

**Testimony to the 2018 NYC Charter Revision Commission  
on Campaign Finance and Voting Reforms**

**Public Hearing #5**

May 9, 2018

The New York Public Library

New York, NY

Good evening Chair Perales and members of the Charter Revision Commission. I am Alex Camarda, the Senior Policy Advisor for Reinvent Albany. Reinvent Albany advocates for transparency and accountability in State government, and are leading champions for transparency in New York City government, particularly the Freedom of Information Law and open data.

We previously testified before the Commission on increasing transparency and limiting the size of donations to nonprofits affiliated with elected officials.

Tonight we make recommendations for improving the city's campaign finance system and voting. First, we want to emphasize our strong support for the structure of the the city's campaign finance system - the public matching system and doing business restrictions - and the Campaign Finance Board. New York City's campaign finance system is a national model and has been continuously and carefully improved over 30 years. The Commission should make improvements to our model system but we oppose changing its strong foundation.

Reinvent Albany makes the following recommendations to improve the city's campaign finance and voting systems:

- 1. Empower the Campaign Finance Board to monitor and enforce laws and regulations for campaign finance, ethics, and lobbying.**
  - a. As a first step towards consolidating and strengthening oversight, move lobbying enforcement out of the City Clerk's office into the Conflicts of Interest Board (COIB).**
- 2. Significantly increase the cap limiting candidates' public funds to 55 percent of the spending limit for the office sought.**
- 3. Limit public matching funds to contributions up to \$175.**
- 4. Include the clients of lobbyists in the Doing Business definition.**

- 5. Require subcontractors doing large amounts of work on city contracts to be subject to the doing business contribution limits.**
- 6. Strengthen disclosure of independent expenditures by revealing the actual donors or beneficial owners of LLCs making independent expenditures or donating to entities making independent expenditures.<sup>1</sup>**
- 7. Establish Instant Runoff Voting (IRV) or Ranked Choice Voting for primary elections for citywide offices, all special elections, and for military and overseas voters.**

### **Recommendation #1**

**Empower the Campaign Finance Board to monitor and enforce laws and regulations for campaign finance, ethics, and lobbying.**

**As a first step towards consolidating and strengthening oversight, move lobbying enforcement out of the City Clerk's office into the Conflicts of Interest Board (COIB).**

In most places, campaign finance, ethics, and lobbying enforcement is more centralized than in New York City. Thirty five states have an ethics commission that administers both conflicts of interest and lobbying laws.<sup>2</sup> In California, the highly regarded Fair Political Practices Commission, oversees elections, ethics and lobbying, has done so for over 40 years and is considered a national leader in the field.

New York City's administration and enforcement is fragmented: the Campaign Finance Board oversees candidates raising and spending money for political office; the Board of Elections administers elections; the Mayor's Office of Contract Services (MOCS) administers the Doing Business Database; the Conflicts of Interest Board (COIB) oversees ethics laws and financial disclosure; and the City Clerk's Office, part of the City Council, regulates lobbying disclosure and enforcement.

Reinvent Albany believes New York should consolidate these functions to concentrate regulatory and technology expertise, take advantage of economies of scale, and reduce costs. Consolidation allows one agency to conduct more effective oversight because it can examine all areas of potential influence by outside actors and activities by public officials, and leverage expertise applicable to all areas to broadly identify corruption

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<sup>1</sup> CFB 2013 post election report, recommendation #3. Available at: [http://www.nycffb.info/PDF/per/2013\\_PER/2013\\_PER.pdf](http://www.nycffb.info/PDF/per/2013_PER/2013_PER.pdf). Pages 123-126.

<sup>2</sup> See: <http://www.ncsl.org/research/ethics/50-state-chart-state-ethics-commissions-jurisdic.aspx>

risk. The Campaign Finance Board, which effectively uses technology to make campaign activity transparent and to engage voters, could apply its expertise to improving and networking databases at MOCS, COIB and the City Clerk's Office.

Consolidating oversight at the CFB might seem like a far out idea for those hearing it for the first time, but greater consolidation is the norm and the long term trend in most other places. If the Commission and the mayor are looking to do something big to put the city at the forefront of curtailing the influence of money on politics and governance, this is it.

The last NYC Charter Revision Commission made steps in this direction, moving the Voter Assistance Advisory Commission (VAAC) into the Campaign Finance Board, which has been a big success.

Here in New York City, the ethics body, COIB, does not regulate lobbying. Instead lobbying oversight is housed in the City Council in the Clerk's Office. At the very least, lobbying oversight should be moved into the COIB. Better still would be to move both lobbying and ethics moved into the larger, more effective and independent Campaign Finance Board.

## **Recommendations #2**

### **Significantly increase the cap limiting candidates' public funds to 55 percent of the spending limit for the office sought.**

Reinvent Albany recommends changes to the campaign finance system to better incentivize small donor fundraising. The first way to achieve this is by eliminating the cap on public funds, which is 55 percent of the spending limit for the office. We believe this would be helpful in reorienting candidates from the start of their campaigns toward fundraising more from small donors. Currently candidates are incentivized to raise the maximum contribution because they have to raise, at minimum, 45 percent of the spending limit for their office in private dollars. Candidates believe the fastest way for them to get to the spending limit is to collect large contributions rather than raising money from small donors.

A joint analysis by Reinvent Albany and Represent.us New York shows Councilmembers during their 2017 campaigns were mostly funded by larger contributions: 88 percent of their campaign funds came from donations larger than \$175; 68 percent of funds from donations larger than \$500, and 54 percent of funds from donations larger than \$1,000. Thirty-four of 45 Councilmembers actively campaigning raised less than 20 percent of

their funds from small donations of \$175 or less. Fifteen candidates did not participate in the public matching system altogether.

**Recommendation #3:**

**Limit public matching funds to contributions up to \$175.**

Another solution is to limit matching funds for contributions up to \$175. Matching funds are currently provided for the first \$175 of *any* contribution at a rate of \$6 to \$1, no matter how large the contribution is. Consequently, many candidates with limited time and resources raise money from larger donors. By only providing the match for smaller contributions, we incentivize candidates to focus on smaller donors rather than raising the maximum contribution.

**Recommendations #4**

**Include the clients of lobbyists in the Doing Business definition.**

The Doing Business restrictions should be extended to clients of lobbyists. This means that individuals associated with companies and organizations that hire lobbyists but do not lobby themselves would have their campaign contributions limited to \$400 or less. It does not make sense that in-house lobbyists at small nonprofits are subject to the doing business limits yet clients of lobbyists who may pay lobbyists hundreds of thousands of dollars per year to advocate for them are not considered doing business with the city.

The New York City Hospitality Association, for example, spent \$30,000 lobbying as a client in 2017. Because the association was not registered as a lobbyist, its president, president emeritus, treasurer, and board member all legally gave campaign contributions to Councilmembers in excess of the doing business limits while legislation impacting the industry was before the Council.

**Recommendations #5**

**Require subcontractors doing large amounts of work on city contracts to be subject to the doing business contribution limits.**

Reinvent Albany recommends expanding the “Doing Business” definition so the reduced contribution limits apply to subcontractors doing large amounts of work on city contracts. We do not have a recommendation on the dollar value for being subject to the doing business restrictions at this time. However, we think it is an inconsistency that

subcontractors doing millions of dollars of work are not subject to doing business contribution limits while prime contractors on small contracts are.

Reinvent Albany has advocated for more transparency regarding subcontractors generally, and last year the comptroller began to make spending on subcontractors available in Checkbook NYC, the city's public database for expenditures.<sup>3</sup> However, only a small portion of the funds are known in part because the city does not require prime contractors to report their subcontractors for many city contracts.<sup>4</sup> Collecting this information would not only reduce undue influence in government (or the perception of it) by limiting donations of subcontractors, but also result in better monitoring of Minority and Women Business Enterprises (MWBES) and procurement.

### *Improve the Accuracy of the Mayor's Office of Contracting Doing Business Database*

Reinvent Albany also has concerns about the accuracy of the Doing Business Database. Based on our own experience filing lobbying reports, we believe the Doing Business Database is receiving incomplete or inaccurate information from the City Clerk's lobbying database. Reinvent Albany's current lobbyists were not listed in the Doing Business database even though we updated the online forms we submitted to the City Clerk's Office in March 2017. Former lobbyists who left the organization in March and September 2017 were not delisted until 2018.<sup>5</sup>

We are particularly concerned about the accuracy of the MOCS database because several changes were made in 2016 to the Doing Business laws. The 2016 laws prohibit matching contributions bundled by lobbyists and vendors doing business with the city; require that entities with at least a 10 percent interest in companies "doing business" also be classified as "doing business"; create new systems for disclosures to donors regarding doing business restrictions; require the Doing Business database include the dates when business was done; and require MOCS to publish a list of those doing business historically.<sup>6</sup>

## **Recommendation #6**

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<sup>3</sup> See:

<https://comptroller.nyc.gov/newsroom/comptroller-stringer-announces-new-transparency-tool-for-checkbook-nyc/>

<sup>4</sup> See:

[https://www.checkbooknyc.com/contracts\\_landing/bottom\\_slider/sub\\_vendor/dashboard/ss/yeartype/B/year/118/status/A?expandBottomCont=true](https://www.checkbooknyc.com/contracts_landing/bottom_slider/sub_vendor/dashboard/ss/yeartype/B/year/118/status/A?expandBottomCont=true)

<sup>5</sup> See:

[https://www1.nyc.gov/dbnyc/entityDetail.htm?org\\_id=160125&org\\_name=REINVENT%20ALBANY&lastClosingDate=12/31/2017&lastRunDate=12/31/2017](https://www1.nyc.gov/dbnyc/entityDetail.htm?org_id=160125&org_name=REINVENT%20ALBANY&lastClosingDate=12/31/2017&lastRunDate=12/31/2017)

<sup>6</sup> See: <https://council.nyc.gov/press/2016/12/15/1339/>

**Strengthen disclosure of independent expenditures by revealing the actual donors or beneficial owners of LLCs making independent expenditures or donating to entities making independent expenditures.<sup>7</sup>**

Limited Liability Corporations (LLCs) that are little more than shell companies or opaque conduits have been at the center of some of New York State's largest scandals. In New York City, corporate contributions to candidates are prohibited. However, because of the *Citizens United* and other court decisions, corporations, including limited liability companies, can spend unlimited amounts of money if they do not coordinate with candidates. Thanks to the last Charter Revision Commission, the voters approved robust disclosure of independent expenditures. However, even disclosure of the name of an LLC does not reveal the true source of the money behind a campaign expenditure. The CFB to its credit did an analysis in its 2013 post election revealing the real donors behind some of the LLC contributors to a real estate funded entity that made independent expenditures. But CFB's analysis was laborious and done after the election when the information had diminished value. The city should require the disclosure of the corporate parent or beneficial owner(s) when an independent expenditure is made or funded by an LLC. We believe state election law gives the city the authority to do this.

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**Recommendation #7**

**Establish Instant Runoff Voting (IRV) or Ranked Choice Voting for primary elections for citywide offices, all special elections, and for military and overseas voters.**

Reinvent Albany recommends the city adopt Instant Runoff Voting (IRV) or Ranked Choice Voting for primary elections for citywide offices, all special elections, and for military and overseas voters. We think Councilmember Brad Lander's and Manhattan Borough President Gale Brewer's legislation, Int. No. 150 of 2014, which was supported by more than half the City Council, is a good starting point for introducing Instant Runoff Voting in New York City.<sup>9</sup> Their bill covers primary elections for citywide offices (mayor, comptroller and public advocate) and special elections for all offices, including City Council and borough president. Under Int. No. 150 of 2014, voters rank 3 candidates in order of preference. If no candidate receives 50 percent of the vote, an

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<sup>7</sup> CFB 2013 post election report, recommendation #3. Available at: [http://www.nyccfb.info/PDF/per/2013\\_PER/2013\\_PER.pdf](http://www.nyccfb.info/PDF/per/2013_PER/2013_PER.pdf). Pages 123-126.

<sup>8</sup> See NYS Election Law 14-120, "Campaign contribution to be under true name of the donor."

<sup>9</sup> See:

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1681065&GUID=C2D94A92-80CF-4E75-806F-D9C49E96C6BD&Options=ID|Text|&Search=ranked+choice>

instant runoff occurs. Only the candidates finishing in the top two in first choice votes advance to the instant runoff. The other candidates are eliminated, and ballots indicating a first choice vote for eliminated candidates are counted as votes for the highest ranked continuing candidate.

We think the city has a moral and possibly legal obligation to establish instant runoff voting for military and overseas voters. These voters are unable to vote in the runoff elections because there is not enough time in the two weeks between the primary and runoff elections for the Board of Elections to design and send ballots, and for military and overseas voters to receive and send back their completed ballots by the runoff deadline. Other states have established instant runoff voting for military and overseas voters, in some cases as the result of a legal settlement.

The benefits of instant runoff voting have been testified to before the commission. They include more civil and substantive campaigns, increased voter enthusiasm due to the lack of wasted votes for longshot candidates, millions of dollars in cost savings on elections administration, and preventing vote splitting and the election of polarizing candidates who appeal to a narrow base unreflective of the majority of voters in a district. Instant runoff voting is also clearly within the city's authority to do unlike some other proposed voting reforms.

Thank you for holding this hearing tonight. I welcome any questions you may have.