

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK**

**FOR THE YEAR 1998**

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**No. 48**

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Introduced by The Speaker (Council Member Vallone), the Public Advocate (Mr. Green) and Council Members Pinkett, Clarke, Eldridge, Freed, Henry, Koslowitz, Leffler, Michels and Miller; also Council Members O'Donovan, Robinson and Sabini.

**A LOCAL LAW**

**To amend the administrative code of the city of New York in relation to raising matchable contributions for participating candidates in the Campaign Finance program who do not accept corporate contributions and lowering the contribution limits of such program.**

*Be it enacted by the Council as follows:*

§ 1. Paragraphs (b), (c), (f), (h), (i), and (j) of subdivision 1 of section 3-703 of the administrative code of the city of New York, are amended to read as follows:

(b) be a candidate for mayor, public advocate, comptroller, borough president or member of the city council in a primary, *special*, or general election and meet the threshold for eligibility set forth in subdivision two of this section;

(c) choose to participate in the public funding provisions of this chapter, by filing a written certification in such form as may be prescribed by the campaign finance board, which sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds[; such certification to be filed with the campaign finance board not later than: (i) the thirtieth day of April in the year of the covered election, unless a special election to fill a vacancy is held for the office sought by the candidate prior to the primary election, in which case the deadline for filing the certification shall be no later than seven days after the special election or April thirtieth, whichever is later, provided however that for the primary and general elections to be held in the year nineteen hundred ninety-one the deadline for filing a certification shall be no earlier than the tenth day of May in that year, or (ii) if no petition designating such candidate is filed, not later than seven days after the filing of a petition of nomination of such candidate or the filing of a certificate of substitution naming such candidate, or (iii) notwithstanding subparagraph (i) or (ii) of this paragraph, seven days following

the proclamation of a special election to fill a vacancy, in the case of a candidate in such election;]. *The deadline for filing such certification for a primary and general election shall be:*

- (i) the first day of June in the year of the covered election; or*
- (ii) the thirtieth day after a special election is held to fill a vacancy for the office sought by the candidate;*

*whichever is later. The deadline for filing such certification for a special election to fill a vacancy shall be on the seventh day after the proclamation of such special election. A certification may be filed on or before the seventh day after the occurrence of an extraordinary circumstance in an election, as declared by the campaign finance board, following the receipt and review of a petition submitted by a candidate in such election. For purposes of this paragraph, an "extraordinary circumstance" shall include the death of a candidate in the election, the resignation or removal of the person holding the office sought, and the submission to the board of a written declaration by an officeholder that terminates his or her campaign for reelection.*

(f) not accept and his or her principal committee and any other political committee authorized by such candidate must not accept, either directly or by transfer, any contribution or contributions from any one individual, corporation, partnership, political committee, employee organization or other entity for all covered elections held in the same calendar year in which he or she is a participating candidate which in the aggregate: (i) for the office of mayor, public advocate or comptroller, shall exceed [six] *four thousand five hundred dollars*, or (ii) for borough president, shall exceed [five] *three thousand five hundred dollars*, or, (iii) for member of the city council, shall exceed [three] *two thousand five hundred dollars*; provided that a 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 election law, special election to fill a vacancy, 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 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. [Any contribution made prior to the effective date of this chapter shall not be deemed a matchable contribution for purposes of this chapter for any election held in the year nineteen hundred ninety or thereafter];

(h) not make expenditures from or use his or her personal funds or property or the personal funds or property *jointly held with* [of] his or her spouse, domestic partner or unemancipated children in connection with his or her nomination for election or election except as a contribution to his or her principal committee in an amount that does not exceed *three times* the maximum contribution amount applicable pursuant to paragraph (f) of this subdivision. *Such candidate shall not make expenditures from or use other personal funds or property of his or her spouse, domestic partner or unemancipated children in connection with his or her nomination for election or election; provided that this paragraph shall not be construed to limit contributions by persons other than the candidate;*

(i) not make and his or her principal committee and any other political committee authorized by such candidate must not make expenditures which in the aggregate exceed the applicable expenditure limitations set forth in section 3-706; [and]

(j) meet the threshold for eligibility set forth in subdivision two of this section [.]  
and

§ 2. Subdivision 1 of Section 3-703 of such code is amended by adding a new paragraph (k) to read as follows:

*(k) not accept and any political committee authorized by such candidate must not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any political committee for all covered elections held in the same calendar year in which he or she is a participating candidate, except as is otherwise provided for contributions by political committees pursuant to section 3-707 of this chapter.*

§ 3. Section 3-703 of such code is amended by adding a new subdivision (1-a) to read as follows:

*1-a. To be eligible for optional public financing at the higher matching rate set forth in subdivision two of section 3-705 of this chapter, a participating candidate must accept and maintain compliance with the following additional condition: the participating candidate must not accept and any political committee authorized by such candidate must not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any corporation, other than a corporation that is a political committee as defined in subdivision eleven of section 3-702 of this chapter, for all covered elections held in the same calendar year in which he or she is a participating candidate. The participating candidate's acceptance of this additional condition shall be set forth in the certification filed pursuant to paragraph (c) of subdivision one of this section.*

§ 4. Paragraph (a) of subdivision 2, and subdivision 4, of Section 3-703 of such code, are amended to read as follows:

(a) The threshold for eligibility for public funding for participating candidates in a primary or general election shall be in the case of:

- (i) mayor, not less than two hundred fifty thousand dollars in matchable contributions [of ten dollars or more] including at least one thousand matchable contributions *of ten dollars or more*;
- (ii) [president of the city council] *public advocate* and comptroller, not less than one hundred twenty-five thousand dollars in matchable contributions [of ten dollars or more] 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 [of ten dollars or more] including at least one hundred matchable contributions *of ten dollars or more* from residents of the borough, or ten thousand dollars, whichever is greater;
- (iv) member of the city council, not less than five thousand dollars in matchable contributions [of ten dollars or more] including at least fifty matchable contributions *of ten dollars or more* from residents of the district in which the seat is

to be filled[, except that in city council elections held in nineteen hundred ninety-one the fifty required matchable contributions may be from individuals who are not residents of such district].

4. [Participating candidates] *Candidates* who are contested in a primary election for nomination for election to office and who do not file a written certification pursuant to paragraph (c) of subdivision one of this section shall not be eligible for public funds for any election to such office held in the same calendar year *other than a special election to fill a vacancy*.

§ 5. Subdivision 11 of Section 3-703 of such code, is amended to read as follows:

11. Regardless whether a participating candidate demonstrates eligibility for optional public financing under this chapter, a participating candidate and his or her authorized committees are nonetheless required to abide by: (a) the requirements of paragraphs (d), (e), (f), (g), (h), [and] (i) and (k) of subdivision one of this section, and (b) the requirements of subdivision one-a of this section, in the case of a participating candidate who accepts the additional condition set forth in that subdivision.

§ 6. Subdivision 1, and paragraphs (d), (f), and (h) of subdivision 2, of section 3-704 of such code, are amended to read as follows:

1. Public funds provided under the provisions of this chapter may be used only for expenditures by an authorized committee [on behalf of a candidate] to further the participating candidate's nomination for election or election, *either in a special election to fill a vacancy, or during the calendar year in which the primary or general election in which the candidate is seeking nomination for election or election is held.*

(d) (i) any expenditure made after the candidate has been finally disqualified or had his or her petitions finally declared invalid by the New York city board of elections or a court of competent jurisdiction, except [as] *that such expenditures may be made:*

(A) *as otherwise permitted pursuant to subdivision seven of section 3-709 of this chapter, or*

(B) *for a different covered election, other than a special election to fill a vacancy, held later in the same calendar year in which the candidate seeks election for the same office; provided, however, that public funds originally received for a special election to fill a vacancy may not be retained for expenditure in any other election; [and]*

(ii) any expenditure made after the only remaining opponent of the candidate has been finally disqualified or had his or her petitions finally declared invalid by the New York city board of elections or a court of competent jurisdiction, except [as] *that such expenditures may be made for a different covered election, other than a special election to fill a vacancy, held later in the same calendar year in which the candidate seeks election for the same office; provided, however, that public funds originally received for a special election to fill a vacancy may not be retained for expenditure in any other election;*

(f) any contribution, *transfer*, or loan made to another candidate or political committee;

(h) any expenditures to challenge or defend the validity of petitions of designation or nomination, or of certificates of nomination, acceptance, authorization, declination, or substitution, made pursuant to subdivision four of section 3-706.

§ 7. Subdivisions 2 and 3 of section 3-705 of such code, are amended to read as follows:

2. If the threshold for eligibility is met, the participating candidate's principal committee shall receive payment for qualified campaign expenditures of:

- (a) one dollar for each one dollar of matchable contributions obtained and reported to the campaign finance board in accordance with the provisions of this chapter, but in no case shall such principal committee receive in public funds an amount exceeding [one-half] *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~~ [or forty thousand dollars in the case of candidates for city council], *except as otherwise provided in subdivision three of section 3-706.*
- (b) *in the case of participating candidates who accept and are in compliance with the additional condition set forth in subdivision one-a of section 3-703 of this chapter, four dollars for each one dollar of matchable contributions, up to one thousand dollars in public funds per contributor (or up to five hundred dollars in public funds per contributor in the case of a special election), obtained and reported to the campaign finance board in accordance with the provisions of this chapter, but in no case shall such principal committee receive in public funds an amount exceeding [one-half] 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, except as otherwise provided in subdivision three of section 3-706.*

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

3. A participating candidate seeking or obtaining nomination for election by more than one party shall be deemed one candidate, and shall not receive additional public funds or be authorized to accept contributions in excess of the maximum contribution applicable pursuant to paragraph (f) of subdivision one of section 3-703 or make additional expenditures by reason of such candidate seeking or obtaining nomination for election by more than one party. Subdivision five of section 3-703 shall not be applicable to such a candidate who is opposed for the nomination of at least one party in a primary election. The elimination of the expenditure limitations and qualification for additional matching funds provided in subdivision [four] *three* of section 3-706 shall not be applicable to such a candidate who is opposed for the nomination of at least one party solely by participating candidates.

§ 8. Subdivision 3 of section 3-706 of such code, is amended to read as follows:

3. If any candidate in any primary or general election for any office for which public funds are available pursuant to the provisions of this chapter chooses not to participate in the public financing provisions of 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 for participating candidates [or thirty thousand dollars in the case of candidates for city council], then:

(a) such expenditure limit shall no longer apply to participating candidates in such election for such office; and

(b) the principal committees of such *participating* candidates shall receive payment for qualified campaign expenditures of:

(i) two dollars for each one dollar of matchable contributions, *up to one thousand dollars in public funds per contributor (or up to five hundred dollars in public funds per contributor in the case of a special election), or*

(ii) *in the case of participating candidates who accept and are in compliance with the additional condition set forth in subdivision one-a of section 3-703 of this chapter, 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),*

except that in no case shall a principal committee receive in public funds an amount exceeding [one-half] *two-thirds* of the expenditure limitation provided for such office in subdivision one of this section [or forty thousand dollars in the case of candidates for city council].

§ 9. Chapter 7 of title 3 of such code is amended by adding a new section 3-707 to read as follows:

*§ 3-707 Voluntary registration by political committees. 1. Participating committees may accept contributions from political committees that choose to register with the board, as provided in this section. The board shall issue rules providing for such registration. Such contributions may not exceed the amount applicable under paragraph (f) of subdivision one of section 3-703 of this chapter. The board shall regularly publish a cumulative list of political committees that have registered, including on the internet and in periodic mailings to candidates.*

*2. It is the responsibility of the participating candidate to determine whether he or she may accept a contribution pursuant to this section. A participating candidate who receives a contribution from a political committee that has not registered with the board prior to making the contribution shall either return the contribution to the contributor or pay to the fund an amount equal to the amount of the contribution, unless the political committee registers with the board within ten days after the publication of the next subsequent list of registered political committees by the board following the date the contribution is received.*

§ 10. Subdivision 1 of section 3-708 is amended to read as follows:

1. There shall be a campaign finance board consisting of five members. Two members of the board shall be appointed by the mayor, provided that not more than one such member shall be enrolled in any one political party, and two members shall be appointed by the [vice-chairman] *speaker* of the council, provided that not more than one such member shall be enrolled in any one political party, and one member, who shall be the chairperson, shall be appointed by the mayor after consultation with the [vice-chairman] *speaker*. The members shall first be appointed to serve as follows:

(a) one member appointed by the [vice-chairman] *speaker* for a term of one year;

(b) one member appointed by the mayor for a term of two years;

(c) one member appointed by the [vice-chairman] *speaker* for a term of three years;

- (d) one member appointed by the mayor for a term of four years; and
- (e) the chairperson for a term of five years.

Each term shall commence on April first, nineteen hundred eighty-eight. Thereafter, each member shall be appointed for a term of five years by the mayor or the [vice-chairman] *speaker*, according to the original manner of appointment. In case of a vacancy in the office of a member, a member shall be appointed to serve for the remainder of the unexpired term by the mayor or the [vice-chairman] *speaker*, according to the original manner of appointment. *In the case of a vacancy in the office of a member for which a member is holding over after expiration of the term for which the member was appointed, an appointment to such office made after June 1 in a year in which covered elections are scheduled shall not take effect prior to December 1 of that calendar year.* Each member shall be a resident of the city, registered to vote therein. Each member shall agree not to make contributions to any candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the council which in the aggregate are in excess of the maximum contribution applicable to such office pursuant to paragraph (f) of subdivision one of section 3-703. No member shall serve as an officer of a political party or be a candidate or participate in any capacity in a campaign by a candidate for nomination for election or election to the office of mayor, public advocate, comptroller, borough president or member of the city council. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under section 3-213 and the employees of such lobbyists shall not be eligible to be members of the board.

§ 11. Paragraph (c) of subdivision 3 of section 3-710 of such code, is amended to read as follows:

(c) If the total of contributions, other receipts, and payments from the fund received by a participating candidate and his or her authorized committees exceed the total campaign expenditures of such candidate and committees for all covered elections held in the same calendar year or for a special election to fill a vacancy such candidate and committees shall use such excess funds to reimburse the fund for payments received by the principal committee from the fund during such calendar year. Such reimbursement shall be made not later than ten days after all liabilities have been paid and in any event, not later than [June thirtieth of the year following such calendar year] *either the closing date of the final disclosure report, or the day on which the campaign finance board issues its final audit report for such participating committee, for such covered election, as shall be set forth in rules promulgated by the campaign finance board.* No such excess funds shall be used for any other purpose, unless the total amount of the payments received from the fund by the authorized committee has been repaid.

§ 12. Chapter 7 of title 3 of such code is amended by adding a new section 3-716 to read as follows:

**§ 3-716 Candidate appearances.** *Nothing in this chapter shall be construed to restrict candidates or their agents from making appearances at events sponsored or paid for by persons, political committees, or other entities that are not in any way affiliated with such candidate or any agent of such candidate. The costs of such events shall not be considered contributions to or expenditures by such a candidate pursuant to this chapter solely because such an appearance is made; provided that this section shall not*

*apply to any event in relation to which contributions are solicited on behalf of such candidate.*

§ 13. No contribution accepted prior to the effective date of this local law that exceeds, or which when aggregated with any other contribution or contributions exceeds, the contribution limit applicable under paragraph (f) of subdivision 1 of section 3-703 of the administrative code of the city of New York, as amended by section 1 of this local law, shall be retained or used for elections held after such date. Any such excessive contribution shall be returned to the contributor immediately.

§ 14. If any provision of this local law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, each holding shall not affect, impair or invalidate the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§ 15. This local law shall become effective immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on August 27, 1998, disapproved by the Mayor on September 25, 1998 and repassed by the Council members on October 22, 1998 and said law is adopted notwithstanding the objection of the Mayor.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 48 of 1998, Council Int. No. 344-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on August 27, 1998: 42 FOR, 5 AGAINST.

Was disapproved by the Mayor on September 25, 1998.

Was returned to the City Clerk on September 25, 1998.

Was reconsidered by the Council on October 22, 1998 and received the following vote of the Council members at a meeting of the Council on October 22, 1998: 44 FOR, 4 AGAINST.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

The validity of portions of this local law is currently a subject of a disagreement between the Mayor and the City Council. This certification is not intended as a legal opinion as to the validity of the local law, other than certifying the truth of the facts presented herein.