



Summary & Positions on Campaign Finance Proposals in the Executive Budget FY2019-2020

Governor Cuomo's FY2019-2020 Executive Budget includes a freestanding [Good Government and Ethics](#) bill containing 24 different ethics (primarily lobbying-related reforms), campaign finance and voting proposals. Reinvent Albany evaluated the campaign finance proposals in the Good Government and Ethics bill. We undertook this analysis to help the public and stakeholders understand what the Governor is proposing and offer our perspective as a watchdog group.

Reinvent Albany's priorities for the budget are:

- 1) Codifying the agreements reached between the Governor and Comptroller DiNapoli restoring the Comptroller's authority to pre-audit contracts before they are executed;
- 2) Establishing a Database of Deals revealing all business subsidies received from the state by companies and jobs produced in return; and
- 3) Establishing a public matching system for campaign contributions akin to New York City's.

Four Campaign Finance Proposals

The Governor's budget puts forth four proposals on campaign finance.

We believe by far the most important is the Governor's proposal to establish a public matching system in New York State. A public matching system is one of Reinvent Albany's top priorities for the budget. The Governor has proposed this critical reform in the budget for five years, and its enactment is long past due.

We also support the Governor's proposal banning contributions by Limited Liability Companies, which would significantly strengthen recently passed law. We support the intent of the governor's proposals to prohibit campaign contributions from state vendors bidding on contracts and to ban state staff from "volunteering" for campaigns.

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148 Lafayette, 12th Floor, New York, NY 10013

However, we believe both proposals, as is, are easily circumvented and need to be amended to work as intended.

Below is an index of every proposal, and the page number in this document where Reinvent Albany has summarized the proposal, stated its position on the reform, and recommended changes to the bill.

Part of Good Government and Ethics Bill	Name in Government and Ethics Bill	Page #	Reinvent Albany Position <ol style="list-style-type: none"> 1. Support 2. Support And Recommend Improvements 3. Support <u>Only</u> with Amendments 4. Oppose
Part B	Public Campaign Financing and Additional Campaign Finance Reforms	3	Support <u>Only</u> with Amendments
Part F	Ban on Corporate and LLC Contributions	6	Support
Part K	Prohibitions on Vendor Contributions During Procurement	7	Support <u>Only</u> with Amendments
Part U	Restrictions on Campaign Activity	8	Support <u>Only</u> with Amendments

[Reinvent Albany previously published evaluations of the Governor’s ethics measures and voting reforms](#) in the Executive Budget.

Part B. Public Campaign Financing and Additional Campaign Finance Reforms

Support Only with Amendments

Summary

This bill establishes a public matching system for state legislative and statewide offices, matching the first \$175 of any contribution with \$6 in public matching funds for every \$1 raised in eligible contributions. To qualify for public matching funds, candidates must reach a minimum threshold of contributors and money raised. Assembly candidates must raise \$10,000 from at least 100 different contributors and statewide candidates must raise \$650,000 from at least 6,500 different contributors.

The bill lowers contribution limits for all offices, but provides slightly higher contribution limits for candidates that do not participate in the public matching system. The bill establishes a cap on public matching funds distributed to candidates and requires disclosure of intermediaries or bundlers. The Board of Elections chief enforcement counsel is tasked with administering the law and investigating violations.

Reinvent Albany Position - Support Only with Amendments

We support creating a public matching system in New York State and the Governor's bill is a good starting point to build from.

The benefits of a public matching system are well established and widely known. By matching small dollar contributions, candidates rely more on typical New Yorkers whom they represent to fund their campaigns rather than wealthy donors, many with business before the state. Albany is awash in money contributed by a select few - the 100 top donors contributed more to state candidates in 2018 than all 137,000 estimated small donors combined, according to the Brennan Center for Justice. A public matching system reduces the risk of corruption and the pay-to-play culture that has too often resulted in criminality in Albany. A public matching system has led to more candidates running for office in New York City and more diverse candidates gaining public office.

We believe the bill can be significantly improved, but more important is to finally establish a public matching system in New York State. New York City's system has been refined and improved over decades, and the state can follow that model by laying the foundation this year.

While we make many recommended improvements below, the only amendment we feel that must be done before passing this bill is to create a separate enforcement board from

the State Board of Elections to oversee campaign finance for all offices, including the public matching program. An independent enforcement entity is critical, and the Governor's bill has modified the enforcement entity to ensure it is more customer friendly to candidates. It must also be moved outside of the State Board of Elections.

Reinvent Albany Recommendations

Campaign Finance Board

A separate board is needed to administer campaign finance. The State Board of Elections should be limited to administering elections - election day operations, petitioning and nominating of candidates, voter registration, among other responsibilities.

The bill requires random audits of 50 percent of candidates for legislative office and 100 percent of candidates for statewide office. We believe all campaign committees for particular districts should be randomly audited. Districts should be selected by an outside firm like Price Waterhouse Cooper. Districts in which committees collectively raise or spend above a particular threshold should automatically be audited.

A penalty schedule should be created in law or mandated in rules laying out fines for infractions, with fines varying in amount between repeat and one-time offenses, cured and uncured infractions, and between willful and unwillful infractions.

Public hearings should be held for fines totaling more than a particular threshold but should not be held for small fines or many small fines totaling a small sum.

Public Match/Spending Caps

Reinvent Albany recently succeeded in advocating for the public match cap in New York City to be raised to 75 percent of the spending limit for the office from 55 percent. The state proposals do not have a spending limit but rather a limit on public matching funds. We believe a spending limit should be imposed but lifted when a nonparticipant candidate or independent spender spends or raises twice the spending cap for the office. New York City raises the spending limit for public fund participants in the face of nonparticipant spending and has determined it does not run afoul of *Arizona v. Bennett*.

The public match limits in the state bills are likely too low for competitive races and too high for uncompetitive races. Caps for primary and general elections combined should

be considered (rather than per election) as both elections are rarely competitive for both districts.

Doing Business Restrictions

We support lower contribution limits for individuals doing business with the city and a ban on corporate contributions including Limited Liability Companies (LLCs). A starting point is to restrict campaign contributions by vendors during the restricted period when bidding on a contract, and for one year after winning a contract, as proposed by Governor Cuomo. [A.9924 \(Buchwald\)/S.8039 \(Crocini\)](#) strengthens the Governor's proposal.

Early Release of Public Funds to Candidates

One of the major reforms Reinvent Albany lobbied for and won as part of the reforms to the NYC public matching program in 2018 was delinking payments from petitioning. Payments to candidates will be made months before petitioning if certain thresholds are met.

Funding for Enforcement

We support providing a fixed budget for the campaign finance board. In New York City, the Independent Budget Office's (IBO) budget is a fixed percentage of the Office of Management and Budget (OMB). The New York City Campaign Finance Board's budget is not fixed, but the budget requested by the Board must be included in the Preliminary Budget.

Covered Offices

We support expanding the offices covered to include elected judicial offices and district attorneys in the public matching program.

Technology/Transparency

The campaign finance board should be required in law to issue an RFI and RFQ for employing software/technology to make the public financing system user interface candidate friendly for compliance and usability, and to make campaign finance filings more transparent.

Public Funding Match Ratio

While a \$6:\$1 match on \$250 or \$175 is a good starting point, NYC recently raised its match to \$8:\$1 on \$250 for citywide offices, and \$8:\$1 on \$175 for all other offices.

Non-matchable contributions

Contributions from lobbyists, contractors, bundlers, state grant recipients, candidate and party committees should not be matched in addition to non-matchable contributions in the proposals.

Sure Winner Provisions

We support limiting the distribution of public funds when a candidate does not have a viable opponent. New York City law limits the distribution of public funds to “sure winners” by requiring a Statement of Need be filed and certain criteria met demonstrating a need for public funds. [We recommend simplifying these criteria as recommended by the New York City Campaign Finance Board \(see p. 129\).](#)

Voter Information

In addition to mandatory participation in at least one debate, the campaign finance board should be required to issue a voter guide to all registered voters via mail with an opt out provision for voters to receive a digital copy of the guide.

Part F. Ban on Corporate and LLC Contributions

Support

Summary/Reinvent Albany Position - Support

We applaud state Senator Brian Kavanagh and Assemblymember Jo Anne Simon for their longstanding efforts to close the infamous LLC loophole. Their admirable work led to the passage of A.776/S.1101 on January 14, 2019 which narrowed the LLC loophole and the Governor signed it into law on January 24, 2019.

Senator Kavanagh and Assemblymember Simon have done tremendous work, but we believe the Governor’s proposal which bans LLC contributions altogether is the best reform. LLC contributions are completely banned in New York City and partially banned at the federal level (LLCs which are partnerships or single-member LLCs and have not chosen corporate tax treatment can make contributions to federal candidates).

Real estate companies can have dozens and sometimes hundreds of LLCs because typically each property they own or develop is its own LLC. Even companies like Amazon, which is a publicly traded C corporation, has LLCs in numerous states to avoid tax liability and to segment operations and functions within its company. We believe the recently signed law allows each LLC to contribute \$5,000 annually. In other words, a person controlling 20 LLCs could make \$100,000 in annual contributions (20 x \$5,000 annual contributions) in addition to their personal limit. [Creating an LLC in New York is](#)

[easy to do and involves completion of a few short forms with the Department of State and providing notification of its creation in two local newspapers.](#)

The recently signed law also requires the direct and indirect disclosure of members of the contributing LLC. However, we are concerned this requirement will, in some cases, fail to disclose the person controlling the LLC or their beneficial owners. It is common for real estate industry LLCs to be controlled by other LLCs, or controlled by layers of LLCs that are “stacked” or “nested” to obscure what persons control and fund them.

We point out that the [Moreland Commission](#) convened by Governor Cuomo, which had subpoena power and included some of the state's top prosecutors, could not determine who was behind Common Sense Principles LLC. That entity funded a 501(c)(4) organization called Common Sense Principles that ran ads against Democratic State Senate candidates (see pages 39-41 of the [Moreland Commission report: *So who pays for Common Sense’s political spending in New York? Despite issuing a number of subpoenas and conducting several interviews, the Commission still cannot say.*](#))

Part K. Prohibitions on Vendor Contributions During Procurement Support Only with Amendments

Summary

This proposal will ban campaign contributions by vendors to state officeholders during the period when those vendors are bidding on a solicitation issued or evaluated by a state agency or entity of the office holder or a candidate running for the office. The ban covers the vendor and all commercial business entities they control including subsidiaries, LLCs and political action committees. The period of the ban covers from the date of the solicitation until the contract is awarded. Vendors who win contracts are additionally banned from making contributions for one year after being awarded a contract. Vendors violating this prohibition will be fined up to \$10,000 or 200 percent of the contribution for willful intent to violate the law. Candidates will have to refund any contributions they should not have received from a vendor. This prohibition will largely impact contributions to the governor, as most bidding entities are state agencies. Contributions to legislators will only be banned if the legislature is bidding for a product or service, and limited to vendors lobbying or bidding for a specific contract for that particular product or service.

Reinvent Albany Position - Support Only with Amendments

Reinvent Albany supports this legislation as a first step but believes as written it will have a limited impact and should be strengthened. We strongly recommend that New York State adopt Doing Business Restrictions like New York City. The City limits contributions from individuals doing business with the city to \$400 . The City's restrictions are much broader and include people lobbying and with current contracts. Reinvent Albany worked with Assemblymember Buchwald to craft a stronger bill, A.9924/S.8039 of 2018 which builds on the Governor's proposal, which was also in the Executive Budget last year.

Reinvent Albany Recommendations

- Incorporate the stronger provisions of Assemblymember Buchwald's bill, A.9924/ S.8039 of 2018, including:
 - requiring the ban on campaign contributions to apply to all political committees controlled by the officeholder in addition to their candidate committee.
 - expanding the restricted period to include the period before an RFP is issued when a vendor is a registered lobbyist or client to create a procurement opportunity or pilot program and after a contract is awarded if vendors continue to lobby for contract amendments, change orders or other contractual changes.

Part U. Restrictions on Campaign Activity

Support Only with Amendments

Summary

This bill would prevent officers and employees of statewide electeds, assemblymembers and senators from volunteering for their principal's campaign.

Reinvent Albany Position - Support Only with Amendments

Reinvent Albany supports the intent of this proposal but recommends changing the approach to addressing the issue of staff working on campaigns while paid by government.

This bill addresses a longstanding practice that benefits incumbents: the use of paid government staff on elected official's campaigns. Staffers in the legislature often accumulate hours beyond the amount they are required to work weekly during the busy legislative session. During campaign season, they do not report to work for government and instead rely on the accumulated hours to get paid by taxpayers while working on

campaigns. While the staffers are “volunteering” for the campaigns, it is arguably compulsory as the expectation is staff will not only work on their principal’s campaign but work on any campaign across the state for a lawmaker in the same party or conference or for a challenger who may become part of the party or conference for which the staffer works.

This practice provides incumbents and party-backed candidates a built in campaign staff effectively paid by taxpayers that makes it more difficult for independent challengers to compete against.

Reinvent Albany Recommendations

- Instead of banning staff from “volunteering” for their principal’s campaigns, prohibit salaried staff from accruing hours beyond minimum weekly requirements. Staff can then still volunteer or work for campaigns but will not effectively be subsidized by the government to do so, and will have to take a leave of absence or resign to do so.