap would remain as they were prior to January 12, 2019. For any special election to fill a vacancy in 2019, it would be as codified pursuant to Local Law 1 of 2019.

Proposed Int. No. 732-A

By Council Members Kallos, Cabrera, Powers, Cohen, Richards, Constantinides, Levin, Rosenthal, Espinal, Dromm, Lander, Brannan, Grodenchik, Vallone, Torres, Reynoso, Chin, Maisel, Cornegy, Menchaca, Rivera, The Public Advocate (Mr. Williams), Ayala, Perkins, Treyger, Lancman, Rose, Van Bramer, Levine, Adams, Ampry-Samuel, Deutsch, Koslowitz and Barron

..Title

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing a full public match campaign finance system

..Body

Be it enacted by the Council as follows:

Section 1. Paragraphs 16, 17, 18, 19, 20, 21 and 22 of subdivision a of section 1052 of the New York city charter, as added by a ballot question approved by the voters in the 2018 general election and amended by local law number 1 of the year 2019, are REPEALED.

§ 2. Paragraph (l) of subdivision 1 of section 1152 of the New York city charter, as added by a ballot question approved by the voters in the 2018 general election and amended by local law number 1 of the year 2019, is REPEALED.

§ 3. Paragraph (f) of subdivision 1 of section 3-703 of the administrative code of the city of New York is amended to read as follows:

(f) not accept and his or her principal committee, or authorized committees must not accept, either directly or by transfer, any contribution or contributions from any one individual, partnership, political committee, labor organization or other entity for all covered elections held in the same calendar year in which he or she is a participating candidate [or a non-participating candidate] which in the aggregate: (i) for the office of mayor, public advocate or comptroller shall exceed [four thousand five hundred] two thousand dollars, or (ii) for borough president, shall exceed [three thousand five hundred] one thousand five hundred dollars, or (iii) for member of the city council, shall exceed [two thousand five hundred] one thousand dollars; or a non-participating candidate which in the aggregate: (i) for the office of mayor, public advocate or comptroller shall exceed three thousand five hundred dollars, or (ii) for borough president, shall exceed two thousand five hundred dollars, or (iii) for member of the city council, shall exceed one thousand five hundred dollars; provided that a participating candidate and his or her principal committee or a non-participating candidate and his or her authorized committees 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 for the purposes of this paragraph, contributions made by different labor organizations shall not be aggregated or treated as contributions from a single contributor for purposes of the contribution limit that is set forth in this paragraph if those labor organizations make contributions from different accounts, maintain separate accounts with different signatories, do not share a majority of members of their governing boards, and do not share a majority of the officers of their governing boards; 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;

§ 4. Subparagraph (i) of paragraph (c) of subdivision 1 of section 3-703 of the administrative code of the city of New York is amended to read as follows:

(i) [the tenth day of June in the year of the covered election] the ninth Monday preceding the primary election, or such other later date as the board shall provide, provided, however, that any candidate who files such written certification prior to such date shall be permitted to rescind such certification in writing on or before [the ninth Monday preceding the primary election] such date or prior to the receipt of public funds, whichever occurs first;

§ 5. Subdivision 2 of section 3-703 of the administrative code of the city of New York is amended to read as follows:

2. (a) The threshold for eligibility for public funding for participating candidates in a primary or general election for mayor, public advocate, comptroller, borough president or member of the city council, or special election to fill a vacancy for borough president or member of the city council, shall be in the case of:

(i) mayor, not less than two hundred fifty thousand dollars in matchable contributions comprised of sums up to [one hundred seventy-five] two hundred fifty 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 hundred seventy-five] two hundred fifty 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 hundred seventy-five 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 hundred seventy-five 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 hundred seventy-five dollars per contributor including at least seventy-five matchable contributions of ten dollars or more from residents of the district in which the seat is to be filled.

(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.

(c) For any special election to fill a vacancy for mayor, public advocate or comptroller, the threshold dollar amount of summed matchable contributions pursuant to subparagraphs (i) and (ii) of paragraph (a) of this subdivision shall be halved.

§ 6. Subdivision 7 of section 3-703 of the administrative code of the city of New York is amended to read as follows:

7. Not later than the first day of March in the year two thousand [eighteen] twenty-two 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 two thousand [fifteen] nineteen of such consumer price index; (ii) adjust each maximum contribution applicable pursuant to paragraph (f) of subdivision one of this section by the amount of such percentage difference to the nearest fifty dollars; and (iii) publish such adjusted maximum contribution in the City Record. Such adjusted maximum contribution shall be in effect for any election held before the next such adjustment.

§ 7. Paragraph (h) of subdivision 2 of section 3-704 of the administrative code of the city of New York, as amended by local law 196 of the year 2018, is amended to read as follows:

(h) any expenditure 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;

§ 8. Subdivision 2 of section 3-705 of the administrative code of the city of New York is 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: (i) eight [six] dollars for each one dollar of matchable contributions, up to [one thousand fifty] two thousand dollars in public funds per contributor, obtained and reported to the campaign finance board in accordance with the provisions of this chapter, with respect to any participating candidate for nomination for election or election to the office of mayor, public advocate or comptroller; or (ii) eight dollars for each one dollar of matchable contributions, up to one thousand four hundred dollars in public funds per contributor, obtained and reported to the campaign finance board in accordance with the provisions of this chapter, with respect to any participating candidate for nomination for election or election to the office of borough president or member of the city council.

(b) [Except as otherwise provided in subdivision three of section 3-706, in] In no case shall the principal committee of a participating candidate receive public funds pursuant to paragraph (a) above in excess of an amount equal to [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, less such expenditure limit divided by the addition of one and the dollar amount for each one dollar of matchable contributions for such office pursuant to paragraph a of this subdivision. [For the disbursement of optional public financing occurring prior to two weeks after the last day to file designating petitions for a primary election, the principal committee of a participating candidate shall not receive public funds in excess of $250,000 for any candidate for nomination for election to the office of mayor, $125,000 for any candidate for nomination for election to the office of public advocate or comptroller, $50,000 for any candidate for nomination for election to the office of borough president, and $10,000 for any candidate for nomination for election to the office of member of the city council.]

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

§ 9. Subdivision 4 of section 3-705 of the administrative code of the city of New York is amended to read as follows:

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 shall withhold up to five percent of all public funds payments to participating candidates until the final pre-election payment for any given election. The board shall schedule payment dates on December 15 of the year preceding the year of election, as well as January 15, February 15, March 15, April 15 and a minimum of three payment dates within the [thirty] forty-five days prior to a covered primary election, a payment date of July 15 and a minimum of four payment dates within the ninety days prior to a covered general election, and a minimum of three payment dates within the thirty days prior to any other covered election. For purposes of such payment dates, the board shall provide each candidate with a written determination specifying the basis for any non-payment. The board shall provide candidates with a process by which they may immediately upon receipt of such determination petition the board for reconsideration of any such non-payment and such reconsideration shall occur within five business days of the filing of such petition. In the event that the board denies such petition then it shall immediately notify the candidate of his or her right to bring a special proceeding pursuant to article 78 of the civil practice law and rules.

§ 10. Subdivision 5 of section 3-709 of the administrative code of the city of New York is amended to read as follows:

5. No moneys shall be paid to participating candidates in a primary or general election any earlier than [four business days after the final day to file a written certification pursuant to paragraph (c) of subdivision 1 of section 3-703] December 15 of the year preceding the primary election, or the thirtieth day after a special election is held to fill a vacancy for the office sought by the candidate; whichever is later.

(a) No moneys shall be paid to participating candidates in a run-off primary election held pursuant to section 6-162 of the election law 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.

§ 11. Subdivision 3 of section 3-706 of the administrative code of the city of New York is amended to read as follows:

3. (a) If any candidate in any covered election chooses not to file a certification as a participating or limited participating candidate pursuant to 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, then[:

(i)] such expenditure limit applicable to participating candidates and limited participating candidates in such election for such office shall be increased to one hundred fifty percent of such limit[; and

(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 (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 two-thirds of the expenditure limitation provided for such office in subdivision one of this section.

(iii) for elections occurring after January first, two thousand eight, the campaign finance board shall promulgate rules to provide that the principal committees of such participating candidates shall receive payment for qualified campaign expenditures that will provide the highest allowable matchable contribution to be matched by an amount 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 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 two-thirds of the expenditure limitation provided for such office in subdivision one of this section].

(b) If any candidate in any covered election chooses not to file a certification as a participating or limited participating candidate pursuant to 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 three times the applicable expenditure limit for such office fixed by subdivision one of this section, then[:

(i)] such expenditure limit shall no longer apply to participating candidates and limited 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 one hundred twenty-five percent of the expenditure limitation provided for such office in subdivision one of this section.

(iii) for elections occurring after January first, two thousand eight, the campaign finance board shall promulgate rules to provide that the principal committees of such participating candidates shall receive payment for qualified campaign expenditures that will provide the highest allowable matchable contribution to be matched by an amount 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 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 one hundred twenty-five percent of the expenditure limitation provided for such office in subdivision one of this section].

§ 12. Section 3-717 of the administrative code of the city of New York is REPEALED.

§ 13. Chapter 7 of the administrative code of the city of New York is amended to add a new section 3-721, to read as follows:

§ 3-721 Covered elections prior to the year 2022. a. Notwithstanding any other provision of this chapter, the contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, and public funds cap, pursuant to this section shall apply to all candidates seeking office in covered elections held prior to the year 2022.

b. For non-participating candidates in a covered election held prior to the year 2022, the maximum contributions shall be as follows:

1. for the office of mayor, public advocate or comptroller, $5,100;

2. for borough president, $3,950; or

3. for member of the city council, $2,850.

c. Candidates seeking office in covered elections held prior to the year 2022 who intend to participate shall file with the campaign finance board a nonbinding written statement declaring whether they intend to select the terms, conditions, and requirements for contribution limits and for the provision of public matching funds, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, under Option A or Option B provided in subdivision d of this section. Such statement shall be made on the date of the filing of the first disclosure report required pursuant to section 3-703 of the administrative code, provided that candidates who intend to participate in such system who filed such first disclosure report prior to January 12, 2019 shall file such non-binding written statement with the campaign finance board no later than August 15, 2019, and further provided that such non-binding written statement shall not be required if a candidate has already complied with subdivision d of this section as of the date of the filing of the first disclosure report. Failure to file the statement required pursuant to this subdivision shall not be deemed to preclude a candidate from choosing to participate in the voluntary system of campaign finance reform described in this chapter, pursuant to paragraph (c) of subdivision 1 of section 3-703, provided that if no such statement is filed then the board shall apply to such a participating candidate the terms, conditions and requirements pursuant to Option B.

d. Participating candidates seeking office in covered elections held prior to the year 2022 shall state in the written certification filed pursuant to paragraph (c) of subdivision 1 of section 3-703, whether they agree to the terms, conditions, and requirements for contribution limits and for the provision of public matching funds, including those pertaining to the matching formula, qualifying threshold, public funds cap, and distribution schedule, under Option A or Option B provided in subdivision e of this section.

e. 1. Option A. For candidates seeking office in covered elections held prior to the covered primary election to be held in the year 2021: (i) the contribution limitations pursuant to paragraph (f) of subdivision 1 of section 3-703; (ii) the matching formula provided in paragraph a of subdivision 2 of section 3-705; (iii) a public funds cap such that the principal committee of a participating candidate shall not receive public funds in excess of an amount equal to 75 percent of the expenditure limitation provided in subdivision 1 of section 3-706 for the office for which such candidate seeks nomination for election or election, as adjusted by the campaign finance board pursuant to paragraph (e) of subdivision 1 of section 3-706; and (v) the threshold for eligibility for public funding for participating candidates pursuant to subdivision 2 of section 3-703.

For candidates seeking office in a covered primary or general election to be held in the year 2021: (i) the contribution limitations pursuant to paragraph (f) of subdivision 1 of section 3-703; (ii) the matching formula pursuant to paragraph a of subdivision 2 of section 3-705; (iii) the public funds cap pursuant to paragraph b of subdivision 2 of section 3-705; and (v) the threshold for eligibility for public funding for participating candidates pursuant to subdivision 2 of section 3-703.

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

f. For participating candidates and their principal committees seeking office in covered elections held prior to the year 2022, the campaign finance board shall administer and enforce the contribution limitations and public matching funds provisions, including those pertaining to the matching formula, qualifying threshold, and public funds cap in accordance with whether the participating candidate has chosen Option A or Option B pursuant to subdivision d, provided that: (i) for any special election to fill a vacancy held in the year 2019, a candidate who elects Option A shall be required to refund the portion of any contribution received prior to January 12, 2019 that exceeds one half the limitations set forth in paragraph (f) of subdivision 1 of section 3-703; (ii) for any special election to fill a vacancy held in the year 2019, matchable contributions received for such special election to fill a vacancy, regardless of date received, shall be subject to the matching formula as described in Option A if a candidate elects Option A and to the matching formula described in Option B if such candidate elects Option B; (iii) for any covered election held prior to the year 2022, other than a special election to fill a vacancy held in the year 2019, candidates who received contributions prior to January 12, 2019 shall not be required to refund such contributions or any portion thereof solely by reason of electing Option A; and (iv) for any covered election held prior to the year 2022, other than a special election to fill a vacancy held in the year 2019, matchable contributions received prior to January 12, 2019 shall be subject to the matching formula in effect prior to such date, regardless of whether the participating candidate chooses Option A or Option B.

§ 14. Paragraph (b) of subdivision 2 of section 3-801 of the administrative code of the city of New York is amended to read as follows:

(b) not accept any donation or donations of money, goods, or services from any individual other than the candidate, political committee, employee organization, or entity which in the aggregate exceeds the limit for a non-participating candidate for the applicable office contained in paragraph (f) of subdivision one of section 3-703, as adjusted pursuant to subdivision seven of such section as applicable.

§ 15. This local law takes effect immediately, provided that §13 expires and is deemed repealed on January 1, 2022.

BJR

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LS 6934 / Int. 1130-2016

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1. This system is laid out in Chapter 7 of Title 3 of the Administrative Code of the City of New York. [↑](#footnote-ref-2)
2. New York City Charter §1052. [↑](#footnote-ref-3)
3. *See generally* New York City Charter §1052(19) and New York City Administrative Code §§3-703—3-706. [↑](#footnote-ref-4)
4. *See generally* New York City Administrative Code §§3-703. [↑](#footnote-ref-5)
5. New York City Local Law 8 of 1988, §1. [↑](#footnote-ref-6)
6. New York City Campaign Finance Board, Benefits, <https://www.nyccfb.info/program/benefits> (Last accessed April 2, 2019). [↑](#footnote-ref-7)
7. New York City Campaign Finance Board, “2017 Post-Election Report – Keeping Democracy Strong: New York City’s Campaign Finance Program in the 2017 Elections” (Aug. 30 2018), *available at* <http://www.nyccfb.info/pdf/2017_Post-Election_Report_2.pdf>. [↑](#footnote-ref-8)
8. *Id.* at 1. [↑](#footnote-ref-9)
9. *Id* at 49. [↑](#footnote-ref-10)
10. Local Law 34 of 2007. [↑](#footnote-ref-11)
11. *Supra* note 7 at 76. [↑](#footnote-ref-12)
12. Local Law 167 of 2016. [↑](#footnote-ref-13)
13. *Supra* note 7 at 80. [↑](#footnote-ref-14)
14. Friedlander, J. D., Louis, S. E., & Laufer, L. D. (n.d.). *The New York City Campaign Finance Act* (Rep.). Retrieved April 20, 2017, from Hofstra Law Review website: <http://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=1617&context=hlr>. [↑](#footnote-ref-15)
15. Liss, S., & Migally, A. (n.d.). Small Donor Matching Funds: The NYC Election Experience . Retrieved April 20, 2017, from <https://www.brennancenter.org/sites/default/files/legacy/Small%20Donor%20Matching%20Funds-The%20NYC%20Election%20Experience.pdf>. [↑](#footnote-ref-16)
16. Benefits. (n.d.). Retrieved April 21, 2017, from http://www.nyccfb.info/program/benefits/. [↑](#footnote-ref-17)
17. New York City Campaign Finance Board 2009 Post Election Report at 142, Retrieved April 21, 2017, from <http://www.nyccfb.info/PDF/per/2009_PER/2009PostElectionReport.pdf>. [↑](#footnote-ref-18)
18. Benefits. (n.d.). Retrieved April 21, 2017, from http://www.nyccfb.info/program/benefits/. [↑](#footnote-ref-19)
19. Campaign Finance Institute, Are All Public Matching Fund Programs Created Equal? Small Donors in NYC and LA, slides 13-16, Retrieved April 25, 2017, from: http://www.cfinst.org/pdf/presentations/CFI\_LA-NYC-Slides\_Malbin-Parrott.pdf. [↑](#footnote-ref-20)
20. *Schrader v. Cuevas*, 179 Misc.2d 11 (Sup. Ct., N.Y. Cty, 1998) and *Matter of Juntikka v. Cuevas*, slip op. Index No. 116778/96 (Sup.Ct., N.Y. County, October 22, 1996), affd. 232 A.D.2d 301 (1st Dept 1996) [↑](#footnote-ref-21)
21. New York City Mayoral Charter Revision Commission (2018),Abstracts, Questions #1: Campaign Finance, *available at* <https://www1.nyc.gov/assets/charter/downloads/pdf/2018_charter_revision_commission_abstracts_1_pdf.PDF>. [↑](#footnote-ref-22)
22. New York City Board of Elections general election certified results, General Election 2018, *available at* <http://vote.nyc.ny.us/downloads/pdf/election_results/2018/20181106General%20Election/00050100000Citywide%20Campaign%20Finance%20Citywide%20Recap.pdf>. [↑](#footnote-ref-23)