



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the Senate Standing Committee on Elections on
Draft Campaign Finance Legislation
June 3, 2009

Good morning Chair Addabbo and other members of the Senate Standing Committee on Elections. My name is DeNora Getachew, and I am the director of public policy and legislative counsel for Citizens Union of the City of New York. Citizens Union is an independent, nonpartisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. We thank you for holding this hearing and giving us the opportunity to present Citizens Union's views on this important topic.

Our organization remains concerned about the undue influence and possible corruption that some private campaign contributions can have on candidates and government officials. While we recognize that candidates must have access to an appropriate level of funding in order to allow them to run effective campaigns for office, that must be balanced with the public's ability to participate throughout the course of a candidate's campaign by making contributions. Balancing these two factors ensures there is a healthy democracy.

Citizens Union strongly believes that New York's campaign finance laws, last substantially revised in 1975, are in need of significant reform to eliminate the perception that elected officials in New York State may be beholden to special interest groups and the campaign contributions these individuals make affects the integrity of decision-making in Albany. We commend the Senate for seizing on this critical opportunity to engage the public in a discussion about how best to reform the state's campaign finance laws. As we testified last week before the State Senate's Ethics Committee, state legislative hearings on pending bills is unprecedented, and is a much-needed change that we applaud the Senate for embracing. We advise, however, that the Legislature and the Governor work together to craft a final campaign finance reform package that all parties believe strikes the appropriate balance and can support.

Citizens Union believes that any package of bills must contain the following four components:

- 1. Strengthen Campaign Finance Enforcement;**
- 2. Limit Size, Ban Some Forms, and Lower Scope of Contributions;**
- 3. Increase Disclosure; and**
- 4. Implement a Public Matching Funds Campaign Finance Program.**

1. Strengthen Enforcement

Citizens Union adamantly believes that any campaign finance reform package **must** include substantially stronger campaign finance enforcement. In particular, Citizens Union supports the following two campaign finance enforcement mechanisms:

- Create a discrete campaign finance unit within the State Board of Elections (State Board) with adequate resources and independence to investigate, either on its own initiative or upon complaint, potential violations of the Election Law; or
- Create a new, independent entity with jurisdiction over all intersections of money in politics, including both executive and legislative ethics, lobbying, and enforcement of Article 14 of the election law relating to campaign finance.

Citizens Union believes removing the State Board's jurisdiction over campaign finance will provide for meaningful enforcement and avoid some of the problems that have consistently plagued the State Board. Namely the current four member State Board's two-party requirements stymie enforcement actions from moving forward and there has been no effort to amend the law to allow investigations to proceed in the event of a two-two tie.

Citizens Union also strongly supports more effective enforcement mechanisms, including greater fines for exceeding contribution limits and violations of campaign finance disclosure laws. In particular, we propose that the maximum penalty for failing to file a statement required by law should be increased from \$500 to as much as \$5,000. Violations of the law which are currently punishable only as a Class A misdemeanor or a Class E felony should also subject the violator to high civil penalties, such as \$20,000 fine for knowingly and willingly accepting a contribution that exceeds the ceiling.

2. Limit Size, Ban Some Forms, and Lower Scope of Contributions

Citizens Union recommends that the bills include significantly lower campaign contribution limits for candidates, all party and designated committees, political action committees, and party housekeeping accounts. The current "hard" and "soft" money contribution limits allow an unnecessary amount of money to flow into the system that Citizens Union believes is not only unnecessary, but makes it hard to track the impact of money.

Citizens Union is particularly concerned with the approach taken in the hybrid and triggers bill that would allow party committees to transfer large sums to participating candidates, notwithstanding the expenditure and contribution limits. Transfers by party committees to candidates or other committees should be limited to twice the limit set on individual contributors and contributions to party committees should be subject to the same ceiling placed on contributions to candidates.

Our organization also recommends that any campaign finance reform package include provisions to ban most, if not all, institutional contributions, except for committees formed specifically for a political purpose.

Citizens Union additionally recommends the following issues be addressed in the final campaign finance reform package:

- Require that **corporations and their subsidiaries**, as defined by the Internal Revenue Code, be **treated as a single entity** with a combined aggregate limit of **\$5,000 per calendar year**.
- **Strengthen the ban on the personal use of campaign contributions** by clarifying what is a permissible campaign expense.
- **Restrict, if not ban, soft money contributions.**
- The use of contributions made to political parties for “housekeeping” activities should be limited to the construction and maintenance of party headquarters or offices and not as a funnel to candidates’ campaigns.
- **Enact pay-to-play** restrictions requiring disclosure of, and limiting the size of contributions from, **those who lobby or do business with the state.**

3. Increase Disclosure

Citizens Union supports increasing disclosure requirements for campaign contributors and campaign expenditures, which should include as proposed by these bills the full name, home address, and employer/business name and address for each contribution, and require candidates to report this information in their periodic reports. We also support the increased disclosure requirements contained in this bill, especially with respect to those who make independent expenditures in support or opposition of a particular candidate or ballot proposal.

We would also recommend the following issues be addressed in the final campaign finance reform package:

- Require that **at least two periodic campaign finance reports** be filed during the legislative session to reflect contributions given during the budget adoption and review process.
- Require that all party or constituted committees fall within the regulatory framework that covers political committees. **All transfers by and between party committees should be regulated;** all party committees should be required to file reports of receipts and expenditures five days before the general election each year.
- Amend state Finance Law to **require persons seeking to do business with the State** with a value of \$25,000 or more, to **file a report listing all contributions or loans** over a certain amount to any elected official holding New York statewide or legislative office made within two years of initiating the effort to do business with the State. In addition, persons who make such campaign contributions while doing business with the State should have to report them.
- Require transitional and inaugural expenses be fully disclosed with contribution limitations similar to those set for election campaigns.
- Require **greater disclosure** of those who serve as intermediaries or **“bundle” contributions.**

4. Enact a Public Matching Funds Campaign Finance Program

Consistent with our previous positions on this issue, Citizens Union believes that before a strong public matching funds program can be implemented, there must be drastically lower contribution limits, strengthened enforcement and oversight, restrictions of, if not a ban on, soft money, and greater disclosure of contributions and expenses.

While Citizens Union strongly supports a public matching system, it cautions the legislature to proceed slowly in transitioning from the current system – where there is no public financing – to any system involving the infusion of public funds, especially during the current fiscal climate. We advise the state to consider the lessons from the New York City system over the last two decades, which has been tested over many years and has proven to work and been improved along the way. We believe that the state should start by implementing a public matching system, similar to the City system, and assessing its performance over time before jumping head first in to a more complex system like the hybrid or clean money systems which are funded largely, if not entirely, by significant sums of government money.

The main reasons that Citizens Union supports a public funds matching system over a full public funding system is that a public funds matching system will:

1. Reduce the influence of special interests in elections and lessen the value of large contributions as long as the limits on the size of the contribution are low.
2. Increase the value of smaller gifts and empower contributors to make small gifts because of the added value of a public match at some multiple of a contribution up to a given amount, as public dollars are directly connected to the gift each contributor makes.
3. Allow contributors to give throughout the course of the campaign and help contribute positively to the progressive building of support for the candidate. Since many voters do not become fully engaged in campaigns until they are well underway, a public matching system allows these political expressions to be harnessed.
4. Expand the range and diversity of candidates who are financially able to run for office and make elections more competitive.
5. Allow for the state to provide public funds only to candidates who meet certain reporting and expenditure requirements throughout the course of the campaign, unlike full financing when one lump sum is provided upfront once a minimal threshold of private fundraising is met.

Citizens Union does not support the hybrid or clean money full public financing proposals because they limit citizens to contributing only during an early qualifying period that is long before campaigns peak and will have the unintended consequence of decreasing citizen participation in democracy and political campaigns. In addition to voting, we believe that the way most people express themselves in political campaigns is through modest contributions to their preferred candidates, which does not often occur until the campaign has reached the forefront of public attention.

Citizens Union believes that a public matching system will most effectively balance the interest in limiting the influence of large contributions and increase the value of smaller contributions by matching gifts up to a set amount with public funds, while also ensuring that the public does not assume the most significant responsibility for funding the new system – especially at a time when the public's trust in their state elected officials is not particularly high. A partial funding system ensures that the more support candidates generate for their campaign through private dollars, the more

public funds are provided. This approach to public funding can serve as an incentive for candidates to build 'proxy' like support for their candidacy by raising private money for their campaign, as well serve as a barometer of support from voters for the candidate. With partial funding, substantial public funds would still be a majority of the total funds raised and spent in a campaign, but it also allows for voters throughout the course of the campaign to make contributions to candidates they support.

On the contrary, the hybrid and clean money approaches proposed by the bills being considered today are largely funded by government resources as the maximum contribution for participating candidates would be \$250. Citizens Union is concerned that a system where a candidate for governor can receive up to \$9.6 million in public funds with a maximum contribution level of \$250 does not provide a significant enough incentive for candidates to seek broad community support. We do not support the rationale for substantially reducing the private contribution limit so long as only a portion of that larger contribution, be it \$250, would be the only portion subject to the match.

In a matching system, on the contrary, larger contributions would still be allowed and subject to strict and relatively low limits, but matching funds would be provided only for that portion of the contribution that is at or below the individual matching gift cap; thereby ensuring that there is also a healthy amount of private money funding campaigns. Moreover, Citizens Union is very concerned that the cost for implementing a clean money or hybrid system for all four statewide offices and legislative seats would present an exorbitant cost to the state, particularly since it will encourage candidates who are not necessarily credible who might not otherwise run but for the availability of public funds, especially during our current fiscal climate. We also strongly believe that candidates should earn public money based on the level of private money they have raised, which is indicative of the level of their support in the community.

Citizens Union acknowledges that there will always be a lot of money waiting, and wanting, to be spent on campaigns and politics, but is concerned that full public funding of candidate campaigns may simply force private contributions into political party committees and independent expenditure campaigns at a far greater level than currently exists. A matching system can help channel the inevitable flow of funds during a campaign into a well-regulated financing system, as well as extend the value of public dollars. Public funding will not necessarily diminish the amount of money that is raised and spent for political campaigns, especially in New York State, nor is that necessarily the goal of campaign finance reform. Rather, public funding will reduce the dependence of candidates on large donors and special interests, while making it easier for challengers and political newcomers to compete effectively with incumbents and more established politicians.

With both the matching and full public financing systems, Citizens Union is concerned about the impact self-financed candidates have on campaigns and the disparity that exists for candidates participating in the program who face a well-funded or self-funded opponent. Citizens Union is also apprehensive that public funds can be unnecessarily used by incumbents who face little opposition, or challengers looking to raise their profile for reasons other than seeking office. We support the efforts made in these bills to try to address these concerns by providing additional funding for those facing high-spending non-participating candidates and to ensure that those without meaningful opposition cannot unnecessarily draw down on those public funds.

Conclusion

Citizens Union urges the Legislature to include the following components in any final comprehensive campaign finance-ethics package:

1. **Substantially strengthen campaign finance enforcement** by creating an insular unit within the State Board to handle campaign finance enforcement;
2. Reduce all contribution limits;
3. **Ban** most, if not all, **institutional contributions**;
4. Strengthen the **ban on the personal use of campaign contributions**;
5. **Enact pay-to-play contribution restrictions** on state contractors and lobbyists;
6. **Increase disclosure requirements** for campaign contributors and expenditures; and
7. Implement a **public matching funds system**.

While Citizens Union is encouraged by the Senate's progress on this important issue, we urge the Legislature and the Governor to work together to finalize a legislative package that both houses can support and the Governor can expeditiously sign in to law to implement meaningful and much-needed campaign finance reform. We look forward to working with all parties to finalize the package and enact this legislation. Chair Addabbo and members of the committee, Citizens Union again thanks you for holding this important hearing and for making it possible for us to express our views.