STATE OF NEW YORK

3668

2025-2026 Regular Sessions

IN SENATE

January 29, 2025

Introduced by Sens. SKOUFIS, ADDABBO, BAILEY, BROUK, CLEARE, COONEY, FELDER, FERNANDEZ, GONZALEZ, MARTINEZ, MAY, PARKER, PERSAUD, S. RYAN, SALAZAR, SCARCELLA-SPANTON, SEPULVEDA, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to public campaign financing; and to repeal section 11 of part ZZZ of chapter 58 of the laws of 2020 amending the election law relating to public financing for state office; amending the state finance law relating to establishing the New York state campaign finance fund; and amending the tax law relating to establishing the NYS campaign finance fund check-off, relating to the severability of the provisions thereof

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

Section 1. Paragraph (a) of subdivision 11 of section 14-200-a of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, is amended to read as follows:

(a) "matchable contribution" means a contribution not less than five dollars and not more than two hundred fifty dollars, for a candidate for public office to be voted on by the voters of the entire state or for nomination to any such office, a contribution for any covered elections held in the same election cycle, made by a natural person who is a resident in the state of New York to a participating candidate, and for a candidate for election to the state assembly or state senate or for nomination to any such office, a contribution for any covered elections held in the same election cycle, made by a natural person who *at the time such contribution is made* is also a resident of such state assembly or state senate district from which such candidate is seeking nomination or election, that has been reported in full to the PCFB in accordance with sections 14-102 and 14-104 of this article by the candidate's authorized committee and has been contributed on or before the day of

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

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the applicable primary, general, runoff, or special election. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the PCFB may not be treated as a matchable contribution for any purpose.

§ 2. Subdivision 19 of section 14-200-a of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, is amended to read as follows:

19. "surplus" means [~~those funds where the total sum of contributions received and~~] **the difference between** public [~~matchable~~] **matching** funds received by a participating candidate and [~~his or her~~] **such candidate's** authorized committee [~~exceeds the total campaign expenditures of such candidate and authorized committee~~] for all covered elections held in the same calendar year or for a special election to fill a vacancy **and the total such candidate and such candidate's authorized committee spent on qualified campaign expenditures; provided that in cases where qualified campaign expenditures of such candidate exceed public matching funds received by such candidate and such candidate's authorized committee for all covered elections held in the same calendar year or for a special election to fill a vacancy, the surplus is zero**.

§ 3. Section 14-203 of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, is amended to read as follows:

§ 14-203. Eligibility. 1. Terms and conditions. To be eligible for [~~voluntary public financing~~] **public matching funds** 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~~] **such candidate's** name on the ballot, subject to the requirements of subdivision three of section 1-104 and subdivision one of section 6-142 of this chapter;

(c) in the case of a covered general or special 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 PCFB, that sets forth [~~his or her~~] **such candidate's** 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 a primary election and on the last day in which a certification of nomination is filed in a special election pursuant to a schedule promulgated by the PCFB;

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

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

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

(g-1) not owe any payments, repayments, or civil penalties pursuant to this title or any regulations promulgated thereunder, or any similar payments, repayments, or civil penalties under any local public campaign finance program within the previous ten years;

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

(i) not have accepted contributions in amounts exceeding the contribution limits set forth for candidates in paragraphs a and 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, such acceptance shall not prevent the candidate from being certified by the PCFB if the candidate in a reasonable time, as determined by rule, 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 in a reasonable time, as determined by rule, because they have already been spent, acceptance of contributions exceeding the limits shall not prevent the candidate from being certified by the PCFB if the candidate submits an affidavit agreeing to pay to the fund all portions of any contributions that exceeded the limit no later than thirty days before the general election. If a candidate provides the PCFB with such an affidavit, any disbursement of public funds to the candidate shall be reduced by no more than twenty-five percent until the total amount owed by the candidate is repaid.

(iii) Nothing in this section shall be interpreted to require a candidate who retains funds raised during any previous election cycle to forfeit such funds. Funds raised during a previous election cycle may be retained and used by the candidate for the candidate's campaign in the next election cycle but funds shall not qualify for satisfying the threshold for participating in the public campaign finance program established in this title nor shall they be eligible to be matched. The PCFB shall adopt regulations to ensure that contributions that would satisfy the applicable contribution limits authorized in this title shall be transferred into the appropriate campaign account.

(iv) Contributions received and expenditures made by the candidate or an authorized committee of the candidate prior to the effective date of this title shall not constitute a violation of this title. Unexpended contributions shall be treated the same as campaign surpluses under subparagraph (iii) of this paragraph. Nothing in this recommendation shall be construed to limit, in any way, any candidate or public official from expending any portion of pre-existing campaign funds for any lawful purpose other than those related to [~~his or her~~] <u>such candidate's</u> campaign.

(v) A candidate who has raised matchable contributions but, in the case of a covered primary, general or special election, is not opposed by another candidate on the ballot who is not a write-in candidate, or who chooses not to accept matchable funds, may retain such contributions and apply them in accord with this title to the candidate's next campaign, should there be one, in the next election cycle.

<u>(vi) The total amount of public matching funds available to a participating candidate and such candidate's authorized committee for a covered general election pursuant to subdivision two of section 14-204 of this title shall be reduced by any unexpended public matching funds received by such candidate and such candidate's authorized committee for a covered primary election.</u>

2. Threshold for eligibility. (a) The threshold for eligibility for public funding for participating candidates shall be in the case of:

(i) governor, not less than five hundred thousand dollars in contributions including at least five thousand matchable contributions shall be counted toward this qualifying threshold;

(ii) lieutenant governor, attorney general and comptroller, not less than one hundred thousand dollars in contributions including at least one thousand matchable contributions shall be counted toward this qualifying threshold;

(iii) state senator, except as otherwise provided in paragraph (c) of this subdivision, not less than [~~twelve~~] **twenty-four** thousand dollars in contributions including at least [~~one~~] **three** hundred fifty matchable contributions shall be counted toward this qualifying threshold; and

(iv) member of the assembly, except as otherwise provided in paragraph (c) of this subdivision, not less than [~~six~~] **ten** thousand dollars in contributions including at least [~~seventy-five~~] **one hundred forty-five** matchable contributions shall be counted toward this qualifying threshold.

(b) [~~However, solely for~~] **For** purposes of achieving the monetary thresholds in paragraph (a) of this subdivision, [~~the first two hundred fifty dollars of~~] any **portion of a** contribution [~~of more than~~] **when the aggregate of contributions are in excess of** two hundred fifty dollars **from any one contributor** to a candidate or a candidate's committee which would otherwise be matchable except that it comes from a contributor who has contributed more than two hundred fifty dollars to such candidate or candidate's committee, [~~is deemed to be a matchable contribution and~~] shall **not** count toward satisfying such monetary threshold [~~but shall not~~] **or** otherwise be considered a matchable contribution.

(c) With respect to the minimum dollar threshold for participating candidates for state senate and state assembly, in such districts where average median income ("AMI") is below the AMI as determined by the United States Census Bureau three years before such election for which public funds are sought, such minimum dollar threshold for eligibility shall be reduced [~~by one-third~~] **to sixteen thousand dollars for the senate and six thousand dollars for the assembly**. The PCFB shall make public which districts are subject to such reduction no later than two years before the first primary election for which funding is sought.

(d) Any participating candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be applied to satisfy the threshold for eligibility for such office in any other subsequent election held in the same calendar year. Any participating candidate who is nominated in a primary election and has participated in the public financing program set forth in this title, [~~must~~] **shall not be required to** participate in the **public financing program for the** general election for such office **should they choose to run in the general election**.

§ 4. Subdivisions 1, 2 and 5 of section 14-204 of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, are amended to read as follows:

1. In any primary election, receipt of public funds by participating candidates and by their participating committees shall not exceed:

(a) for Governor $3,500,000

(b) for Lieutenant Governor, Attorney General or Comptroller $3,500,000

(c) for State Senator $375,000

(d) for Member of the Assembly [~~$175,000~~] **$145,000**

2. In any general or special election, receipt of public funds by a participating candidate's authorized committees shall not exceed:

(a) for Governor and Lieutenant Governor (combined) $3,500,000
(b) for Attorney General $3,500,000
(c) for Comptroller $3,500,000
(d) for State Senator $375,000
(e) for Member of the Assembly [~~$175,000~~] **$145,000**

5. A candidate only on the ballot in one or more primary elections in which the number of persons eligible to vote for party nominees in each such election totals fewer than [~~one thousand~~] **seven thousand five hundred** shall not receive public funds in excess of five thousand dollars for qualified campaign expenditures in such election or elections**; provided, however, such candidate may receive up to five thousand dollars per each additional one thousand voters over the first seven thousand five hundred voters but shall not receive public funds in excess of fifteen thousand dollars total for qualified campaign expenditures in such election or elections**. For the purposes of this section, the number of persons eligible to vote for party nominees in a primary election shall be as determined by the state board of elections for the calendar year of the primary election. A candidate for office on the ballot in more than one primary for such office, shall be deemed, for purposes of this recommendation, to be a single candidate.

§ 5. Subdivisions 3 and 4 of section 14-205 of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, are amended to read as follows:

3. Timing of payment. **(a)** The PCFB shall make any payment of public matching funds to participating candidates as soon as is practicable. But in all cases, it shall verify eligibility for public matching funds within four days, excluding weekends and holidays, of receiving a campaign contribution report filed in compliance with section 14-104 of this article. Within two 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. [~~The PCFB shall schedule at least three payment dates in the thirty days prior to a covered primary, general, or special election. If any of such payments would require payment on a weekend or federal holiday, payment shall be made on the next business day.~~]

(b) The PCFB shall schedule payment dates on (i) December fifteenth of the year preceding the year of the covered election, (ii) January fifteenth, February fifteenth, March fifteenth, April fifteenth, and a minimum of three payment dates within the forty-five days prior to a covered primary election, (iii) July fifteenth and a minimum of four payment dates within the ninety days prior to a covered general election, and (iv) a minimum of three payment dates within the thirty days prior to any other covered election. If any of such payments would require payment on a weekend or federal holiday, payment shall be made on the next business day. A certification pursuant to paragraph (d) of subdivision one of section 14-203 of this title shall be required to have been filed with the PCFB no later than fifteen business days prior to the December fifteenth, January fifteenth, February fifteenth, March fifteenth, April fifteenth, or July fifteenth payment dates scheduled pursuant to this subdivision for a participating candidate to receive public funds on such payment date. For purposes of such payment dates, the PCFB shall provide each candidate with a written determination specifying the basis for any non-payment.

4. Notwithstanding any provision of this section to the contrary, the amount of public funds payable to a participating candidate on the

ballot in any covered election shall not exceed one-quarter of the maximum public funds payment otherwise applicable and no participating candidate shall be eligible to receive a disbursement of public funds prior to two weeks after the last day to file designating petitions for a primary election unless the participating candidate is opposed by a competitive candidate. [~~The PCFB shall, by regulation, set forth objective standards to determine whether a candidate is competitive and the procedures for qualifying for the payment of public funds.~~] A participating candidate shall be considered opposed by a competitive candidate when at least one of the following conditions are met:

(a) For a covered general election only if the margin of victory was twenty points or less in a contest involving an opposing major party candidate in an election for public office in an area encompassing all or part of the area that is the subject of the current election in the last eight years preceding the election of the covered office sought.

(b) The opposing candidate has received the endorsement of a current or former statewide elected official, or a current or former federal elected official representing all or a portion of the area represented by the covered office sought, or a current or former United States senator, or in the case of a district that encompasses a portion of New York city, a current or former citywide elected official.

(c) The opposing candidate has received three or more endorsements from other current or former state, county, city, town, or village elected officials who represent all or a part of the area covered by the election.

(d) In the past ten years, the opposing candidate's spouse, domestic partner, sibling, parent, or child holds or has held elective office in an area encompassing all or part of the district represented by the covered office sought.

(e) The opposing candidate has been deemed eligible to receive public funds payment for the covered election.

(f) If the general election in that district was within a twenty-point margin within the last six years.

(g) If an individual is self-funding and has given themselves or loaned themselves twenty-four thousand dollars for senate elections or ten thousand dollars for assembly elections.

(h) The opposing candidate previously held elected office.

§ 6. Section 14-206 of the election law is amended by adding a new subdivision 3 to read as follows:

3. All political communications, including but not limited to broadcast, cable or satellite schedules and scripts, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced, and statements or information published or conveyed to five hundred or more members of a general public audience by computer or other electronic device, including but not limited to electronic mail or text message, and paid internet or digital advertisements, purchased in connection with a covered election shall include a disclosure which says "New York State Public Campaign Finance Program participant".

§ 7. Section 14-207 of the election law is amended by adding a new subdivision 3-a to read as follows:

3-a. The PCFB shall develop and administer in person and online training for individuals to become certified as compliance officers under this title. Such training shall include information concerning compliance with the rules of the public campaign finance program, disclosure and record keeping requirements, obligations of the program, and other

relevant information as determined by the PCFB. The PCFB shall promulgate regulations for the certification of compliance officers pursuant to this subdivision and shall publish a list of certified compliance officers on its website which shall be updated every thirty days.

§ 8. Paragraph (c) of subdivision 1 of section 14-208 of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, is amended to read as follows:

(c) Except as provided in paragraph (b) of this subdivision, the PCFB shall select not more than one-third of all participating candidates in covered elections for audit through a lottery which shall be completed within one year of the election in question. A separate lottery shall be conducted for each office. The PCFB shall select senate and assembly districts to be audited, auditing every candidate in each selected district, while ensuring that the number of audited candidates within those districts does not exceed fifty percent of all participating candidates for the relevant office. The lottery for senate and assembly elections shall be weighted to increase the likelihood that a district for the relevant office is audited based on how frequently it has not been selected for auditing during the past three election cycles. The PCFB shall promulgate rules concerning the method of weighting the senate and assembly lotteries, including provisions for the first three election cycles for each office. **The names of candidates selected for an audit shall not be disclosed unless there is a declared finding of wrongdoing by the PCFB.**

§ 9. Paragraph (c) of subdivision 2 of section 14-208 of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, is amended and a new paragraph (d) is added to read as follows:

(c) If [~~the total sum of contributions received and public matching payments from the fund received by a participating candidate and his or her authorized committee exceed the total campaign expenditures of such candidate and authorized committee for all covered elections held in the same calendar year or for a special election to fill a vacancy~~] **unspent public matching funds remain in a participating candidate's authorized committee bank account at the end of an election cycle that exceed the participating candidate's total qualified campaign expenditures**, such candidate and committee shall [~~use such surplus funds to reimburse the fund for payments received by such authorized committee from the fund during such calendar year or for such special election~~] **pay the fund the amount of such surplus**. Participating candidates shall make such payments 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 PCFB issues its final audit report for the participating candidate's authorized committee; provided, however, that all unspent public campaign funds for a participating candidate shall be immediately due and payable to the PCFB upon a determination by the PCFB that the participant has delayed the post-election audit. A participating candidate may make post-election expenditures with public funds only for routine activities involving nominal [~~cost~~] **costs** 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~~] **such candidate's** authorized committee from using campaign contributions received from private contributors for otherwise lawful expenditures.

(d) Candidates shall have thirty days to cure any violations identified by the PCFB in its post-election audit before there may be any declared findings of wrongdoing.

§ 10. Section 14-212 of the election law, as added by section 4 of part ZZZ of chapter 58 of the laws of 2020, is amended to read as follows:

§ 14-212. Severability. [~~If any clause, sentence, or other portion of paragraph (c) of subdivision two of section 14-203 of this title be adjudged by any court of competent jurisdiction to be invalid, then subparagraphs (iii) and (iv) of paragraph (a) of subdivision two of section 14-203 of this title shall read as follows:~~

~~(iii) state senator, except as otherwise provided in paragraph (c) of this subdivision, not less than ten thousand dollars in matchable contributions including at least one hundred and fifty matchable contributions in an amount greater than five dollars and no greater than the limits in this chapter, of which the first two hundred fifty dollars shall be counted toward this qualifying threshold; and~~

~~(iv) member of the assembly, except as otherwise provided in paragraph (c) of this subdivision, not less than five thousand dollars in matchable contributions including at least seventy-five matchable contributions in an amount greater than five dollars and no greater than the limits in this chapter, of which the first two hundred fifty dollars shall be counted toward this qualifying threshold.~~] If any clause, sentence, paragraph, subdivision, section or part of this article shall be determined 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 particular clause, sentence, paragraph, subdivision, section or part thereof directly found invalid in the judgment rendered. It is hereby declared to be the intent of the legislature that this article would have been enacted even if such invalid provisions had not been included herein.

§ 11. Section 11 of part ZZZ of chapter 58 of the laws of 2020 amending the election law relating to public financing for state office; amending the state finance law relating to establishing the New York state campaign finance fund; and amending the tax law relating to establishing the NYS campaign finance fund check-off, is REPEALED.

§ 12. This act shall take effect immediately; provided, however, subparagraphs (iii) and (iv) of paragraph (a) of subdivision 2 of section 14-203 of the election law, as amended by section three of this act, shall apply to all general elections which take place on and after such date and shall apply to all primary and special elections which take place on and after the first of December next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed by the public campaign finance board on or before such effective date.