

Testimony to the 2018 NYC Charter Revision Commission on Campaign Finance Recommendations in the Preliminary Report

July 25, 2018

Good afternoon Chair Perales and members of the Charter Revision Commission. I am Alex Camarda, 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, especially strengthening open data and the Freedom of Information Law.

Reinvent Albany has testified previously before this commission on [campaign finance reform](#), [city-affiliated nonprofit regulation](#), [instant runoff voting](#), and [redistricting](#).

Tonight we conclude our testimony by commenting on specific issues raised in the *2018 NYC Charter Revision Commission Preliminary Staff Report*.

Campaign Finance Reform

The Cap on Matching Funds

Reinvent Albany believes the public match cap, currently 55 percent of the spending limit for the office, should be raised to 85 percent of the spending limit for the office (effectively lifting the cap altogether except when the spending cap is lifted in response to a non-participating candidate and assuming the current \$6:\$1 match rate).¹

We do not believe the 65 percent threshold is high enough for Council races, which would only result in a maximum of \$19,000 in additional public funds or 15 additional contributions of \$175 matched at a rate of \$6:\$1. Thirty percent of Council candidates hit the public match cap in during the 2017 primary demonstrating the cap is too low.²

¹ We acknowledge staff's legal concerns cited in the preliminary report that eliminating the public funds cap is legally problematic when a non-participant's spending results in the spending cap being lifted, and the participating candidate receiving public funds beyond 85 percent of the spending limit for the office.

² We differ with reasons cited in the preliminary report to oppose substantially raising the cap. The public matching program is, as Michael Malbin testified, a rounding error in the city's budget and likely saves money when one considers the greater integrity it provides in governmental decision making. We don't

We agree with the CFB's concern about public funds being provided in early August, six weeks before a primary as being too late in the race for a candidate who is mostly relying on public funds. We believe the solution to this issue is not to minimize raising the public match cap but rather to change the distribution of public funds. We support an earlier distribution of public funds irrespective of the public fund cap issue because campaigns begin at least several months before Election Day, not six weeks. If we are serious about candidates relying more heavily on public funds as Mayor de Blasio laid out in his State of the City speech this year, the date and the amount of public funds distributed must be addressed.

We are flexible about how the distribution date is changed but recommend the following options:

- 1) Raise the existing early payment to up to 50 percent of the public match cap for the office, depending upon how much candidates are eligible for in public funds..³ Currently the early payment, distributed two weeks prior to the last day of petitioning, is no more than about 6 percent of the public funds cap for any office -- which is miniscule.
- 2) Untether the distribution of public funds from the finalization of the ballot.
 - a) Candidates should receive up to half their public funds in the year of the election once they qualify for the public matching program and an opposing candidate has registered a political committee declaring they are running for the office.
 - b) Candidates should receive up to half their public funds once they individually raise or spend 1/4 of the spending limit for the office and if another candidate has registered a political committee declaring they are running for the office.

We do not believe the last proposal runs afoul of Supreme Court rulings in *Arizona Free Enterprise Fund v. Bennett* and *McComish v. Bennett*

believe the reduction in private funds significantly prevents candidates from making campaign-related expenditures as public funds can be used for many legitimate campaign expenditures.

³ According to the Commission's preliminary report, "The maximum amount of the early disbursement varies by office and is \$250,000 for mayor, \$125,000 for comptroller and public advocate, \$50,000 for borough president, and \$10,000 for City Council member." This is 6.24 percent of the public match cap for mayor, 4.99 percent for comptroller & public advocate, and 9.57 percent for City Council.

because the public funds being granted to the candidate are based on the candidate raising and spending his or her own funds and their having an opponent on the ballot, but not their opponents' speech as measured by their opponent raising or spending campaign funds. Therefore it cannot have a chilling effect on their opponents' speech. We also believe candidates who raise or spend this level of funds typically make the ballot anyway so the CFB will not often have to claw back funds unless their opponent drops out.

Campaign Finance Contribution Limits

The Commission staff recommended lowering the contribution limits so the perception of pay to play or actual corruption is reduced.

Lowering campaign contributions will also incentivize candidates to raise money from small donors because the gap will be reduced between the largest contribution and a matched smaller contribution.

In previous testimony, we recommended halving the contribution limits for each office to \$2,550 for citywides, \$1,975 for borough presidents, and \$1,375 for City Council. However, contribution limits can't be lowered too much because at some point restrictions on political contributions will produce a diversion of funds to independent expenditures, which are less regulated and transparent.

Ideally, the maximum matchable small contribution, when coupled with the match, will be comparable to or exceed the maximum contribution limit for all candidates (and the maximum contribution would not be matched). This would be optimal in incentivizing small donor fundraising.

Public Matching Ratio

As we testified previously, we support increasing the \$6:\$1 match to a higher match rate, *but only for small contributions*.

We do not support a higher match rate for large contributions, or even the current regime in which \$5,100 contributions can be matched with an additional \$1,050 (a \$6:\$1 match on the first \$175) bringing the contribution to a total of \$6,150. We think doing so undercuts one of the goals of the public matching program, which is to incentivize small donor fundraising. Taxpayers should not be subsidizing large contributions.

If the Commission is to increase the public match rate, we recommend it do so only for small contributions. We believe administrative challenges related to matching small contributions rather than all contributions can be overcome by only matching contributions with the increased public match rate up to, for example, \$500 rather than \$175. We have not seen the data but think it is less likely that large contributors are providing contributions in increments that complicates administration. We believe this practice is much more commonly done by small donors giving less than \$175.

Conclusion

In conclusion, thank you for your service to the Commission and the City. Past Charter Revision Commissions have made important good government reforms and, based on the preliminary report, this one is poised to do the same.

We urge you to be bold, seize the moment, and make significant reforms. We anticipate the Commission will make important changes to campaign finance. We urge you to be just as bold in acting to pass some form of Instant Runoff Voting and change the way the redistricting commission is picked and the criteria for drawing lines.