

PROGRAM BILL # 12

GOVERNOR'S PROGRAM BILL

2013

MEMORANDUM

AN ACT to amend the election law, in relation to campaign finance reform and in relation to campaign contribution limits and penalties for violations (Part A); and to amend the election law, in relation to campaign receipts and expenditures; to amend the election law, in relation to contribution and receipt limitations; to amend the election law, in relation to public financing; to amend the general business law, in relation to additional surcharges; to amend the state finance law, in relation to the New York state campaign finance fund; and to amend the tax law, in relation to the New York state campaign finance fund check-off (Part B)

Purpose:

This bill, the "Campaign Finance Reform Act of 2013," would provide comprehensive campaign finance reform to enhance the integrity of and restore public confidence in New York State government. Among other reforms, the bill would dramatically reform the State's campaign finance laws to lower contribution limits; implement a public financing system; clarify and enhance restrictions on the personal use of campaign funds; and increase disclosure requirements.

Summary of Provisions

Section one divides the bill into 2 parts.

Section two entitles the bill "Campaign Finance Reform Act of 2013."

Part A: Independent Expenditures

Section 1 would amend Election Law § 14-100 by adding new definitions for "clearly identified candidate," "general public audience," "labor organization," and "intermediary."

Section 2 would amend Election Law § 14-102 to require that statements filed by political committees include information about intermediaries.

Section 3 would amend Election Law § 14-106 to expand the types of political communications that must be reported to and filed with the board of elections by candidates, labor organizations, corporations, political committees, and other entities to include electronic, e-mail, and text message communications.

Section 4 adds a new § 14-107 to the Election Law that would:

- define independent expenditures;
- require that political communications paid for by an independent expenditure costing more than \$1,000 identify the source of the communication and, with respect to communications regarding a candidate, state that the communication is not authorized by the candidate or the candidate's political committee or its agents;
- require that any person who intends to make an independent expenditure in the upcoming year register with the state board of elections as a political committee and report independent expenditures over \$1,000; and that any contribution over \$1,000 to that person also be disclosed by that person to the state board of elections either within 48 hours of receipt if received more than 30 days before an election, or within 24 hours of receipt within 30 days before an election, in a specified format and filed electronically; and
- require that copies of political communications paid for by independent expenditure be submitted to the state board of elections.

Section 5 amends subdivision 3 of Election Law § 14-124 to apply a \$25,000 contribution limit to so-called "housekeeping accounts."

Section 6 amends Election Law § 14-126 to create penalties for falsely identifying or failing to identify the source of an independent expenditure. It also authorizes the State Board of Elections to impose fines directly after a hearing for violations, rather than seeking such fines by filing a civil proceeding in court.

Section 7 provides an effective date of June 1, 2014.

Part B: Campaign Receipts and Expenditures

Section 1 creates a new heading for Article 14 of the Election Law: Campaign Receipts and Expenditures; Public Financing.

Section 2 designates Election Law §§ 14-100 through 14-130 as a new title I, with the heading: Campaign Receipts and Expenditures.

Section 3 amends Election Law § 14-100 by adding a definition of "authorized committee."

Section 3-a amends Election Law § 3-104 to create a public financing unit within the state board of elections.

Section 3-b amends Election Law § 14-108 to provide that the receipt of any campaign contribution or loan in excess of \$1,000 be disclosed within 48 hours of receipt.

Section 4 amends subdivisions 1 and 10 of Election Law § 14-114 to amend the campaign contributions limits for candidates participating in the public financing system, as well as for those not participating. For those participating in the public financing system, statewide candidates have a contribution limit of \$6,000 for both the primary and general election, for an aggregate of \$12,000, candidates for assembly, a contribution limit of \$2,000 for both the primary and the general, for an aggregate of \$4,000, and for candidates for state senate, a contribution limit of \$4,000 for both the primary and general election, for an aggregate of \$8,000.

For those candidates not participating in the public financing system, statewide candidates would have a contribution limit of \$10,000 for the primary and \$15,000 for the general election, for an aggregate of \$25,000; for candidates for assembly, a contribution limit of \$3,000 for both the primary and the general, for an aggregate of \$6,000; and for candidates for state senate, a contribution limit of \$5,000 for both the primary and general election, for an aggregate of \$10,000.

In addition, this section would limit transfers from party or constituted committees to other party or constituted committee to no more than \$5,000 per election, except that such committees may transfer or spend up to \$500 from each contributor to support or oppose a candidate.

This section would also require that authorized committees keep written documentation of their bundlers, and requires that bundlers make an affirmation.

This section would also prohibit contributions from any contributor to a party or constituted committee greater than \$25,000 per year.

Section 5 would amend Election Law § 14-116 to close the limited liability company (LLC) loophole which allows LLCs to contribute to candidates as if they were individuals, and lowers the LLC and corporate contribution limit to \$1,000.

Section 6 would amend Election Law § 14-130 to clarify and strengthen the prohibition on the use of campaign contributions for "personal use" – including

prohibiting using contributions to pay fines or penalties imposed in connection with a criminal conviction or by JCOPE or the Legislative Ethics Commission.

Section 7 would amend the Election Law by creating a new Title II under Article 14 entitled "Public Financing." Its major components include:

- comprehensive reporting and disclosure requirements to ensure maximum transparency and accountability [new Election Law § 14-201];
- eligibility criteria, including criteria based on accrual of "matchable contributions" by candidates [new Election Law §§ 14-204];
- limits on the total amounts of public funds that may be provided in any election cycle [new Election Law § 14-205];
- provisions governing the calculation and payment of public matching funds [new Election Law § 14-206];
- allowable uses for public matching funds [new Election Law § 14-207];
- provisions requiring board of election audits and providing for repayment of any excess State funds disbursed [new Election Law § 14-209]; and
- civil and criminal penalties for violations [new Election Law § 14-210].

Section 7-a would amend the General Business Law to allow for certain surcharges to be deposited into the state's Campaign Finance fund. Section 8 would amend the State Finance Law by adding a new section 92-t establishing the "New York State Campaign Finance Fund." This Fund would consist of all revenues received from the New York State Campaign Finance Fund tax return check-off, as well as any other funds credited or transferred pursuant to this section. Section 8-a would amend State Finance Law § 95 to allow for certain transfers from the abandoned property fund into the Campaign Finance Fund. Section 9 would amend Tax Law § 658 of the by adding a new subsection (f) establishing a check-off for the "New York State Campaign Finance Fund" on tax returns.

Section 10 is the severability clause for this Part.

Section 11 provides that this act shall take effect January 1, 2015.

Section three is a severability clause.

Section four provides that this act shall take effect immediately, except that the applicable effective dates of Parts A and B of this act shall be as specifically set forth in the last section of such Parts.

Existing Law:

This bill would amend the existing campaign finance laws contained in Article 14 of the Election Law, as well as Article 3 of the Election Law, the General Business Law, the State Finance Law and the Tax Law.

Statement in Support:

Once a national model, New York State government has been widely discredited for its lax campaign finance restrictions and the dominance of large donors and special interests in campaigns. This bill would bring comprehensive campaign finance reform to New York State government to enhance the integrity of and restore public confidence in our State government.

New York lacks any public financing for statewide or legislative candidates. New York's political candidates routinely rely far more upon large donors than candidates in other states—in 2010, on average only 6% of aggregate individual contributions received by candidates for state offices were for amounts of \$250 or less, and in no other state did a smaller percentage of the total population contribute to political campaigns (.05%).

In addition, for most offices, New York State's contribution limits are substantially higher than any other State that imposes any limits, and so high as to ensure that large donors dominate major political campaigns and candidates spend a large amount of time raising money rather than talking with voters about issues. At present, individuals in New York are permitted to give up to \$60,800 for primary and general election campaigns (combined) for state-wide office candidates, \$16,800 for State Senate candidates, and \$8,200 for Assembly candidates.

And even the existing contribution limits are undermined by loopholes. Corporations are limited to political contributions of \$5,000 per year. But because LLCs are treated as *individuals* by the New York State Board of Elections, wealthy individuals and special interests can use LLCs to contribute large amounts to candidates.

This legislation is an effort to overhaul the State's lax campaign finance laws to create a healthier, more diverse, and more competitive democracy. This bill would enact a voluntary system of public financing. In addition, the bill lowers contribution limits, closes loopholes in the campaign finance law, and clarifies and enhances restrictions on the personal use of campaign funds.

Finally, this bill would require increased disclosure of contributions. The bill would expand and clarify the types of political communications that must be reported to and filed with the Board of Elections by candidates, labor organizations, corporations, political committees, and other entities and would prohibit the false identification of the source of such political communications. It would also require virtually real-time disclosure of contributions within 48 hours of receipt to candidates, to party committees, and to entities making independent expenditures to influence an election.

Budget Implications:

Under this bill, the cost to publically finance a four-year election cycle of primary and general elections is estimated at \$166 million, or \$41.5 million per year. Additional costs to administer the bill and develop technology solutions in support of both the public financing program and new disclosure requirements are estimated to average \$14.3 million over the four-year election cycle. In addition, \$3 million in start-up costs are expected in 2014-15 to prepare for implementation. Costs would peak in SFY 2018-19, related to the statewide election in 2018.

Effective Date:

Part A takes effect June 1, 2014. Part B takes effect January 1, 2015.