



**CITIZENS UNION OF THE CITY OF NEW YORK**

**Testimony to the Senate Committee on Elections on the New York City Public Matching System  
and Need for Comprehensive Campaign Finance Reform**

**May 7, 2013**

---

Good afternoon Chair O'Mara and members of the Senate Elections Committee. My name is Dick Dadey. I am the Executive Director of Citizens Union. Citizens Union is a 116-year old nonpartisan good government group dedicated to making democracy work for all New Yorkers. Citizens Union serves as a civic watchdog, combating corruption and fighting for political reform. We work to ensure fair and open elections, honest and efficient government, and a civically-engaged public.

Citizens Union is encouraged that the Committee is holding its first hearing in recent memory on the topic of campaign finance reform, and believes it is prudent to examine any public policy before its implementation. At the same time, however, we believe that the focus of the hearing on the abuses of the New York City public matching system is misplaced, given the strengths and benefits of the public matching system, and its important emphasis on enforcement. We also believe that the discussion today would have been aided had it included other state organizations that are knowledgeable and work to bring about comprehensive campaign finance reform. Furthermore, at a time when there is unprecedented concern over corruption – 87 percent of voters recently polled<sup>1</sup> by Quinnipiac believe corruption in New York State is a serious problem – we call on the Senate to focus on comprehensive solutions to cure this chronic culture of corruption.

Though not a cure-all, comprehensive campaign finance reform is an essential and needed element of any effective solution to political corruption. The NYS legislature needs to act together to end the transactional culture in Albany that draws its lifeblood from campaign cash. Before turning to a review of the New York City public matching system, I would like to reiterate Citizens Union's support for a comprehensive approach to campaign finance reform: one that includes public financing, among many other crucial components. Specifically, **Citizens Union believes that campaign finance reform should be comprehensive, fair and balanced and include:**

- 1. A public matching program** that encourages participation by small donors and reduces the perceived or actual influence of large contributors and all institutional donors on our politics;
- 2. Far lower-level contribution limits** that reflect the maximum allowable contribution to candidates running for the President of the United States;
- 3. Significant limits on contributions to party committees and transfers of funds** from party to candidate committees;

---

<sup>1</sup> <http://www.quinnipiac.edu/institutes-and-centers/polling-institute/new-york-state/release-detail?ReleaseID=1881>

Citizens Union of the City of New York

299 Broadway, Suite 700 New York, NY 10007-1976

phone 212-227-0342 • fax 212-227-0345 • [citizens@citizensunion.org](mailto:citizens@citizensunion.org) • [www.citizensunion.org](http://www.citizensunion.org)

Peter J.W. Sherwin, Chair • Robert Abrams, CUF President • Dick Dadey, Executive Director

4. **A more autonomous enforcement entity that operates independently** of the State Board of Elections;
5. **Enhanced disclosure** in particular for independent expenditures; and
6. An end to pay-to-play by **limiting contributions of those doing business** with the state.

We recognize that voters would not support a system of public financing without these important components, and neither would we. Similar to how voters put their trust in their elected officials when they elect them to office, we need to ensure the support of New Yorkers for campaign finance reform by tackling these important issues in a comprehensive way that is fair and balanced.

### **I. Benefits and Strengths of the New York City Public Matching Program**

After several ethics scandals in the mid-1980s, the voters of New York City adopted the Campaign Finance Act via referendum, establishing the Campaign Finance Board (CFB) as an independent agency tasked with regulating the financing of political campaigns. New York City's campaign finance system is centered on an important public matching funds system, a voter education program, doing business restrictions to address pay-to-play influence on our policy-making, all supported by strong and independent enforcement. New York City's campaign finance system has become, according to a study by the Campaign Finance Institute, a "model for jurisdictions across the country."<sup>2</sup> Citizens Union has closely followed the evolution of the program, supporting its initial implementation and the recent reforms to strengthen the program in 2007 to enact pay-to-play restrictions.

Citizens Union believes that there are many important benefits and components of the program, including the following, which we will address in turn:

- Public Matching Funds that Increase Voter Choice and Competition
- Strong, Independent Enforcement
- Lower Contribution Limits and Pay-to-Play Restrictions
- Disclosure of Independent Expenditures

#### **A. Public Matching Funds that Increase Voter Choice and Competition**

The city's public match is currently 6-1 for contributions up to \$175. Importantly, this public match is not provided for contributions from those who do business with the city, and candidates who lack public support cannot receive public funds, as they must first demonstrate a minimum level of community support by raising private funds among their constituents. Public funds are also not wasted on non-competitive races. Candidates who run unopposed do not receive public funds, and the law gives the CFB tools to ensure that incumbents who face only nominal opponents do not receive the full match and must prove that they face a real challenger capable of running a competitive contest in order to receive. If the public funds aren't spent on their election, they must be returned to the taxpayers.

---

<sup>2</sup> Malbin, Michael J. and Peter W. Bruscoe. "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States." The Campaign Finance Institute.

These components together have created a system that allows for greater voter choice and competition. Citizens Union released in November a report, [Fair Elections for New York State: How Public Matching Creates Greater Voter Choice and Competition](#)<sup>3</sup>, which demonstrates the benefits of and need for public funding in New York State. The report finds that 1 in 5 state legislative races candidates are uncontested in New York City – for both the primary and general election – versus 1 in 10 for City Council. This includes a stunning 71 percent of party contests for state legislature that are uncontested. Council primaries, on average, have double the number of candidates than state legislative contests in New York City and feature more candidates even when only considering races in which incumbents are seeking re-election.

When primaries are held, voters choosing candidates for City Council also have more choice. City council primaries featured an average of about 4 candidates, while the vast majority of state legislative primaries featured only 2 candidates. These candidates are also able to raise more funds and be more competitive.

A public matching fund does not mean incumbent legislators will face electoral defeat; rather it provides voters with greater choice. Council incumbents have a 93 percent re-election rate compared to 97 percent for state legislative incumbents in New York City. Because of the additional competition and incentive to raise money from the community, a public matching program allows lawmakers the opportunity to more available and accountable to the constituents they serve. By removing the donors who make large contributions from the equation, this makes it far less likely the occurrence of political corruption.

A study by the nonpartisan Campaign Finance Institute estimated that a matching funds system for New York State offices as currently constructed in Speaker Silver's proposal<sup>4</sup> would cost, at most, about \$40 million per year – just more than \$2.00 per person.<sup>5</sup> We would also like to note that we believe the criticisms of this study to be unfounded. It was peer-reviewed, and assumed that every candidate who ran in 2010 and 2012 doubled the number of his or her donors, with each new donor giving \$50 and stimulating \$300 in matching funds, rather than assuming that *every* race for *every* office in the state would have two candidates and drawing the maximum permissible amount of public funds, as was the methodology utilized in the study by the Senate Republican Conference. As noted by the Campaign Finance Institute's Michael Malbin, a professor at SUNY Albany, in the years between 2001 and 2009 (covering all of the city's elections with multiple matching funds) only 51% of the candidates who participated in the voluntary matching fund system raised enough in qualified contributions to be eligible for the maximum public match.

---

<sup>3</sup> Citizens Union. "Fair Elections for New York State: How Public Matching Creates Greater Voter Choice and Competition" November 2012. Available at:

[http://www.citizensunion.org/www/cu/site/hosting/Reports/CU\\_Report\\_FairElectionsforNY\\_11\\_19\\_2012.pdf](http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_Report_FairElectionsforNY_11_19_2012.pdf)

<sup>4</sup> A 6-to-1 match for donations up to \$250. For more information see the legislation:

<http://assembly.state.ny.us/leg/?bn=A04980C&term=&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y>

<sup>5</sup> For more information, see: [http://www.cfinst.org/Press/PReleases/12-12-03/CFI\\_Study\\_on\\_Public\\_Financing\\_in\\_New\\_York\\_State.aspx](http://www.cfinst.org/Press/PReleases/12-12-03/CFI_Study_on_Public_Financing_in_New_York_State.aspx)

Citizens Union believes that the benefits of public matching are well worth the relatively small price tag - \$40 million per year in the context of a \$135 billion budget.

## **B. Strong, Independent Enforcement**

The Campaign Finance Board's independent and rigorous enforcement is an important component of the public matching program's success. The New York City Campaign Finance Board not only has authority over all candidates – whether or not they participate in the system – it also effectively sets its own budget, ensuring its independence.<sup>6</sup> The law requires candidates who take public funds to account for each and every dollar they receive. If the money isn't put to sound use, the public funds must be paid back. Candidates who fail to pay the penalties are not eligible to receive public matching funds for a future election. Over the past three election cycles, 75 percent of penalties and repayments owed have been repaid to the CFB.

In sharp contrast, enforcement at the state level is sorely inadequate. As Citizens Union released today in a new report, the campaign and other activities of 224 political clubs are devoid of public scrutiny because the clubs have failed to register as political committees with the State Board of Elections. These clubs have failed to file as many as 2,318 campaign finance reports, which would have detailed the more than 5,485 transactions totaling at least \$2.27 million since 2009 found by Citizens Union. For other violations of the election law, between 2002 and 2011, 1,016 complaints were made to the State Board beyond transgressions like failure to file or late filings.<sup>7</sup> In 31 instances, or for only 3 percent of complaints did the State Board conduct a full investigation. In 6 instances, or 0.5 percent, referrals were made to a district attorney.<sup>8</sup> The failure of the State Board to meaningfully investigate the lack of compliance of these political clubs as well as other serious election law violations demonstrates the need for greater resources and stronger enforcement.

Citizens Union earlier this year conducted a survey of incumbent members of the Council about their experiences with the public matching program which found strong support for independent enforcement, as well as for the candidates services unit of the CFB. In the words of one member: “Candidate Services is always responsive and helpful. It is a very important factor for the effectiveness of the entire CFB...The CFB training sessions are remarkably helpful for both candidates and treasurers. I have served as my own treasurer and the training sessions were instrumental in my knowledge of the CFB system.” The specific results of Citizens Union’s survey are below.

---

<sup>6</sup> See section 1052(c) of the New York City Charter: “The board shall, not later than March tenth of each year, approve and submit to the mayor detailed itemized estimates of the financial needs of the campaign finance board for the ensuing fiscal year. Such estimates shall be comprised of at least one personal service unit of appropriation and at least one other than personal service unit of appropriation. The mayor shall include such estimates in the executive budget without revision, but with such recommendations as the mayor may deem proper. Upon inclusion in the executive budget, the budget submitted by the campaign finance board shall be adopted pursuant to such provisions of chapter ten of this charter as are applicable to the operating budget of the council.”

<sup>7</sup> Goldfeder, Jerry. “Make AG an election watchdog,” *Times Union*, April 28, 2013. Available at: <http://www.timesunion.com/opinion/article/Make-AG-an-election-watchdog-4470667.php>

<sup>8</sup> Ibid.

- A vast majority thought that **rigorous enforcement was very important to public confidence** in the public matching system (11/13 or 85%; 1 thought it was somewhat important and 1 had no opinion).
- A vast majority thought that **enforcement should apply evenly to all candidates, whether or not they participate in the public matching system** (12/13 or 92%; 1 had no opinion).
- A large majority thought that **the Candidate Services Unit overall was helpful** (10/13 or 77%; 1 no opinion; 2 not helpful).
- A majority of **respondents thought that their candidate services liaison was helpful** (6 thought significantly helpful; 4 somewhat helpful; 3 not helpful).

Citizens Union would also like to note that regarding the recent conviction of City Comptroller John Liu's campaign staff members for a "straw donor scheme," no public funds were ever provided for the illegal contributions. Additionally, that this scheme did not succeed is a credit to the CFB's enforcement. Past schemes to abuse the system have also failed: an audit of Ron Reale's campaign for Public Advocate in 1993 uncovered a series of contributions by money order that were made in the names of people who had never made a contribution, or were illegally reimbursed. The case was referred to and successfully prosecuted by the US Attorney's Office. Later attempts by Sheldon Leffler, a candidate for Queens borough president in 2001, and Albert Baldeo, a candidate for Council in a special election in Queens in 2010, for similar schemes were also successfully prosecuted.

We would also like to address the 2011 report by the Center for Competitive Politics (CCP)<sup>9</sup> that argues that the New York City public matching system has seen "rampant" abuse of public funds and corrupt practices. As noted by the Brennan Center for Justice in an analysis<sup>10</sup>, there are flaws in this study. The 24 "scandals" that are supposed to be evidence that the city system has not deterred corruption. Several cases had nothing to do with public financing, including one state legislator who never participated in the city system. Half of the cases involve no wrongdoing: they either describe activity that is legal and not corrupt or cite investigations that never found a crime or violation. Lastly, there are a number of examples of candidates attempting to violate the rules of the city's public funding system, however, this last category demonstrates that the CFB effectively enforced the law: the candidates were either fined or denied public funds.

The CFB has also successfully proven improper coordination between candidates and outside groups in 8 instances since 2001, including for coordination by the Northern Manhattan Democratic Club and council candidate Miguel Martinez in 2001, as well as between various candidates and unions. The State Board of Elections has never investigated this issue.

---

<sup>9</sup> Farrell, John. "Clean Elections and Scandals: Case Studies from Maine, Arizona and New York City." September 21, 2011. Center for Competitive Politics. Available at: <http://www.campaignfreedom.org/wp-content/uploads/2012/12/Clean-Elections-and-Scandal.pdf>

<sup>10</sup> Vandewalker, Ian. Reform New York Blog. April 24, 2013. Available at: <http://www.brennancenter.org/analysis/public-financing-can-curb-albany-corruption>

### **C. Lower Contribution Limits and Pay-to-Play Restrictions**

Contribution limits for city offices for the 2013 election cycle are much lower than state limits for all candidates, regardless of whether they participate in the public matching system. They are currently \$2,750 for the city council and \$4,750 for citywide offices for primary and general elections combined. Donations from individuals who do business with the city – either as lobbyists or contractors – are limited to \$250 for city council races and \$400 for citywide offices, and are not eligible to be matched with public dollars.

Currently limits at the state level are as high as \$60,800 to candidates for governor, \$16,800 to state senate candidates, and \$8,200 to candidates for assembly per election cycle for individuals, political action committees, and unions. Corporations are limited to \$5,000 in contributions which they can circumvent through donations from subsidiaries. Any of these entities but for corporations can contribute the maximum to multiple candidates up to an aggregate limit of \$150,000. Contribution limits must be lowered if we want to ensure that large contributions do not have a corrupting or undue influence on public policy decisions made by lawmakers. Currently only 2 of every 1,000 New Yorkers even donate to campaigns, and of those who do, 70 percent contribute \$1,000 or more.<sup>11</sup> This creates the perception if not the reality that lawmakers may feel the need to be more responsive to a very small group of individuals who generously fund their campaigns. It is also common activity in Albany for lobbyists to advocate for legislation by day while attending fundraisers at night for the very elected officials they lobby – a practice even lobbyists find uncomfortable. Contractors seek projects from state officials one day while writing checks to their campaign committees the next. This practice simply must stop.

### **D. Disclosure of Independent Expenditures**

Lastly, as a result of New York City voters approving a charter amendment in 2010, independent expenditures – including express advocacy and certain electioneering communications – as well as information about the independent spender and its source of funds, must be reported to the Campaign Finance Board. Additionally, advertisements themselves must disclose which organization or individual paid for the independent expenditure. There is no such requirement at the state level for advertisements, and the State Board of Election only has developed regulations for disclosure of express advocacy communications.

As stated previously, Citizens Union supports lower contribution limits to party committees, and lower limits on transfers from party committees to candidate committees. But identifying the proper limit is a delicate balance which must examine unintended consequences, and depends on the degree to which independent expenditures are regulated. Each part of a campaign finance system does not operate in isolation, but rather interrelates with all other parts. The more contribution limits are lowered the more likely campaign funds that once went

---

<sup>11</sup> New York Public Interest Research Group. Capital Investments 2012. Most Individual Money Comes from Large Donors. January 7, 2013. Available at: <http://blog.timesunion.com/capitol/archives/175240/nypirg-tallies-legislative-giving/>

to candidates and parties will flow to individuals and entities making independent expenditures. For this reason, Citizens Union recommends the following:

- 1. Regulate more aggressively independent expenditures.**
  - a. Include as part of disclosure of independent expenditures, disclosure of bundlers or intermediaries;
  - b. Require disclosure of original sources of income to entities making independent expenditures so contributions are not laundered through shell organizations;
  - c. Provide precise and clear criteria to ensure independent expenditures are truly independent and not made in coordination with candidates; and
  - d. Consider board and/or member/shareholder approval for entities contemplating independent expenditures.

Governor Cuomo and the legislative leaders have all issued proposals and/or legislation reforming at several elements of our broken campaign finance system. Governor Cuomo and Senator Klein support comprehensive campaign finance reform that includes public financing. Speaker Silver supports a public matching system, lower candidate contribution limits, more independent enforcement, and disclosure of independent expenditures. The Republican conference has indicated a willingness to address enforcement and disclosure. The remaining time in session should be devoted to coming together and negotiating a solution that is balanced and fair to all parties. We cannot allow another year to pass without achieving meaningful and comprehensive campaign finance reform. We call on the legislature to seize the moment and govern by addressing campaign finance reform as it has tackled other difficult issues in a bipartisan fashion such as passing a minimum wage increase, establishing a property tax cap, reforming pensions, and recognizing same-sex marriages.

In closing, let me talk about the pervasive culture of corruption in Albany.

Senator Robert F. Kennedy once said that “politics should be the honorable profession.” But we see the opposite in today’s New York. There are many good and very good legislators representing well their constituents and honorably serving the public interest. But the inaction of the good legislators to prevent the reprehensible actions of the bad ones is unacceptable. As of yesterday and since the start of the 21<sup>st</sup> Century in Albany, 21 legislators have left office in disgrace, thrown out because of ethical misconduct or political corruption. 5 more are on track to join them for a total of 26. A rising crime wave of corruption has come to define 21<sup>st</sup> Century Albany. What began as a few bad apples has become a bushel of bad apples and may well become a barrel, possibly by week’s end. The rising number of your colleagues who are corrupt taints those of you who do good work and tarnishes our democracy.

In the face of this political crisis, what are you going to do to fight this culture of corruption?

I urge you not to ignore it. To do so makes you culpable in perpetuating a political system that responds to big money and large institutional players. Shaking their heads in disgust over one more legislator getting arrested, New Yorkers want an end to the shenanigans. Comprehensive campaign finance reform with public financing and strong enforcement is not the silver bullet, but it is an essential element in reforming how candidates get elected and re-elected that will limit the influence of money and help to restore the confidence of the public in how democracy works in New York State.

Thank you for the opportunity to testify regarding Citizens Union's views on the New York City Public Matching System and the need for comprehensive campaign finance reform. I welcome any questions you may have.