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5-2-2009

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New York State Campaign Finance Laws

Abstract

Campaign finance laws govern how political candidates raise and spend monies for their elections. In general, there are three ways in which states regulate campaign finance: (1) disclosure, (2) contribution limits, and (3) public financing. Disclosure requires a candidate to disclose campaign-related contribution receipts as well as expenditures. Expenditures can include anything from advertising material to travel expenses. Contribution Limits restrict the amount of money that an individual or other entity (corporation, partnership, etc.) can contribute to a candidate or political party. Public Financing can take many forms, but, generally speaking, it is a voluntary program that allows a candidate to receive public money in exchange for abiding by spending and fundraising limits.

Keywords

Buffalo, Government, Elections, Fact Sheet, PPG, PDF

New York State Campaign Finance Laws

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What are campaign finance laws?

Campaign finance laws govern how political candidates raise and spend monies for their elections. In general, there are three ways in which states regulate campaign finance: (1) disclosure, (2) contribution limits, and (3) public financing.¹

1. Disclosure requires a candidate to disclose campaign-related contribution receipts as well as expenditures.² Expenditures can include anything from advertising material to travel expenses.
2. Contribution Limits restrict the amount of money that an individual or other entity (corporation, partnership, etc.) can contribute to a candidate or political party.³
3. Public Financing can take many forms, but, generally speaking, it is a voluntary program that allows a candidate to receive public money in exchange for abiding by spending and fundraising limits.⁴

What do campaign finance laws protect against?

Campaign finance laws protect against corruption. For instance, the laws prohibit wealthy individuals and interest groups from providing large amounts of political capital to a candidate by capping the amount that may



be contributed. This helps to ensure a candidate's loyalty remains with all of his constituents and not simply with large contributors.⁵ The cap also helps protect against pay-to-play situations, where a candidate accepts large financial contributions in exchange for directing services or privileges to the contributor once in office.

Does New York State have campaign finance laws?

Yes. Article 14 of the New York State Election Law and Part 6200 of New York State Board of Elections' Rules and Regulations govern campaign finance.⁶ These laws and regulations govern everything from the time and place to file campaign disclosure reports to the violations and penalties for failing to abide by the rules.⁷

What are some of the basic requirements of New York's laws?

➤ Election Law §14-104 (Disclosure Reports)

- This section stipulates that a candidate must disclose all campaign-related receipts and expenditures by submitting a disclosure report with the New York State Board of Elections ("NYSBOE").⁸ Moreover, filing disclosure reports is an ongoing requirement. Once a candidate registers with the NYSBOE and begins filing disclosure reports, the candidate "must continue to make all required filings until the [candidate] requests a termination . . . with the NYSBOE."⁹
- A disclosure report contains the financial transactions (receipts and expenditures) of a candidate over a specified period of time. As mentioned, these reports are required to be submitted on an ongoing basis, so even if the candidate has no new financial activity for the specified period, the candidate still must file the report.¹⁰

➤ Election Law §14-114 (Contribution Limitations)

- This section sets forth the formula for determining how much money an individual can donate to a campaign (contribution limits) and how much money a candidate can accept. The formulas for each elected position (e.g., Governor, Assemblyman, Senator, etc.) are based on the number of voters in the district. The current NYS Senate and Assembly contribution limits are:¹¹
 - State Senate (Primary) - \$6,000
 - State Senate (General) - \$9,500
 - NYS Assembly (Primary) - \$3,800
 - NYS Assembly (General) - \$3,800
- New York State laws treat legal entities differently for purposes of contribution limits. For instance, a Limited Liability Company (LLC) is treated as an individual for contribution limitation purposes and therefore can contribute the same amount as an individual, which is up to \$150,000 in the aggregate per calendar year.¹² A corporation, by contrast, is limited to only \$5,000 in

contributions per calendar year.¹³ However, each subsidiary of a corporation is treated as separate, and therefore each subsidiary may make contributions. For more information on contribution limits and the distinctions between contributing entities see <http://www.elections.state.ny.us/NYSBOE/download/finance/hndbk2008.pdf>.

- Election Law §14-120 (Identifying Contributors) – The name of the person making the financial contribution to the candidate must be included in the disclosure report. The candidate’s report cannot use an alias for the contributor.¹⁴

How do New York State laws affect local election candidates?

Candidates running for town, village, county, school board, or other local offices are subject to New York State’s campaign finance laws. Local candidates must file periodic disclosure reports with the NYSBOE as well as with their local board of elections. So, for instance, a candidate running for a seat on the Erie County Legislature would have to submit disclosure reports to both the NYSBOE and the Erie County Board of Elections.

Are there any distinctions between a state and local candidate in New York’s campaign finance laws?

Although local candidates are subject to New York State campaign finance laws, there are a couple nuances in the law that affect local candidates. Specifically, any candidate that does not raise or spend more than \$1,000 for her campaign does not have to file a disclosure report with the NYSBOE.¹⁵ Rather, a disclosure report must only be filed with the local board of elections. This exception is applicable to many local campaigns run on small budgets.

Another distinction between statewide campaign finance and local campaign finance is the contribution limits. As mentioned, the limits are set by state law but are dependent on the number of registered voters within the voting district. Therefore, a candidate running for the Amherst Town Board will have a much smaller contribution limit than will the NYS Senate candidate from the same area. The current local contribution limits can be found at: <http://www.erieboe.com/content.aspx?id=103>.

What are some of the biggest flaws and loopholes found in New York’s campaign finance laws?

There are several areas of criticism with New York State’s campaign finance laws. The biggest and most talked about are: (1) sky-high contribution limits for individuals; (2) sky-high contribution limits for corporations; (3) corporations’ abuse of “housekeeping accounts”; (4) no public financing; and (5) candidates’ personal use of campaign funds.¹⁶

1. Sky-high Individual Contribution Limits – Critics argue that New York State has one of the highest limits for campaign contributions in the nation.¹⁷ Individuals in New York can contribute \$55,900 per election cycle to candidates for Governor, and the aggregate contribution limit for an individual is \$150,000.¹⁸ The nationwide average for contribution limits to gubernatorial candidates, by contrast, is only \$7,500.¹⁹ The \$150,000 limit is three times the median annual income in New York State, which is \$46,659.²⁰
2. Sky-high Corporation Contribution Limits – Corporation contribution limits also come under fire by critics who argue that a corporation should not be able to contribute through its subsidiaries. In New York, corporations are limited to \$5,000 of political contributions; however, each subsidiary of a corporation can contribute as well. That allows corporations with complex business structures to multiply their political influence by contributing through all of their subsidiaries.²¹ To see a side-by-side comparison of all 50 states' contribution limits see the following chart on the National Conference of State Legislatures' website at http://www.ncsl.org/print/legismgt/limits_candidates.pdf.
3. Corporations' Abuse of "Housekeeping Accounts" – Critics argue that corporations also evade the \$5,000 limit by contributing unlimited amounts to "housekeeping accounts." Housekeeping accounts are set up by political parties to establish a permanent headquarters, hire staff, and conduct other party-related business.²² The money contributed to these accounts cannot be used to directly benefit candidates, but critics argue that it is used in a manner that has indirect affects. Specifically, the money is used to "conduct polls, launch get-out-the-vote drives, [hold] fundraisers for more money, and launch 'attack' ads."²³ Critics argue that corporations severely abuse this loophole by using it as an end-run around the \$5,000 contribution limit. For instance, "GNYHA Management Corporation, a subsidiary of the Greater New York Hospital Association and one of the top twenty donors in New York, donated \$264,500 to Democratic political parties and \$136,000 to Republican political parties in New York."²⁴ Adding this unlimited contribution rule to the already sky-high contribution limits, critics argue, puts too much political power in the hands of the wealthy contributors.
4. No Public Financing For Candidates – Currently, half of the states in America (and New York City²⁵) "operate programs that give grants of state funds to candidates and/or political parties for their

campaigns.”²⁶ New York State, however, “provides no public financing for candidates.”²⁷ There are several ways in which states implement public financing programs, but in all cases they are voluntary and participants are usually required to abide by certain spending and fundraising rules.²⁸ Advocates of public financing argue that it allows individuals of limited means to make a serious run at political office without ‘strings’ attached to interest groups and the political parties. Moreover, once in office, those legislators who opt into the system owe little to rich special interests.”²⁹

5. Candidates Using Campaign Funds for Personal Use – Critics argue that New York State campaign finance laws lack clear rules and have allowed candidates and elected officials to use campaign funds for personal means.³⁰ For instance, New York State Senator Joseph Bruno, “used campaign funds to pay for his pool cover and then claimed it was a legitimate campaign expense.”³¹ Other legislators have used money to “pay for cell phones, country clubs, sporting events tickets,” and other personal items.³² The lack of clarity and precision in the law has allowed seemingly personal items to be classified as campaign-related.

How are campaign finance laws enforced in New York State?

Currently, the New York State Board of Elections is in charge of civilly enforcing the campaign finance laws in New York State. Section 14-126 of New York State Election Law specifies the violations and penalties for



failures to abide by the rules and regulations. Specifically, the NYSBOE can bring a civil action against a violator, but the remedy cannot be in excess of five hundred dollars.³³ Many say the penalties for violations of campaign finance laws are extremely weak, and that the NYSBOE is underfunded and limited in its ability to enforce the laws. It is further argued that the NYSBOE is overwhelmed with running New

York State elections, and that a new campaign finance agency should be created to enforce the laws.³⁴

Criminal liability is also a possibility for those who violate campaign finance laws. Certain sections within New York State Election Law mandate penalties ranging from misdemeanors to class E felonies. In *People v. Norman*, for instance, the Appellate Division upheld a candidate’s conviction for larceny, falsifying business records, and offering a false instrument for filing purposes, all stemming from activities associated with his campaign finance committee.³⁵

Have any local politicians or contributors been cited for campaign finance violations?

- State election officials cited Buffalo Common Council representative, Brian C. Davis.³⁶ Mr. Davis was cited for failing to file required campaign finance disclosure reports as well as failing to disclose the identity of contributors on reports that were filed.³⁷ Moreover, according to the Buffalo News, Mr. Davis was “placed on administrative hold” by the state board of elections for failing to maintain a campaign treasurer, which is required by state law.³⁸
- During the fall 2008 local elections, Republican Elections Commissioner, Ralph M. Mohr, and Democratic Elections Commissioner, Dennis E. Ward, lodged a complaint against B. Thomas Golisano, billionaire and owner of the Buffalo Sabres, for alleged campaign finance violations.³⁹ The complaint accused Mr. Golisano’s “Responsible New York independent committee of illegally coordinating with three political action committees controlled by former Erie County Democratic Chairman G. Steven Pigeon in support of Joe Mesi, the unsuccessful Democratic candidate for State Senate.”⁴⁰ The commissioners accused Mr. Pigeon “of laundering thousands of dollars from Golisano’s political committee in an attempt to . . . circumvent contribution limits.”⁴¹ However, Erie County District Attorney, Frank J. Clark, and Monroe County District Attorney, Michael C. Green, both stated publicly that they would not probe the allegations due to staffing and other resource limitations.⁴²

¹ National Conference of State Legislatures website [hereinafter “NCSL website”], <http://www.ncsl.org/programs/legismgt/about/campfin.htm>.

² New York State Board of Elections, Handbook of Instructions for Campaign Financial Disclosure 2008, at pg. 13 [hereinafter “NYS Handbook 2008”], <http://www.elections.state.ny.us/NYSBOE/download/finance/hndbk2008.pdf>.

³ NCSL website, <http://www.ncsl.org/programs/legismgt/about/campfin.htm>.

⁴ *Id.*

⁵ *Id.*

⁶ New York State Election Law & New York State Board of Elections Rules and Regulations 2008 [hereinafter “NYS Election Laws & Regulations”], <http://www.elections.state.ny.us/NYSBOE/download/law/2008NYElectionLaw.pdf>.

⁷ Rules and Regulations §§6200.1 & 6200.2; NYS Election Law §14-126.

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- ⁸ NYS Election Laws & Regulations,
<http://www.elections.state.ny.us/NYSBOE/download/law/2008NYElectionLaw.pdf>.
- ⁹ NYS Handbook 2008,
<http://www.elections.state.ny.us/NYSBOE/download/finance/hndbk2008.pdf>.
- ¹⁰ *Id.*
- ¹¹ NYS Election Laws & Regulations,
<http://www.elections.state.ny.us/NYSBOE/download/law/2008NYElectionLaw.pdf>.
- ¹² NYS Handbook 2008, pg. 37,
<http://www.elections.state.ny.us/NYSBOE/download/finance/hndbk2008.pdf>.
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ NYS Election Law §14-124.
- ¹⁶ Brennan Center for Justice, New York University School of Law website [hereinafter “BJC website”],
http://www.brennancenter.org/content/resource/nys_2008_waiting_for_campaign_finance_reform/.
- ¹⁷ *Id.*
- ¹⁸ *Id.*
- ¹⁹ NCSL website, <http://www.ncsl.org/programs/legismgt/about/campfin.htm>.
- ²⁰ BJC website,
http://www.brennancenter.org/content/resource/nys_2008_waiting_for_campaign_finance_reform/.
- ²¹ *Id.*
- ²² *Id.*
- ²³ NYPIRG Capital Investments,
http://www.nypirg.org/goodgov/Capital_Investments.pdf.
- ²⁴ BJC website,
http://www.brennancenter.org/content/resource/nys_2008_waiting_for_campaign_finance_reform/.
- ²⁵ Ciara Torres-Spelliscy & Ari Weisbard, *What Albany Could Learn From New York City: A Model of Meaningful Campaign Finance Reform in Action*, ALBANY GOV’T L. REV. 194, 227 (2008).
- ²⁶ NCSL website, <http://www.ncsl.org/programs/legismgt/about/campfin.htm>.
- ²⁷ BJC website,
http://www.brennancenter.org/content/resource/nys_2008_waiting_for_campaign_finance_reform/.
- ²⁸ NCSL website, <http://www.ncsl.org/programs/legismgt/about/campfin.htm>.

²⁹ New York Public Interest Research Group, Capital Investment\$, Campaign Contributions to the New York State Legislature [hereinafter “NYPIRG Capital Investments], pg. 21, http://www.nypirg.org/goodgov/Capital_Investments.pdf.

³⁰ *Id.*

³¹ *Id.* (citing Editorial, *Toward Cleaner Campaigns; Fattening Albany’s Cats*, N.Y. Times, June 10, 2000, at A14, available at 2000 WL 3258729).

³² *Id.*

³³ Election Law §14-126(1).

³⁴ NYPIRG Capital Investments, pg. 22, http://www.nypirg.org/goodgov/Capital_Investments.pdf.

³⁵ See *People v. Norman*, 40 A.D.3d 1130 (N.Y. App. Div. 2007).

³⁶ James Heaney, *Brian Davis, downtown’s deadbeat Council member: Official is dogged by history of bad debt, state sanctions*, THE BUFFALO NEWS, Apr. 12, 2009, <http://www.buffalonews.com/home/story/637358.html>.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Robert J. McCarthy, *DA says his office isn’t staffed to investigate Golisano issue*, THE BUFFALO NEWS, Nov. 21, 2008, <http://www.buffalonews.com/cityregion/story/500458.html>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*