



## **Testimony to the City Council Governmental Operations Committee**

### **Three Improvements to NYC Campaign Finance Law**

**June 20, 2019**

Good morning Chair Cabrera and members of the City Council Committee on Governmental Operations. My name is Alex Camarda, and I am the Senior Policy Advisor for Reinvent Albany. Reinvent Albany advocates for accountable and transparent New York State government. We are part of the leadership of the Fair Elections campaign seeking to establish a public matching system in New York State inspired by New York City's system.

The bills before the committee today further strengthen the City's model campaign finance program. Reinvent Albany supports all of the legislation as described below.

#### **Support for [Int. 747](#) - prohibits the distribution of public matching funds to candidates previously convicted of certain felonies.**

This bill prohibits distribution of public funds to candidates who have previously been convicted of certain felonies, attempted felonies or conspiracy to commit felonies which were not vacated or pardoned. These felonies include bribery involving public servants and related offenses (section 200 of the New York State penal law); corrupting the government (section 496 of the New York State penal law); grand larceny or larceny related to public funds (sections 155.30, 35, 40, and 42 of the New York State penal law); falsifying business records, tampering with public records, and offering a false instrument for filing (sections 175.10, 25 and 35, respectively, of the New York State penal law); defrauding the government (section 195.2 of the New York State penal law); theft or bribery concerning programs receiving federal funds (18 U.S. Code 666); and engaging in frauds or swindles, committing fraud by wire, radio or television, or honest services fraud (18 U.S. Code, sections 1341, 1343 and 1346).

It appears this bill is targeted at candidates like former State Senator and Councilmember Hiram Monserrate received \$87,000 in public matching funds during his failed 2017 run, despite misusing \$100,000 in city funds for a State Senate campaign and being convicted of physical assault for slashing his girlfriend with a broken glass.<sup>1</sup> In 2018, Monserrate was elected district leader in East Elmhurst, Queens.

Reinvent Albany supports this legislation and believes candidates convicted of felony crimes involving the public trust should be barred from receiving public funds. We support candidates having the right to run for office after paying their debt to society. Voters should make the choice regarding whether they deserve re-election, but we do not believe taxpayers should subsidize a candidate's effort to win back the public trust.

**Support for [Int. 774](#) - lowers to \$5 the smallest contribution eligible for public matching funds.**

This bill changes the smallest contribution that can count toward a candidate's eligibility for public funds from \$10 to \$5. Under current law, to qualify for public funds a candidate must reach two thresholds which vary depending on the office. One threshold is the number of contributions. The second threshold is the dollar value, but for this threshold only the dollar value of the portion that is matchable counts toward the threshold. For example, a City Council candidate must raise 75 contributions and \$5,000. The \$5,000 consists of the matchable portion of any contribution –\$10 to \$175. This bill will allow donations as low as \$5 to be counted as part of the matchable portion of a contribution (\$5 to \$175).

Reinvent Albany supports the intent of this legislation because it further encourages candidates to raise contributions from everyday New Yorkers in small donations. We think the amount should be lowered to \$3 rather than \$5. It is not uncommon to see fundraising emails from candidates and causes seeking contributions as low as \$3. Fundraising research shows these low-dollar amounts are attractive in inviting people to become donors, who later may contribute more money to the candidate or cause.<sup>2</sup> Reinvent Albany reviewed contributions to Councilmembers for the 2017 election cycle and found just 186 donations, or 0.72 percent, were under \$10, and 0.12%, or 30

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<sup>1</sup> J. David Goodman, "Monserrate, Ex-Senator and Ex-Convict, Seeks Votes Amid Disdain", *The New York Times*, September 10, 2017. Available at: <https://www.nytimes.com/2017/09/10/nyregion/hiram-monserrate-moya-city-council-primary.html>

<sup>2</sup> Micah Sifry, "How Low Can You Go? Why the \$3 E-mail Ask is Working," Available at: Personal Democracy Media. Available at: <http://techpresident.com/news/21787/how-low-can-you-go-why-3-e-mail-ask-working>

donations, under \$5. This analysis does not include donations to all candidates or unitemized contributions that are not matchable (which we think should be itemized), but we think because there are few donations under \$10, it makes sense to go lower to maximize the benefit consistent with fundraising research.

**Support for [Int. 773](#) - amends the definition of business dealings with the city to include certain uncertified applications to the Department of City Planning.**

This bill lengthens the timeframe of when people or entities engaged in certain land-use related actions are considered to be “doing business” with the City. People or entities submitting uncertified applications pursuant to sections 197-c and 201 of the Charter to the Department of City Planning (DCP) would trigger “doing business” restrictions under the bill. Under current law, the start of “doing business” restrictions is the certification of the application by DCP. DCP certifies applications when written materials are received and deemed complete, marking the beginning of the Uniform Land Use Review Procedure (ULURP) process.

These applications include those for zoning changes and special permits (under section 201) and a variety of actions subject to the Uniform Land Use Review Procedure (ULURP) in section 197-c involving the development, use and improvement of real property including: 1) changes in the city map; 2) maps of subdivisions or plattings of land; 3) site selection for capital projects; 3) designation of zoning districts; 4) revocable consents and RFPs and solicitations for franchises; 4) housing and urban renewal plans; 5) sanitary or waterfront landfills; and 5) city acquisition of real property.

Reinvent Albany supports this extension of the timeframe for “doing business” restrictions because an application can be considered for six months or longer by DCP. While the application is being considered for certification, there may be communications or meetings between the applicants and DCP, elected officials, and their staff involved in the ULURP process. Major conversations may occur around the need for an environmental impact statement, for example. During the same period, the applicant may make campaign contributions to elected officials which may be perceived as or actually attempt to influence the application before DCP. Therefore, the start date for the restrictions should begin with the submission of the application rather than the certification of the application by DCP.

Reinvent Albany notes, however, that lobbying also triggers “doing business” restrictions and lobbying, as defined in section 3-211 of the Administrative Code,

includes “any determination made by the mayor, the city council, the city planning commission, a borough president, a borough board or a community board with respect to zoning or the use, development or improvement of real property subject to city regulation.” While certification of an application is arguably ministerial, it may also be lobbying, particularly if conversations become an attempt to influence. We think this extension of the “doing business” timeframe is worthwhile, but there needs to be greater enforcement and education regarding whether this is lobbying, which would trigger “doing business” restrictions and require registering as a lobbyist or client with the City Clerk’s Office.

Thank you and I welcome any questions you may have.