STATE OF NEW YORK

1674

2019-2020 Regular Sessions

IN ASSEMBLY

January 16, 2019

Introduced by M. of A. ABINANTI, GALEF, JAFFEE, COLTON, MONTESANO, SIMON, THIELE, GOTTFRIED, STECK -- Multi-Sponsored by -- M. of A. EPSTEIN -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to statements of campaign receipts, contributions, transfers and expenditures to and by political committees; to amend the election law, in relation to establishing a contribution limit for certain contributions to a party committee or constituted committee; to amend the election law, in relation to public financing; to amend the state finance law, in relation to the New York state judicial and district attorney campaign finance fund; to amend the tax law, in relation to the New York state judicial and district attorney campaign finance fund check-off; to amend the election law, in relation to enforcement proceedings; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 14-102 of the election law, as amended by chapter 8 and as redesignated by chapter 9 of the laws of 1978, is amended to read as follows:

1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other valuable thing or incurs any liability to pay money or its equivalent shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this [~~article~~] *title* setting forth all the receipts, contributions to and the expenditures by and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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than of money, the name and address of the transferor, contributor, or person from whom received, and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14-118 of this [~~article~~] title.

§ 2. The article heading of article 14 of the election law is amended to read as follows:

CAMPAIGN RECEIPTS AND EXPENDITURES; PUBLIC FINANCING

§ 3. Paragraph b of subdivision 1 of section 14-114 of the election law, as amended by chapter 659 of the laws of 1994, is amended and a new paragraph d is added to read as follows:

b. In any other election for party position or for election to a public office or for nomination for any such office, no contributor may make a contribution to any candidate or political committee and no such candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than: (i) in the case of any election for party position, or for nomination to public office, the product of the total number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by $.05, and (ii) in the case of any election for a public office, the product of the total number of registered voters in the district, excluding voters in inactive status, multiplied by $.05, except in the case of a candidate for supreme court justice or district attorney not participating in the state's judicial public campaign financing system defined in title two of this article, multiplied by $.03 and in the case of a candidate for supreme court justice or district attorney participating in the state's judicial public campaign financing system defined in title two of this article, multiplied by $.01, however in the case of a nomination within the city of New York for the office of mayor, public advocate or comptroller, such amount shall be not less than four thousand dollars nor more than twelve thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election within the city of New York for the office of mayor, public advocate or comptroller, twenty-five thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of a nomination for state senator, four thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election for state senator, six thousand two hundred fifty dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election or nomination for a member of the assembly, twenty-five hundred dollars as increased or decreased by the cost of living adjustment described in

paragraph c of this subdivision; but in no event shall any such maximum exceed fifty thousand dollars or be less than one thousand dollars; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any election for party position or nomination for public office an amount equivalent to the number of enrolled voters in the candidate's party in the district in which he is a candidate, excluding voters in inactive status, multiplied by $.25 and in the case of any election to public office, an amount equivalent to the number of registered voters in the district, excluding voters in inactive status, multiplied by $.25; or twelve hundred fifty dollars, whichever is greater, or in the case of a nomination or election of a state senator, twenty thousand dollars, whichever is greater, or in the case of a nomination or election of a member of the assembly twelve thousand five hundred dollars, whichever is greater, but in no event shall any such maximum exceed one hundred thousand dollars.

d. Notwithstanding any other contribution limit in this section, participating candidates as defined in subdivision fourteen of section 14-201 of this article may contribute, out of their own money, three times the applicable contribution limit for non-participating candidates to their own authorized political committee.

§ 4. Sections 14-100 through 14-132 of the election law are designated title I and a new title heading is added to read as follows:

CAMPAIGN RECEIPTS AND EXPENDITURES

§ 5. Article 14 of the election law is amended by adding a new title II to read as follows:

TITLE II
PUBLIC FINANCING

Section 14-200. Legislative findings and intent.
14-201. Definitions.
14-202. Reporting requirements.
14-203. Contributions.
14-204. Proof of compliance.
14-205. Eligibility.
14-206. Limits on public financing.
14-207. Payment of public matching funds.
14-208. Use of public matching funds; qualified campaign expenditures.
14-209. Powers and duties of the board.
14-210. Audits and repayments.
14-211. Enforcement and penalties for violations and other proceedings.
14-212. Reports.
14-213. Severability.

§ 14-200. Legislative findings and intent. The legislature finds and determines that the judiciary and prosecutors for the state fulfill a unique role in government, substantively distinct from non-judicial and prosecutorial offices.

The legislature also finds and determines that justices and district attorneys are not elected to represent the views of voters, but rather are elected to uphold the law.

The legislature additionally finds and determines that judicial and prosecutorial impartiality and independence are critical to maintaining public confidence and the rule of law.

The legislature additionally finds and determines that judges and district attorneys must maintain impartiality and independence and the appearance of impartiality and independence, unlike non-judicial or prosecutorial offices.

The legislature additionally finds and determines that the rules of judicial conduct and the rules of prosecutorial conduct recognize the distinct nature of the judicial branch and responsibilities of prosecutors, in contrast to the legislative and executive branches, by restricting judges and justices from engaging in various campaign-related political activity not imposed on non-judicial offices.

The legislature additionally finds and determines that many state and federal judicial offices are not elected, but rather appointed positions, due to the nonpolitical nature of the office.

The legislature additionally finds and determines that raising the funds necessary to run for the office of the supreme court, in a manner that comports with judicial rules of conduct, further distinguishes the office of supreme court from other elective offices and would be appropriate to apply to the office of district attorney.

The legislature additionally finds and determines that raising the necessary funds to run for the office of the supreme court or district attorney has the potential to reduce the appearance of judicial or prosecutorial impartiality and the confidence of those appearing before the court.

The legislature additionally finds and determines that the heightened restrictions imposed on judicial candidates, and appropriate for candidates for district attorney, necessary to maintain impartiality, are furthered by a judicial and prosecutorial public campaign finance system.

The legislature additionally finds and determines that a judicial and prosecutorial public campaign finance system for candidates for the office of supreme court justice and district attorney reduces the potential for judicial or prosecutorial partiality or the appearance of judicial or prosecutorial partiality of those appearing before the court.

§ 14-201. Definitions. For the purposes of this title, the following terms shall have the following meanings:

1. The term "authorized political committee" shall mean the single political committee designated by a candidate pursuant to section 14-202 of this title to receive contributions and make expenditures in support of the candidate's campaign.

2. The term "board" shall mean the state board of elections.

3. The term "contribution" shall have the same meaning as appears in subdivision nine of section 14-100 of this article.

4. The term "contributor" shall mean any person or entity that makes a contribution.

5. The term "covered election" shall mean any general election for the office of supreme court justice or district attorney.

6. The term "election cycle" shall mean the window period defined in 22 NYCRR Part 100 for the office of supreme court justice and, for the office of district attorney, any primary or general election for nomination for election or election, to the office of district attorney.

7. The term "expenditure" shall mean any gift, subscription, advance, payment, or deposit of money or anything of value, or a contract to make any gift, subscription, payment, or deposit of money or anything of

value, made in connection with the nomination for election, or election, of any candidate. Expenditures made by contract are deemed made when such funds are obligated.

8. The term "fund" shall mean the New York state judicial campaign finance fund or the district attorney campaign fund.

9. The term "immediate family" shall mean a spouse, domestic partner, child, sibling or parent.

10. The term "intermediary" shall mean an individual, corporation, partnership, political committee, employee organization or other entity which bundles, causes to be delivered or otherwise delivers any contribution from another person or entity to a candidate's authorized political committee, other than in the regular course of business as a postal, delivery or messenger service. Provided, however, that an "intermediary" shall not include spouses, domestic partners, parents, children or siblings of the person making such contribution or a staff member or volunteer of the campaign identified in writing to the state board of elections.

11. The term "item with significant intrinsic and enduring value" shall mean any item, including tickets to an event, that are valued at twenty-five dollars or more.

12. (a) The term "matchable contribution" shall mean a lawful contribution, contributions or a portion of a contribution or contributions for any covered elections held in the same election cycle, made by a natural person and resident of the district in which the office is to be filled to a participating candidate's authorized political committee, that has been reported in full to the board in accordance with sections 14-102 and 14-104 of this article by the candidate's authorized political committee and has been contributed on or before the day of the applicable general election. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the board may not be treated as a matchable contribution for any purpose.

(b) The following contributions are not matchable:

(i) loans;

(ii) in-kind contributions of property, goods, or services;

(iii) contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;

(iv) transfers from a party or constituted committee;

(v) contributions whose source is not itemized as required by section 14-202 of this title;

(vi) contributions gathered during a previous election cycle;

(vii) illegal contributions;

(viii) contributions from minors;

(ix) contributions from vendors for campaigns; and

(x) contributions from lobbyists registered pursuant to subdivision (a) of section one-c of the legislative law.

13. The term "nonparticipating candidate" shall mean a candidate for a covered election who does not file a written certification in the form of an affidavit under section 14-205 of this title by the applicable deadline.

14. The term "participating candidate" shall mean any candidate for election to the office of supreme court justice or district attorney, who files a written certification in the form of an affidavit pursuant to section 14-205 of this title.

15. The term "post-election period" shall mean the six months following an election.

16. The term "qualified campaign expenditure" shall mean an expenditure for which public matching funds may be used.

17. The term "threshold for eligibility" shall mean the amount of matchable contributions that a candidate's authorized political committee must receive in total in order for such candidate to qualify for voluntary public financing under this title.

18. The term "transfer" shall mean any exchange of funds between a party or constituted committee and a candidate or any of his or her authorized political committees.

§ 14-202. Reporting requirements. 1. Political committee registration. Political committees as defined pursuant to subdivision one of section 14-100 of this article shall register with the board before making any contribution or expenditure. The board shall publish a cumulative list of political committees that have registered, including on its webpage, and regularly update it.

2. Only one authorized political committee per candidate per elective office sought. Before receiving any contribution or making any expenditure for a covered election, each candidate shall notify the board as to the existence of his or her authorized political committee that has been approved by such candidate. Each candidate shall have one and only one authorized political committee per elective office sought. Each authorized political committee shall have a treasurer and is subject to the restrictions found in section 14-112 of this article.

3. (a) Detailed reporting. In addition to each authorized political committee reporting to the board every contribution and loan received and every expenditure made in the time and manner prescribed by sections 14-102, 14-104 and 14-108 of this article, each authorized political committee of a candidate intending to participate in the judicial public financing system shall also submit disclosure reports on March fifteenth and May fifteenth of each election year reporting to the board every contribution and loan received and every expenditure made. For contributors who make contributions of five hundred dollars or more, each authorized political committee shall report to the board the occupation, and employer of each contributor, lender, and intermediary. The board shall revise, prepare and post forms on its webpage that facilitate compliance with the requirements of this section.

(b) Board review. The board shall review each disclosure report filed and shall inform the treasurer of the authorized political committee of relevant questions it has concerning: (i) compliance with requirements of this title and of the rules issued by the board; and (ii) qualification for receiving public matching funds pursuant to this title. In the course of this review, it shall give authorized political committees an opportunity to respond to and correct potential violations and give candidates an opportunity to address questions it has concerning their matchable contribution claims or other issues concerning eligibility for receiving public matching funds pursuant to this title. Upon completion of the compliance review, nothing in this paragraph shall preclude the chief enforcement counsel from subsequently reviewing such disclosure reports and taking any action otherwise authorized under this title.

(c) Itemization. Contributions that are not itemized in reports filed with the board shall not be matchable.

(d) Option to file more frequently. Participating candidates may file reports of contributions as frequently as once a week on Monday so that their matching funds may be paid at the earliest allowable date.

§ 14-203. Contributions. Recipients of funds pursuant to this title shall be subject to the applicable contribution limits set forth in section 14-114 of this article.

§ 14-204. Proof of compliance. Authorized political committees shall maintain such records of receipts and expenditures for a covered election as required by the board. The treasurer of an authorized political committee shall obtain and furnish to the board any information it may request relating to financial transactions or contributions and furnish such documentation and other proof of compliance with this title as may be requested. In compliance with section 14-108 of this article, authorized political committees shall maintain copies of such records for a period of five years.

§ 14-205. Eligibility. 1. Terms and conditions. To be eligible for voluntary public financing under this title, a candidate must:

(a) be a candidate in a covered election;

(b) meet all the requirements of law to have his or her name on the ballot;

(c) in the case of a covered election, be opposed by another candidate on the ballot who is not a write-in candidate;

(d) submit a certification in the form of an affidavit, in such form as may be prescribed by the board, that sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds in each covered election and such certification shall be submitted at least four months before the election but no earlier than nine months before the nomination pursuant to a schedule promulgated by the board;

(e) be certified as a participating candidate by the board;

(f) not make, and not have made, expenditures from or use his or her personal funds or property or the personal funds or property jointly held with his or her spouse, or unemancipated children in connection with his or her election to a covered office, but may make a contribution to his or her authorized political committee in an amount that does not exceed three times the applicable contribution limit from an individual contributor to non-participating candidates for the office that he or she is seeking;

(g) meet the threshold for eligibility set forth in subdivision two of this section;

(h) continue to abide by all requirements during the post-election period;

(i) not have accepted contributions in amounts exceeding the contribution limits set forth for participating candidates in paragraph b of subdivision one of section 14-114 of this article during the election cycle for which the candidate seeks certification;

(i) Provided however, that, if a candidate accepted contributions exceeding such limits before certification, such acceptance shall not prevent the candidate from being certified by the board if the candidate immediately pays to the fund or returns to the contributor the portion of any contribution that exceeded the applicable contribution limit.

(ii) If the candidate is unable to return such funds immediately because they have already been spent, acceptance of contributions exceeding the limits shall not prevent the candidate from being certified by the board if the candidate submits an affidavit agreeing to pay to the fund from non-public funds all portions of any contributions that exceeded the limit no later than thirty days before the general election. If a candidate provides the board with such an affidavit, any disbursement of public funds to the candidate made under section 14-207

of this title shall be reduced by no more than twenty-five percent until the total amount owed by the candidate is repaid.

(iii) Contributions received and expenditures made by the candidate's authorized political committee prior to the effective date of this title shall not constitute a violation of this title; and

(j) comply with the rules governing judicial conduct pursuant to 22 NYCRR Part 100 and the rules governing prosecutorial conduct pursuant to Rule 3.8 of Part 1200, Rules of Professional Conduct of the New York State Unified Court System, as applicable.

2. Threshold for eligibility. The threshold for eligibility for public funding for participating candidates shall be not less than ten thousand dollars in matchable contributions including at least one hundred matchable contributions comprised of sums between ten and two hundred fifty dollars per contributor, from residents of the district in which the office is to be filled.

§ 14-206. Limits on public financing. In any general election, receipt of public funds by a participating candidate's authorized political committee shall not exceed the sum of one hundred fifty thousand dollars.

§ 14-207. Payment of public matching funds. 1. Determination of eligibility. No public matching funds shall be paid to an authorized political committee unless the board determines that the participating candidate has met the eligibility requirements of this title. Payment shall not exceed the amounts specified in subdivision two of this section, and shall be made only in accordance with the provisions of this title. Such payment may be made only to the participating candidate's authorized political committee. No public matching funds shall be used except as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

2. Calculation of payment. If the threshold for eligibility is met, the participating candidate's authorized political committee shall receive payment for qualified campaign expenditures of two dollars of public matching funds for each one dollar of matchable contributions, for the first two hundred fifty dollars of eligible private funds per contributor, obtained and reported to the board in accordance with the provisions of this title. The maximum payment of public matching funds shall be limited to the amounts set forth in section 14-206 of this title for the covered election.

3. Timing of payment. The board shall make any payment of public matching funds to participating candidate's authorized political committees as soon as is practicable. But in all cases, it shall verify eligibility for public matching funds within four business days, excluding weekends and holidays, of receiving a campaign contribution report filed in compliance with section 14-104 of this article. Within two business days of determining that a candidate for a covered office is eligible for public matching funds, it shall authorize payment of the applicable matching funds owed to the candidate. However, it shall not make any payments of public money earlier than the earliest dates for making such payments as provided by this title. If any of such payments would require payment on a weekend or federal holiday, payment shall be made on the next business day.

4. Electronic funds transfer. The board shall, in consultation with the office of the comptroller, promulgate rules to facilitate electronic funds transfers directly from the campaign finance fund into an authorized committee's bank account.

§ 14-208. Use of public matching funds; qualified campaign expenditures. 1. Public matching funds provided under the provisions of this title may be used only by an authorized political committee for expenditures to further the participating candidate's election, including paying for debts incurred within nine months prior to a nomination to further the participating candidate's election.

2. Such public matching funds may not be used for:

(a) an expenditure in violation of any law;

(b) an expenditure in excess of the fair market value of services, materials, facilities or other things of value received in exchange;

(c) an expenditure made after the candidate has been finally disqualified from the ballot and all judicial remedies have been exhausted;

(d) an expenditure made after the only remaining opponent of the candidate has been finally disqualified from the general election ballot and all judicial remedies have been exhausted;

(e) an expenditure made by cash payment;

(f) a contribution or loan or transfer made to or expenditure to support another candidate or political committee or party, committee or constituted committee;

(g) an expenditure to support or oppose a candidate for an office other than that which the participating candidate seeks;

(h) gifts, except brochures, buttons, signs and other printed campaign material;

(i) legal fees to defend against a criminal charge;

(j) payments to immediate family members of the participating candidate;

(k) any expenditure made to challenge the validity of any petition of designation or nomination or any certificate of nomination, declination or substitution;

(l) any impermissible personal use under section 14-130 of this article; or

(m) any use which would violate the rules governing judicial conduct pursuant to 22 NYCRR Part 100 or prosecutorial conduct pursuant to Rule 3.8 of Part 1200, Rules of Professional Conduct of the New York State Unified Court System, as applicable.

§ 14-209. Powers and duties of the board. 1. Advisory opinions. The board shall render advisory opinions with respect to questions arising under this title upon the written request of a candidate, an officer of a political committee or member of the public, or upon its own initiative. The board shall promulgate rules regarding reasonable times to respond to such requests. The board shall make public the questions of interpretation for which advisory opinions will be considered by the board and its advisory opinions, including by publication on its webpage with identifying information redacted as the board determines to be appropriate.

2. Public information and candidate education. The board shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this title, including by means of a webpage. The board shall prepare in plain language and make available educational materials, including compliance manuals and summaries and explanations of the purposes and provisions of this title. The board shall prepare or have prepared and make available materials, including access to an electronic recordkeeping and filing system, to facilitate the task of compliance with the disclosure and recordkeeping requirements of this title.

3. Rules and regulations. The board shall have the authority to promulgate such rules and regulations and provide such forms as it deems necessary for the administration of this title.

4. Database. The board shall develop an interactive, searchable computer database that shall contain all information necessary for the proper administration of this title including information on contributions to and expenditures by candidates and their authorized political committee, independent expenditures in support or opposition of candidates for covered offices, and distributions of moneys from the fund. Such database shall be accessible to the public on the board's webpage no later than June first, two thousand twenty-one.

§ 14-210. Audits and repayments. 1. Audits. The board shall audit and examine all matters relating to the proper administration of this title and shall complete such audit no later than six months after the election in question. Every candidate who receives public funds under this title shall be audited by the board. The cost of complying with a post-election audit shall be borne by the candidate's authorized political committee using public funds, private funds or any combination of such funds. The authorized political committee of a participating candidate must maintain a reserve of three percent of the public funds received to comply with the post-election audit. Any public reserve funds not used shall be remitted to the New York state judicial campaign finance fund. The board shall issue to each campaign audited a final audit report that details its findings.

2. Repayments. (a) If the board determines that any portion of the payment made to a candidate's authorized political committee from the fund was in excess of the aggregate amount of payments that such candidate was eligible to receive pursuant to this title, it shall notify such committee and such committee shall pay to the board an amount equal to the amount of excess payments. Provided, however, that if the erroneous payment was the result of an error by the board, then the erroneous payment will be deducted from any future payment, if any, and if no payment is to be made then neither the candidate nor the committee shall be liable to repay the excess amount to the board. The candidate, the treasurer and the candidate's authorized political committee are jointly and severally liable for any repayments to the board.

(b) If the board determines that any portion of the payment made to a candidate's authorized political committee from the fund was used for purposes other than qualified campaign expenditures and such expenditures were not approved by the board, it shall notify such committee of the amount so disqualified and such committee shall pay to the board an amount equal to such disqualified amount. The candidate, the treasurer and the candidate's authorized political committee are jointly and severally liable for any repayments to the board.

(c) If the total of payments from the fund received by a participating candidate's authorized political committee exceed the total campaign expenditures of such candidate's authorized political committee, such candidate's authorized political committee shall use such excess funds to reimburse the fund for payments received by such authorized political committee from the fund during such calendar year. Participating candidates' authorized political committees shall pay to the board unspent public campaign funds from an election not later than twenty-seven days after all liabilities for the election have been paid and in any event, not later than the day on which the board issues its final audit report for the participating candidate's authorized political committee; provided, however, that all unspent public campaign funds for a partic-

ipating candidate shall be immediately due and payable to the board upon a determination by the board that the participant has delayed the post-election audit. A participating candidate's authorized political committee may make post-election expenditures with public funds only for routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit. Nothing in this title shall be construed to prevent a candidate or his or her authorized political committee from using campaign contributions received from private contributors for otherwise lawful expenditures.

3. Rules and regulations. The board shall promulgate regulations for the certification of the amount of funds payable by the comptroller, from the fund established pursuant to section ninety-two-t of the state finance law, to a participating candidate's authorized political committee that has qualified to receive such payment. These regulations shall include the periods during which such reports must be filed and the verification required, and the board shall develop forms on which contributions and expenditures are to be reported. The board shall institute procedures which will make possible payment by the fund within four business days after receipt of the required forms and verifications.

§ 14-211. Enforcement and penalties for violations and other proceedings. 1. Civil penalties. Any person who, acting as or on behalf of a candidate or such candidate's authorized political committee, violates any provision of this title, under circumstances evincing an intent to violate such provision, shall be subject to a civil penalty in an amount not in excess of ten thousand dollars, to be recoverable in a special proceeding or civil action to be brought by the chief enforcement counsel pursuant to sections 3-104 and 3-104-a of this chapter.

2. Criminal conduct. Any person who knowingly and willfully furnishes or submits false statements or information to the board in connection with its administration of this title, shall be guilty of a misdemeanor in addition to any other penalty as may be imposed under this chapter or pursuant to any other law. Any referral for prosecution under this subdivision shall be made pursuant to section 3-104 of this chapter. Upon conviction, the chief enforcement counsel shall initiate a special proceeding or civil action to recover any public matching funds obtained as a result of such criminal conduct.

3. Proceedings as to public financing. (a) The determination of eligibility pursuant to this title and any question or issue relating to payments for campaign expenditures pursuant to this title may be contested in a proceeding instituted in the Supreme court, Albany county, by an aggrieved judicial candidate.

(b) A proceeding with respect to such a determination of eligibility or payment for qualified campaign expenditures pursuant to this chapter shall be instituted within fourteen days after such determination was made. The board shall be made a party to any such proceeding.

(c) Upon the board's failure to receive the amount due from a participating candidate or such candidate's authorized political committee after the issuance of written notice of such amount due, as required by this title, the chief enforcement counsel is authorized to seek recovery of such amount pursuant to sections 3-104 and 3-104-a of this chapter.

(d) Any such funds obtained or collected through judgment or settlement shall be remitted to the New York state judicial and district attorney campaign finance fund.

§ 14-212. Reports. The board shall review and evaluate the effect of this title upon the conduct of election campaigns and shall submit an

annual report to the governor and the legislature on or before May first, two thousand twenty-two, and on or before May first of every year thereafter, and at any other time upon the request of the governor and at such other times as the board deems appropriate. These reports shall include:

1. a list of the participating and nonparticipating candidates in covered elections and the votes received by each candidate in those elections;

2. the amount of contributions and loans received, and expenditures made, on behalf of these candidates;

3. the amount of public matching funds each participating candidate received, spent, and repaid pursuant to this title;

4. analysis of the effect of this title on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates, the candidates' ability to campaign effectively for public office, and the diversity of candidates seeking and elected to office; and

5. recommendations for amendments to this title, including changes in contribution limits, thresholds for eligibility, and any other features of the system.

§ 14-213. Severability. If any clause, sentence, subdivision, paragraph, section or part of this title be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Nothing in this title shall be construed to require candidates or candidates' authorized political committees to commit any act which would violate the rules governing judicial conduct pursuant to 22 NYCRR Part 100. To the extent that any provision in this title conflicts with such rules, the rules shall control.

§ 6. The state finance law is amended by adding a new section 92-t to read as follows:

§ 92-t. New York state judicial and district attorney campaign finance fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the New York state judicial and district attorney campaign finance fund.

2. Such fund shall consist of all revenues received from the New York state judicial and district attorney campaign finance fund check-off pursuant to subsection (h) of section six hundred fifty-eight of the tax law, from the abandoned property fund pursuant to section ninety-five of this article, from the general fund, and from all other moneys credited or transferred thereto from any other fund or source pursuant to law. Such fund shall also receive contributions from private individuals, organizations, or other persons to fulfill the purposes of the judicial public financing system, as well as any funds remitted pursuant to section 14-211 of the election law.

3. Moneys of the fund, following appropriation by the legislature, may be expended for the purposes of making payments to candidates pursuant to title two of article fourteen of the election law and for administrative expenses related to the implementation of article fourteen of the election law. Moneys shall be paid out of the fund by the state comptroller on vouchers certified or approved by the state board of

elections, or its duly designated representative, in the manner prescribed by law, not more than five business days after such voucher is received by the state comptroller.

4. Notwithstanding any provision of law to the contrary, if, in any state fiscal year, the state judicial and district attorney campaign finance fund lacks the amount of money to pay all claims vouchered by eligible candidates and certified or approved by the state board of elections, any such deficiency shall be paid by the state comptroller, from funds deposited in the general fund of the state not more than four business days after such voucher is received by the state comptroller.

5. Commencing in two thousand twenty-two, if the surplus in the fund on April first of the year after a year in which a governor is elected exceeds twenty-five percent of the disbursements from the fund over the previous four years, the excess shall revert to the general fund of the state.

6. No public funds shall be paid to any participating candidates in a general election any earlier than the last day to decline a judicial or district attorney nomination pursuant to subdivision seven of section 6-158 of the election law.

7. No public funds shall be paid to the authorized political committee of any participating candidate who has been disqualified or whose nomination has been declared invalid by the appropriate board of elections or a court of competent jurisdiction until and unless such finding is reversed by a higher court in a final judgment. No payment from the fund in the possession of such participating candidate's authorized political committee on the date of such disqualification or invalidation may thereafter be expended for any purpose except the payment of liabilities incurred before such date. All other such moneys shall be repaid to the fund.

§ 7. Section 95 of the state finance law is amended by adding a new subdivision 5 to read as follows:

5. (a) As often as necessary, the co-chairs of the state board of elections shall certify the amount such co-chairs have determined necessary to fund estimated payments from the fund established by section ninety-two-t of this article for the general election.

(b) Notwithstanding any provision of this section authorizing the transfer of any moneys in the abandoned property fund to the general fund, the comptroller, after receiving amounts sufficient to pay claims against the abandoned property fund, shall, based upon a certification of the state board of elections pursuant to paragraph (a) of this subdivision, and at the direction of the director of the budget, transfer the requested amount from remaining available monies in the abandoned property fund to the New York state judicial and district attorney campaign finance fund established by section ninety-two-t of this article.

§ 8. Section 658 of the tax law is amended by adding a new subsection (h) to read as follows:

(h) New York state judicial and district attorney campaign finance fund check-off. (1) For each taxable year beginning on and after January first, two thousand twenty, every resident taxpayer whose New York state income tax liability for the taxable year for which the return is filed is forty dollars or more may designate on such return that forty dollars be paid into the New York state judicial and district attorney campaign finance fund established by section ninety-two-t of the state finance law. Where a husband and wife file a joint return and have a New York state income tax liability for the taxable year for which the return is filed is eighty dollars or more, or file separate returns on a single

form, each such taxpayer may make separate designations on such return of forty dollars to be paid into the New York state judicial and district attorney campaign finance fund.

(2) The commissioner shall transfer to the New York state judicial and district attorney campaign finance fund, established pursuant to section ninety-two-t of the state finance law, an amount equal to forty dollars multiplied by the number of designations.

(3) For purposes of this subsection, the income tax liability of an individual for any taxable year is the amount of tax imposed under this article reduced by the sum of the credits (as shown in his or her return) allowable under this article.

(4) The department shall include a place on every personal income tax return form to be filed by an individual for a tax year beginning on or after January first, two thousand twenty, for such taxpayer to make the designations described in paragraph one of this subsection. Such return form shall contain a concise explanation of the purpose of such optional designations.

§ 9. Section 16-120 of the election law, as added by section 5 of part E of chapter 399 of the laws of 2011, is amended to read as follows:

§ 16-120. Enforcement proceedings. 1. The supreme court or a justice thereof, in a proceeding instituted by the state board of elections, may impose a civil penalty, as provided for in subdivisions one and two of section 14-126 of this chapter and as provided for in subdivision one of section 14-211 of this chapter.

2. Upon proof that a violation of article fourteen of this chapter, as provided in subdivision one of this section, has occurred, the court may impose a civil penalty, pursuant to subdivisions one and two of section 14-126 of this chapter and pursuant to subdivision one of section 14-211 of this chapter, after considering, among other factors, the severity of the violation or violations, whether the subject of the violation made a good faith effort to correct the violation and whether the subject of the violation has a history of similar violations. All such determinations shall be made on a fair and equitable basis without regard to the status of the candidate or political committee.

3. The supreme court or a justice thereof, in a proceeding to recover public funds instituted pursuant to subdivision two of section 14-211 of this chapter, may order the recovery of such public funds.

§ 10. Severability. If any clause, sentence, subdivision, paragraph, section or part of title 2 of article 14 of the election law, as added by section five of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 11. This act shall take effect immediately; provided, however, all affected candidates will be eligible to participate in voluntary public financing beginning with the 2021 election and provided, further, this act shall expire June 1, 2024 when upon such date the provisions of this act shall be deemed repealed.