

File No. 111061

Board Item No. 27

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date: October 18, 2011

Cmte Board

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

OTHER (Use back side if additional space is needed)

Completed by: Annette Lonich

Date: September 28, 2011

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document is in the file.

# INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or  
Meeting Date

I hereby submit the following item for introduction:

- 1. For reference to Committee: \_\_\_\_\_  
An ordinance, resolution, motion, or charter amendment
- 2. Request for next printed agenda without reference to Committee
- 3. Request for hearing on a subject matter at Committee: \_\_\_\_\_
- 4. Request for letter beginning "Supervisor \_\_\_\_\_ inquires..."
- 5. City Attorney request
- 6. Call file from Committee
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File Nos.
- 9. Request for Closed Session
- 10. Board to Sit as A Committee of the Whole
- 11. Question(s) submitted for Mayoral Appearance before the BOS on \_\_\_\_\_

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- |   |  |
|---|--|
| <input type="checkbox"/> Small Business Commission      | <input type="checkbox"/> Youth Commission    |
| <input type="checkbox"/> Ethics Commission              | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Building Inspection Commission |  |

**Note:** For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

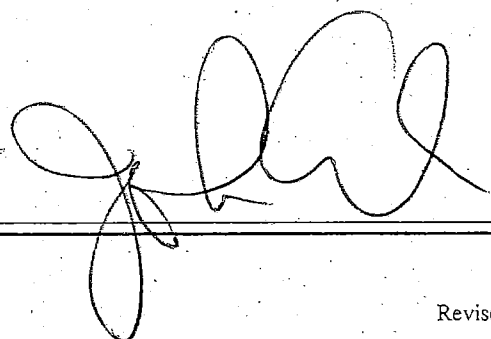
**Sponsor(s):** John Avalos

**Subject:** Protecting public libraries from for-profit corporation take overs

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: \_\_\_\_\_



**For Clerk's Use Only:**

Common/Supervisors Form

Revised 05/19/11

1 [Urging Governor Jerry Brown to Support Assembly Bill 438 - Protect Public Libraries from  
2 for-Profit Corporation Takeovers]

3  
4 **Resolution urging Governor Jerry Brown to support and implement Assembly Bill 438**  
5 **that protects public libraries from for profit corporate takeovers.**

6  
7 WHEREAS, public libraries are vital for a free and open democracy, an educated,  
8 literate and informed citizenry, and they promote increased economic activity where they are  
9 located and act as a storehouse of our culture, history and politics and as such should not be  
10 turned into a for-profit enterprise and,

11 WHEREAS, Santa Clarita's and other California jurisdiction's libraries have been  
12 subject to what amounts to hostile takeovers or attempts of hostile takeovers by a for-profit,  
13 out of state corporation, Library Systems & Services LLC(LSSI) despite strong citizens'  
14 objections, and

15 WHEREAS, the for-profit library movement (now the nation's fifth-largest library  
16 system) makes its profits by cutting union jobs and pensions, lowering employee incomes and  
17 cutting back on patron services, while the costs of running these libraries still comes entirely  
18 at the expense of the taxpayers; now therefore, be it

19 RESOLVED, that the San Francisco Board of Supervisors thanks the State Legislature  
20 for passing legislation that will protect Public Libraries from being taken over by a for-profit  
21 corporation and calls on the Governor to support and implement this legislation, and be it

22 FURTHER RESOLOVED, that the San Francisco Board of Supervisors send a copy of  
23 this resolution to the Governor.

Assembly Bill No. 438

\_\_\_\_\_  
Passed the Assembly September 8, 2011

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_  
Passed the Senate September 8, 2011

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_  
This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 2011, at \_\_\_\_ o'clock \_\_\_\_ m.

\_\_\_\_\_  
*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 19104 and 19116 of, and to add and repeal Section 19104.5 of, the Education Code, relating to libraries.

## LEGISLATIVE COUNSEL'S DIGEST

AB 438, Williams. County free libraries: withdrawal: use of private contractors.

Existing law provides that the county boards of supervisors may establish and maintain, within their respective counties, county free libraries pursuant to specified provisions of law. Existing law provides that the board of trustees, common council, or other legislative body of any city or the board of trustees of any library district may, on or before January 1 of any year, notify the county board of supervisors that the city or library district no longer desires to be a part of the county free library system, as specified.

This bill would impose specified requirements if the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district intends to withdraw from the county free library system and operate the city's or library district's library or libraries with a private contractor that will employ library staff to achieve cost savings, unless the library or libraries are funded only by the proceeds of a special tax imposed by the city or library district. These requirements, until January 1, 2019, would include, but not be limited to, publishing notice of the contemplated action in a specified manner, clearly demonstrating that the contract will result in actual overall cost savings to the city or library district for the duration of the entire contract, as specified, prohibiting the contract from causing existing city or library district employees to incur a loss of employment or specified benefits or an involuntary transfer, and imposing specified requirements on contracts for library services in excess of \$100,000 annually. The bill would also provide that its provisions do not preclude a city, library district, or local government from adopting more restrictive rules regarding the contracting of public services, and would prohibit its provisions from applying to contracts between a city or library district and a nonprofit organization if specified requirements are met.

*The people of the State of California do enact as follows:*

SECTION 1. Section 19104 of the Education Code is amended to read:

19104. (a) The board of trustees, common council, or other legislative body of a city or the board of trustees of a library district may, on or before January 1 of any year, notify the county board of supervisors that the city or library district no longer desires to be a part of the county free library system. The notice shall be accompanied by a statement complying with the requirements of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code. The clerk of the board of supervisors shall file the statement with the county assessor and the State Board of Equalization. Thereafter the city or library district shall cease to participate in the benefits of the county free library system, and the property situated in the city or library district shall not be liable for taxes for county free library purposes.

(b) If the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district intends to withdraw from the county free library system and operate the city's or the district's library or libraries with a private contractor that will employ library staff to achieve cost savings, the requirements of Section 19104.5 shall apply, unless the library or libraries are funded only by the proceeds of a special tax imposed by the city or library district pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

SEC. 2. Section 19104.5 is added to the Education Code, to read:

19104.5. (a) If the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district intends to withdraw from the county free library system and operate the city's or the district's library or libraries with a private contractor that will employ library staff to achieve cost savings, all of the following requirements shall apply:

(1) At least once a week for four consecutive weeks prior to taking any action, the board of trustees, common council, or other legislative body of the city or the board of trustees of the library district shall publish, in a newspaper designated by it and circulated throughout the city or library district, notice of the contemplated

action, giving the date and place of the meeting at which the contemplated action is proposed to be taken.

(2) The board of trustees, common council, or other legislative body of a city or the board of trustees of a library district shall clearly demonstrate that the contract will result in actual overall cost savings to the city or library district for the duration of the entire contract as compared with the city's or library district's actual costs of providing the same services, provided that, in comparing costs, all of the following occur:

(A) The city's or library district's additional cost of providing the same services as proposed by the contract shall be included. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the necessary functions of the library.

(B) The city's or library district's indirect overhead costs shall not be included unless those costs can be attributed solely to the function in question and would not exist if that function was not performed by the city or library district. For purposes of this subparagraph, "indirect overhead costs" means the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) The cost of a contractor providing a service for any continuing city or library district costs that would be directly associated with the contracted function shall be included. Continuing city or library district costs shall include, but not be limited to, costs for inspection, supervision, and monitoring.

(3) The contract shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Contracts shall be eligible for approval if the contractor's wages are at the industry's level and do not undercut city or library district pay rates.

(4) The contract shall not cause an existing city or library district employee to incur a loss of his or her employment or employment seniority, a reduction in wages, benefits, or hours, or an involuntary transfer to a new location requiring a change in residence.

(5) The contract shall be awarded through a publicized, competitive bidding process.

(6) The contract shall include specific provisions pertaining to the qualifications of the staff that will perform the work under the

contract, as well as assurances that the contractor's hiring practices meet applicable nondiscrimination standards.

(7) The contract shall provide that it may be terminated at any time by the city or library district without penalty if there is a material breach of the contract and notice is provided within 30 days of termination.

(8) If the contract is for library services in excess of one hundred thousand dollars (\$100,000) annually, all of the following shall occur:

(A) The city or library district shall require the contractor to disclose all of the following information as part of its bid, application, or answer to a request for proposal:

(i) A description of all charges, claims, or complaints filed against the contractor with any federal, state, or local administrative agency during the prior 10 years.

(ii) A description of all civil complaints filed against the contractor in any state or federal court during the prior 10 years.

(iii) A description of all state or federal criminal complaints or indictments filed against the contractor, or any of its officers, directors, or managers, at any time.

(iv) A description of any debarments of the contractor by any public agency or licensing body at any time.

(B) The city or library district shall include in the contract specific, measurable performance standards and provisions for a performance audit by the city or library district, or an independent auditor approved by the city or library district, to determine whether the performance standards are being met and whether the contractor is in compliance with applicable laws and regulations. The city or library district shall not renew or extend the contract prior to receiving and considering the audit report.

(C) The contract shall include provisions for an audit by the city or library district, or an independent auditor approved by the city or library district, to determine whether and to what extent the anticipated cost savings have actually been realized. The city or library district shall not renew or extend the contract before receiving and considering the audit report.

(9) The term of the contract shall not be more than five years from the date on which the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district approves the contract.



(b) This section does not preclude a city, library district, or local government from adopting more restrictive rules regarding the contracting of public services.

(c) This section shall not apply to contracts between a city or library district and a nonprofit organization if both of the following requirements are met:

(1) The nonprofit organization shall not be a parent or subsidiary of a for-profit entity.

(2) The contract shall prohibit the nonprofit organization from subcontracting the obligation to operate the library or libraries and to employ and supervise library staff.

(d) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 3. Section 19116 of the Education Code is amended to read:

19116. (a) (1) Sections 19104 and 19105 are not applicable to the withdrawal of a city or library district from the county free library system in Los Angeles County or Riverside County. The legislative body of a city or the board of trustees of a library district, whose jurisdiction is within the County of Los Angeles or the County of Riverside, may notify the board of supervisors for Los Angeles County or Riverside County, as appropriate, that the city or library district no longer desires to be a part of the county free library system. The notice shall state whether the city or library district intends to acquire property pursuant to subdivision (c). The board of supervisors shall transmit a copy of the notice to the Los Angeles County Assessor or Riverside County Assessor, as appropriate, the Los Angeles County Auditor or Riverside County Auditor, as appropriate, and the State Board of Equalization.

(2) If the city's legislative body or the library district's board of trustees intends to withdraw from the county free library system and operate the city's or the district's library or libraries with a private contractor that will employ library staff to achieve cost savings, the requirements of Section 19104.5 shall also apply, unless the library or libraries are funded only by the proceeds of a special tax imposed by the city or library district pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part I of Division 1 of Title 5 of the Government Code.

(b) When a city or library district files a notice pursuant to subdivision (a), it shall remain a member of the county free library system until July 1 of the base year or the date on which property is transferred pursuant to subdivision (c), whichever date is later. Upon ceasing to be a member of the county free library system, the city or library district shall not participate in any benefits of the county free library system, and shall assume the responsibility for the provision of library services within its jurisdiction. Unless otherwise agreed by July 1 of the base year in writing by the Board of Supervisors of Los Angeles County or the Board of Supervisors of Riverside County, as appropriate, and the withdrawing city or library district, an amount of property tax revenue equal to the property tax revenues allocated to the county free library pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code in the fiscal year prior to the base year and that were derived from property situated within the boundaries of the withdrawing entity shall be allocated to and used to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This subdivision shall not apply to property tax revenues that have been pledged to repay bonded indebtedness of the county free library system.

(c) If there are one or more county library facilities within the territorial boundaries of the withdrawing entity at the time the withdrawing entity provides notice pursuant to subdivision (a), the withdrawing entity shall have the right to acquire any or all of those facilities from the county and the county shall, no later than July 1 of the base year, transfer to the withdrawing entity each facility to be acquired and the personal property therein related to the provision of library services. If the facility or personal property was purchased with bond proceeds or other forms of indebtedness, acquisition shall only take place if the withdrawing entity assumes any remaining indebtedness and in no way impairs the repayment thereof. If the withdrawing entity opts not to acquire any facilities or personal property, the county at its discretion may dispose of the facilities or personal property or convert the use of those facilities or personal property, including transferring collections

and other personal property to other sites and converting facilities to other purposes. If the withdrawing entity opts to acquire any facilities or personal property, the acquisition prices shall be as follows unless otherwise provided for by statute or contract:

(1) Each county library facility which, for purposes of this section, shall include the real property upon which the facility is located and any fixtures therein and shall not include computer systems and software, shall be transferred for the lesser of:

(A) No cost, if the facility was donated to the county by the withdrawing entity.

(B) The price paid to the withdrawing entity by the county for the facility, if the county bought the facility from the withdrawing entity. However, if the county constructed capital improvements to the facility after it was bought from the withdrawing entity, the county's total out-of-pocket costs for the capital improvement excluding any costs for routine repairs, restoration, or maintenance, shall be added to the price.

(C) The fair market value of the facility. However, if any portion of the facility was donated to the county by the withdrawing entity or if any moneys were donated by the withdrawing entity toward the county's construction or acquisition of the facility or any portion thereof, the value of the donation shall be subtracted from the fair market value.

(2) Any personal property within the facility related to the provision of library services, including books and resource materials, computer systems and software, furniture, and furnishings, shall be transferred for the lesser of:

(A) No cost, if the property was donated to the county by the withdrawing entity.

(B) The fair market value of the personal property. However, on or before the March 1 preceding the July 1 of the base year, the county librarian may designate collections of resource books and materials that are unique in, and integral to, the county free library system to be special collections. The special collections shall be acquired by the withdrawing entity only upon mutually agreeable terms and conditions.

(d) If a facility transferred pursuant to subdivision (c) serves residents of surrounding jurisdictions, the board of supervisors governing the county free library system may require, as a condition of transferring the facility, that the library services

provided by the withdrawing entity to its residents also be available on the same basis to the residents of the surrounding jurisdictions. However, if the withdrawing entity contributes to the provision of library services, from other city funds, or through taxes, assessments, or fees of its residents, the withdrawing entity may provide additional services to its residents. If the requirement to provide regional services is imposed and, unless otherwise agreed in writing by the county and the withdrawing entity by July 1 of the base year, an amount of property tax revenues equal to the property tax revenues derived from property situated in the surrounding jurisdictions that were, in the fiscal year before the base year, allocated to the county free library system pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code shall be allocated to and used to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time other allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This subdivision shall not apply to property tax revenues that have been pledged to repay bonded indebtedness. If a surrounding jurisdiction subsequently provides notice of its intent to withdraw from the county free library system pursuant to subdivision (a), on the date the surrounding jurisdiction ceases to participate in the benefits of the county free library system pursuant to subdivision (b), the withdrawing entity shall no longer be required to make library services available to the residents of the surrounding jurisdiction and property tax revenues derived from property situated in the surrounding jurisdiction shall no longer be allocated to the withdrawing entity pursuant to this subdivision.

(e) For purposes of this section, the following terms are defined as follows:

(1) "Base year" means the fiscal year commencing on the July 1 following the December 2 following the date of the notice given pursuant to subdivision (a) of this section.

(2) "Fair market value" means:

(A) Any value agreed upon by the withdrawing entity and the county.

(B) If no agreement as to value is reached by the March 1 preceding the July 1 of the base year, the value assigned by an appraiser agreed upon by the withdrawing entity and the county.

(C) If no agreement as to the appointment of an appraiser is reached pursuant to subparagraph (B) by the April 1 preceding the July 1 of the base year, the value assigned by an appraiser agreed upon between the withdrawing entity's appraiser and the county's appraiser.

(D) If no agreement as to the appointment of an appraiser is reached pursuant to subparagraph (C) by the May 1 preceding the July 1 of the base year, the value assigned by a state-certified appraiser designated by the withdrawing entity. The designated appraiser shall provide the appraisal in writing to the county no later than the June 1 preceding the July 1 of the base year.

(E) The withdrawing entity shall reimburse the county for any appraisal costs the county incurs in determining the fair market value pursuant to this section.

(3) "Surrounding jurisdictions" means cities and library districts that are adjacent to the withdrawing entity and tax rate areas in unincorporated areas of the county that are wholly or partially within the withdrawing entity's sphere of influence, that are within the county free library system, and that have no facility within their territorial boundaries providing library services at the time the withdrawing entity provides notice pursuant to subdivision (a).

Approved \_\_\_\_\_, 2011

\_\_\_\_\_  
*Governor*

# BRENNAN CENTER FOR JUSTICE

## PUBLIC FINANCING INDEX — SEPTEMBER 2011

### I. STATE PUBLIC FINANCING SYSTEMS

**ARIZONA** — Arizona offers full public financing for legislative candidates and certain statewide candidates.<sup>1</sup> Candidates receive a lump sum payment at the beginning of the primary and general elections in exchange for agreeing to abide by expenditure limits.<sup>2</sup> Publicly financed candidates were previously eligible for triggered matching funds,<sup>3</sup> but this provision was struck down by the Supreme Court in June 2011 in *Arizona Free Enterprise Club v. Bennett*.<sup>3</sup> The Arizona legislature recently passed a resolution giving Arizona voters the opportunity to amend the state constitution, in November 2012, to prohibit all election public financing.<sup>4</sup>

**CONNECTICUT** — Connecticut offers full public funding to eligible state legislative candidates and candidates for statewide office.<sup>5</sup> Full grant amounts are set at the level historically spent in competitive contests for each office.<sup>6</sup> In July 2010, a federal appeals court struck down the program's triggered matching funds,<sup>7</sup> and the state legislature subsequently repealed these provisions.

**FLORIDA** — Florida offers public financing for primary and general election candidates for governor and three statewide cabinet positions.<sup>8</sup> Florida requires that publicly financed candidates abide by expenditure limits.<sup>9</sup> Candidates are eligible for certain small donor matching funds.<sup>10</sup> In July 2010, a federal appeals court struck down the program's triggered matching funds.<sup>11</sup>

**HAWAII** — Hawaii has a statewide public financing program that provides funds for candidates for offices including governor, lieutenant governor, state senator, state representative, mayor, and city council member, among others.<sup>12</sup> Candidates are eligible for public funding if they agree to voluntary expenditure limits.<sup>13</sup> Publicly funded candidates receive public funds that match, dollar-for-dollar, qualifying contributions from Hawaii residents of \$100 or less. As an additional incentive, the state provides a tax deduction for donations to candidates that have agreed to the voluntary expenditure limit.<sup>14</sup> In addition, Hawaii County has a pilot program, in effect for the 2010, 2012, and 2014 elections, which provides public funding to participating Hawaii County Council candidates.<sup>15</sup> Candidates must collect \$5 qualifying contributions from 200 voters in their district to qualify for a base grant pegged to the average cost of previous election campaigns in the district.<sup>16</sup> Participating candidates were also eligible to receive "equalizing funds" if they faced a high-spending privately financed opponent,<sup>17</sup> but the Hawaii Campaign Spending Commission decided not to distribute equalizing funds for future races in light of *Arizona Free Enterprise Club*.<sup>18</sup>

**MAINE** — Maine offers public financing to primary and general election candidates for governor and the state legislature.<sup>19</sup> Following *Arizona Free Enterprise Club*, the Maine legislature directed the

\* For an explanation of this term and other terms used throughout this Index, see the Glossary that follows the text.

Maine Commission on Governmental Ethics and Election Practices to investigate possibilities for changing Maine's public financing system to remove the law's triggered matching funds provisions.<sup>20</sup> The commission staff has suggested two alternative proposals,<sup>21</sup> involving either a simple lump sum distribution, or a program in which candidates could qualify for multiple grants, based upon the number of qualifying contributions that they receive. The commission must submit its recommendations by October 15, 2011.<sup>22</sup>

**MARYLAND** — Maryland provides funds to gubernatorial candidates.<sup>23</sup> Each contested primary election candidate receives a one-to-one match for each eligible private contribution received.<sup>24</sup> For the general election, all remaining public financing funds are split evenly among eligible gubernatorial candidates in a lump sum.<sup>25</sup> Participating candidates are subject to expenditure limits.<sup>26</sup>

**MASSACHUSETTS** — Massachusetts has a small donor matching funds program for statewide candidates.<sup>27</sup> The Massachusetts program matches qualifying contributions at a one-to-one ratio up to a ceiling.<sup>28</sup> Participating candidates are required to agree to expenditure limits.

**MICHIGAN** — Michigan provides public funding in primary and general elections for candidates for governor and lieutenant governor.<sup>29</sup> A candidate can receive public funding in exchange for agreeing to an expenditure limit.<sup>30</sup> Primary election candidates receive a two-to-one match of qualifying contributions (*i.e.*, donations of \$100 or less) up to a ceiling.<sup>31</sup>

**MINNESOTA** — Minnesota provides general election (but not primary election) public funding for qualified candidates for statewide offices and the state legislature.<sup>32</sup> Publicly funded candidates must agree to voluntary expenditure limits for the entire election cycle (primary and general combined).<sup>33</sup> Funds are distributed from both a general fund and from party-specific funds in a lump sum.<sup>34</sup> The program does not provide any triggered matching funds, but a publicly funded candidate may choose to have his expenditure limits lifted if a nonparticipating opponent's contributions or expenditures exceed certain threshold amounts.<sup>35</sup> If a candidate is released from the expenditure limit during the primary election, that candidate's opponents are also released from their expenditure limits in the general election.<sup>36</sup>

**NEBRASKA** — Nebraska previously relied entirely on triggered funds, by offering public funds to legislative candidates who agreed to a voluntary spending limit if their opponent exceeded the spending limit.<sup>37</sup> After *Arizona Free Enterprise Club*, the Nebraska Attorney General declared the law unconstitutional in an advisory opinion.<sup>38</sup> Following the opinion of the attorney general, the Nebraska Accountability and Disclosure Commission recently decided to discontinue the public financing program.<sup>39</sup>

**NEW JERSEY** — New Jersey provides public funding for both primary and general election gubernatorial candidates.<sup>40</sup> After an aggregate contribution threshold is reached, contributions received are matched at a two-to-one rate, up to a ceiling. Participating candidates must reach a qualification threshold of funds,<sup>41</sup> abide by an expenditure limit,<sup>42</sup> limit the use of their own personal funds, and limit bank loans.<sup>43</sup>



**NEW MEXICO**— New Mexico offers public financing for candidates for public regulatory commissioner and all judicial candidates who participate in contested statewide elections,<sup>44</sup> including candidates for the New Mexico Supreme Court and the New Mexico Court of Appeals.<sup>45</sup> Primary and general election candidates are eligible for lump sum payments in addition to triggered matching funds.

**NORTH CAROLINA**— North Carolina offers public financing to judicial candidates for the North Carolina Supreme Court and North Carolina Court of Appeals.<sup>46</sup> Candidates are eligible for lump sum payments only in the general election, but are eligible for triggered matching funds in both the primary and general elections. In 2008, North Carolina's program was upheld by a federal appeals court.<sup>47</sup>

**RHODE ISLAND**— Rhode Island's matching funds program is available to all statewide candidates in the general election. The state matches contributions under \$500 at a two-to-one ratio, and matches all other contributions at a one-to-one ratio (contributions are capped for each office).<sup>48</sup> Participants agree to abide by limits on fundraising and spending. If a participating candidate's nonparticipating opponent exceeds the applicable spending limit for that office, the participating candidate's expenditure limit is raised a corresponding amount and he or she is allowed to continue to privately fundraise.<sup>49</sup>

**WEST VIRGINIA**— West Virginia adopted a pilot program for its 2012 Supreme Court elections.<sup>50</sup> Under the program, a primary election candidate receives a lump sum payment (less the amount the candidate raised in qualifying funds) and a general election candidate receives an additional lump sum payment (less unspent primary funds).<sup>51</sup> After *Arizona Free Enterprise Club* was decided, the West Virginia Attorney General issued an advisory opinion concluding that a triggered matching funds provision included in the law was unconstitutional,<sup>52</sup> but severable from the law's remaining provisions.<sup>53</sup> Thereafter, the Secretary of State decided not to distribute triggered matching funds in the 2012 elections and to not require certain reports that had to be made in connection with the triggered matching funds provisions.<sup>54</sup> Despite a request by the West Virginia Secretary of State, the legislature has not yet revised the law.<sup>55</sup>

**WISCONSIN**— Previously, Wisconsin had two separate public financing programs. The Wisconsin Election Campaign Fund provided funds for certain statewide candidates and legislative candidates, while the Democracy Trust Fund provided funds for candidates for justice of the Wisconsin Supreme Court. Both of these programs were repealed by the Wisconsin legislature in 2011.

**VERMONT**— Vermont provides public funding for candidates for governor and lieutenant governor in lump sum grants for the primary and general elections.<sup>56</sup> After the eligibility stage, participating candidates are barred from accepting any private contributions and must spend only public funds.

## II. MUNICIPAL PUBLIC FINANCING SYSTEMS

**ALBUQUERQUE, NM**— Albuquerque has public funding for mayoral and city council candidates. The program offers lump sum grants to participating candidates in exchange for agreeing to an expenditure limit.<sup>57</sup> Following a legal challenge to the program's triggered matching funds, Albuquerque agreed to a stipulated injunction prohibiting the city from distributing triggered matching funds.<sup>58</sup> News reports suggest that Albuquerque may amend its law and adopt a small donor matching system or other model.<sup>59</sup> It is not assured that any amendments will be completed before the next municipal election on October 4, 2011.

**AUSTIN, TX**— In Austin, a candidate for mayor or city council may elect to participate in the Fair Campaign program by signing a "campaign contract"<sup>60</sup> obligating him or her to comply with limitations on contributions and expenditures, and to participate in a series of candidate forums.<sup>61</sup> Public funding is provided for qualifying candidates in a runoff election, to the extent that funds are available from the Austin Fair Campaign Finance Fund.<sup>62</sup> A participating candidate's voluntary contribution and expenditure limits are lifted if opponent spending or independent expenditures exceed certain threshold amounts.<sup>63</sup>

**BOULDER, CO**— Boulder provides public financing to city council candidates who commit to an expenditure limit.<sup>64</sup> The program provides one-to-one small donor matching.<sup>65</sup> The maximum any one candidate may receive is 50% of the expenditure limit.<sup>66</sup>

**CHAPEL HILL, NC**— Chapel Hill implemented a pilot program for the 2009 and 2011 elections; it will need further state legislative authorization to continue after 2011.<sup>67</sup> Public financing is available to candidates for mayor or city council, including a triggered matching funds provision.<sup>68</sup>

**LONG BEACH, CA**— Small donor matching funds in Long Beach are available to candidates for city council, city attorney, city auditor, city prosecutor, and mayor.<sup>69</sup> To qualify for matching funds, a candidate must accept expenditure limits, raise funds above a specified minimum, and also be opposed by a candidate who has qualified for matching funds or raised a specified amount of funds.<sup>70</sup>

**LOS ANGELES, CA**— Los Angeles provides small donor matching funds for candidates running for city office. Candidates for mayor, city attorney or controller are able to receive matching funds for the first \$500 they receive from an individual donor, and candidates for city council are able to receive matching funds for the first \$250 they receive from an individual donor.<sup>71</sup> Participating candidates agree to voluntary expenditure limits and other conditions.<sup>72</sup> Expenditure limits on participating candidates are lifted if a nonparticipating candidate spends in excess of the expenditure limit, or if independent expenditures in the aggregate exceed certain thresholds,<sup>73</sup> and participating candidates are eligible for increased matching funds.<sup>74</sup>

**MIAMI-DADE COUNTY, FL**— Public funds are available to candidates for mayor or county commissioner from the Election Campaign Financing Trust Fund.<sup>75</sup> To qualify, a candidate must agree to limits on expenditures, limits on the use of personal funds, and other conditions.<sup>76</sup> Each qualifying candidate may receive a lump sum grant from the fund in an amount specified in the county code.<sup>77</sup>

**NEW HAVEN, CT.**—New Haven has public financing for mayoral candidates.<sup>78</sup> Participating candidates receive a base grant and are eligible for a two-to-one match of public funds for each contribution up to \$25.<sup>79</sup> If a nonparticipating opponent exceeds the participating candidate's expenditure limit, a participating candidate can either get an additional small lump sum in supplemental funds or have the expenditure ceiling lifted.<sup>80</sup> If the candidate chooses to have the expenditure ceiling lifted, he or she will not have further contributions matched.<sup>81</sup> The administrator of the city's Democracy Fund has stated that the trigger providing a supplemental grant may be constitutionally problematic, but that the lifting of the expenditure ceiling does not run afoul of the *Arizona Free Enterprise Club* ruling.<sup>82</sup>

**NEW YORK, NY**—New York City's public financing program applies to all city offices. Under the program, participating candidates are eligible for a six-to-one match of public funds on resident contributions of \$175 or less, up to a certain limit. When the nonparticipating opponent of a participating candidate exceeds 50% of the expenditure limit applicable to participating candidates for that office, the participating candidate has his or her spending limit increased by 50% of the original limit and becomes eligible for additional public funds matched at a 7.14 to one ratio.<sup>83</sup> If the nonparticipating opponent exceeds three times the expenditure limit for that office, the participating candidate's expenditure limit is lifted altogether and he or she becomes eligible for additional public funds matched at an 8.57 to one ratio.<sup>84</sup>

**OAKLAND, CA**—Oakland reimburses candidates for city council for certain campaign expenses.<sup>85</sup> Reimbursements are capped at 30% of the voluntary expenditure ceiling.<sup>86</sup>

**RICHMOND, CA**—Candidates for mayor and city council are eligible to receive matching funds (up to a total of \$25,000 per election) based on the candidate's receipt of matchable contributions from private donors.<sup>87</sup>

**SACRAMENTO, CA**—Qualifying candidates for mayor and city council are eligible to receive dollar-to-dollar matching funds for small contributions (*i.e.*, up to \$250 in public funds per contributor).<sup>88</sup> Participating candidates agree to expenditure limits.<sup>89</sup> These voluntary expenditure limits are lifted when contributions or expenditures for a nonparticipating opponent exceed 75% of the applicable spending limit or when independent expenditures exceed 50% of the applicable spending limit.<sup>90</sup>

**SAN FRANCISCO, CA**—San Francisco provides public funding for its board of supervisors and mayoral races. Participating candidates receive an initial lump-sum grant and are eligible for a match of public funds for each contribution (contributions are matched at a four-to-one ratio up to a certain limit and are then matched at a one-to-one ratio).<sup>91</sup> When a nonparticipating candidate or hostile independent expenditure exceeds certain amounts at and above the expenditure limit, each participating candidate gets his or her expenditure limit lifted by an equal amount, up to a set ceiling.<sup>92</sup> A proposal has been made to amend the ordinance to remove the provision allowing distribution of additional funds in response to spending by private opponents;<sup>93</sup> the proposal is pending in the Rules Committee of the San Francisco Board of Supervisors.

## GLOSSARY

### *Participating Candidate / Publicly Financed Candidate / Certified Candidate*

Different public financing systems often have different ways of referring to candidates who choose public funds. All of the above terms are generally interchangeable.

---

### *Nonparticipating Candidate / Privately Financed Candidate / Traditional Candidate*

Similarly, candidates who do not choose public financing are also referred to by many terms. Again, these terms are also generally interchangeable and simply vary by jurisdiction.

---

### *Qualifying Contributions*

Qualifying contributions are small contributions that a candidate must collect in order to qualify for public financing. The amounts vary, but are often between \$5 and \$250 per contribution. A candidate usually must collect a minimum number of qualifying contributions in order to demonstrate the requisite public support needed to qualify for public financing.

### *Lump Sum Grant*

Lump sum grants are public funds provided to publicly financed candidates near the beginning of the primary election season, general election season, or both. It is decidedly constitutional to award lump sum grants to publicly financed candidates.

### *Small Donor Matching Funds*

Under a small donor matching system, participating candidates collect small amount donations from many contributors and the state provides a matching amount equal to the original contribution, or based on some multiple thereof. For example, New York City's small donor matching system matches contributions at a rate of six-to-one, up to \$175. Therefore, if a contributor gave \$175 to a participating candidate, the city would provide an additional contribution equal to six times that amount (\$1,050) to the candidate as well. It is also decidedly constitutional to award small donor matching funds to publicly financed candidates.

### *Triggered Matching Funds / Fair Fight Funds / Rescue Funds*

---

Triggered matching funds are funds provided to a publicly financed candidate as a result of oppositional spending (either an opposing, privately financed candidate, an opposing independent group, or both). The standard method of calculating the amount of the triggered funds is to provide the publicly financed candidate with funds equal to the difference between the public funds he or she received and the amount spent in opposition. For example, if a publicly financed candidate were given \$10,000 as his or her initial lump sum grant and his or her opponent spent \$13,000, the publicly financed candidate would be given \$3,000, the difference between the two values.

The use of triggered matching funds in legislative races was deemed unconstitutional by the U.S. Supreme Court in *Arizona Free Enterprise Club v. Bennett*.<sup>94</sup> Whether *Arizona Free Enterprise Club* applies in the context of judicial elections is still an open question of law.

## NOTES

<sup>1</sup> See ARIZ. REV. STAT. ANN. § 19-950(D) (West 2011).

<sup>2</sup> ARIZ. REV. STAT. ANN. § 19-951 (West 2011).

<sup>3</sup> *Ariz. Free Enter. Club's Freedom Club PAC v. Bennett*, 131 S. Ct. 2806 (2011). The Arizona public financing law contains a severability clause, ARIZ. REV. STAT. ANN. § 16-960 (West 2011), and an Arizona district court has found the trigger provision severable, *McComish v. Brewer*, No. CV-08-1550-PHX-RGS, 2010 WL 2292213, at \*10 (D. Ariz. Jan. 20, 2010).

<sup>4</sup> S.J. Res. 1025, 50th Leg., 1st Reg. Sess. (Ariz. 2011).

<sup>5</sup> See CONN. GEN. STAT. ANN. § 9-700(12) (West 2011).

<sup>6</sup> Participating candidates facing a minor-party opponent who has raised only a very small amount (specifically, less than the qualifying contributions level necessary to receive public funding for that office) receive a two-thirds grant; participating candidates who are unopposed receive a one-third grant. CONN. GEN. STAT. ANN. § 9-705 (West 2011).

<sup>7</sup> See *Green Party of Conn. v. Garfield*, 616 F.3d 213 (2d Cir. 2010), *cert. denied*, 79 U.S.L.W. 3377 (U.S. June 28, 2011). See also CONN. GEN. STAT. ANN. § 9-713 (repealed 2010).

<sup>8</sup> FLA. STAT. ANN. § 106.33 (West 2011).

<sup>9</sup> FLA. STAT. ANN. § 106.34 (West 2011).

<sup>10</sup> FLA. STAT. ANN. § 106.35 (West 2011).

<sup>11</sup> See *Scott v. Roberts*, 612 F.3d 1279, 1282 (11th Cir. 2010). The court found the trigger provisions severable, *id.* at 1297-98, noting that the law includes a severability clause, *id.* at 1298 (citing 1991 Fla. Sess. Law Serv. 91-107 § 36).

<sup>12</sup> See HAW. REV. STAT. § 11-425 (West 2011).

<sup>13</sup> HAW. REV. STAT. § 11-423 (West 2010).

<sup>14</sup> HAW. REV. STAT. § 11-424 (West 2010).

<sup>15</sup> 2008-244 Haw. Rev. Stat. Ann. Adv. Legis. Serv. 1-2 (LexisNexis).

<sup>16</sup> *Id.* at 8, 12.

<sup>17</sup> *Id.* at 13.

<sup>18</sup> *Minutes for July 13, 2011*, HAW. CAMPAIGN SPENDING COMM'N, <http://hawaii.gov/campaign/commission-meetings/minutes/minutes-for-july-13-2011>.

<sup>19</sup> ME. REV. STAT. ANN. tit. 21-A, § 1122(1) (West 2011).

<sup>20</sup> S.J. Res. 251, 125th Leg. (Me. 2011), available at [http://www.mainelegislature.org/legis/bills/bills\\_125th/chappdfs/RESOLVE103.pdf](http://www.mainelegislature.org/legis/bills/bills_125th/chappdfs/RESOLVE103.pdf).

<sup>21</sup> Memorandum from Jonathan Wayne, Executive Director of the Maine Comm'n on Governmental Ethics and Election Practices, to the Commissioners of the Maine Comm'n on Governmental Ethics and Election Practices, Proposals for Changing the Maine Clean Election Act 7-12 (Aug. 12, 2011), available at <http://www.maine.gov/ethics/pdf/item02.pdf>.

<sup>22</sup> S.J. Res. 251, 125th Leg. (Me. 2011).

<sup>23</sup> See MD. CODE ANN., ELEC. LAW §§ 15-101 to -111 (LexisNexis 2011).

<sup>24</sup> MD. CODE ANN., ELEC. LAW § 15-106(c) (LexisNexis 2011).

<sup>25</sup> MD. CODE ANN., ELEC. LAW § 15-106(d) (LexisNexis 2011).

<sup>26</sup> MD. CODE ANN., ELEC. LAW § 15-105 (LexisNexis 2011).

<sup>27</sup> See MASS. GEN. LAWS ch. 55C, § 4 (2011).

<sup>28</sup> MASS. GEN. LAWS ch. 55C, §§ 5-7 (2011).

<sup>29</sup> MICH. COMP. LAWS ANN. STAT. § 169.203(1) (West 2011).

<sup>30</sup> MICH. COMP. LAWS ANN. STAT. § 169.263 (West 2011).

<sup>31</sup> MICH. COMP. LAWS ANN. STAT. § 169.264 (West 2011).

<sup>32</sup> See MINN. LAWS ANN. § 10A.31(5)-(5a) (West 2011).

<sup>33</sup> MINN. STAT. ANN. § 10A.25 (West 2011).

<sup>34</sup> See MINN. STAT. ANN. § 10A.31(5)-(5a) (West 2011).

<sup>35</sup> MINN. STAT. ANN. § 10A.25(10) (West 2011).

<sup>36</sup> MINN. STAT. ANN. § 10A.25(10)(d) (West 2011).

<sup>37</sup> NEB. REV. STAT. §§ 32-1604, 1606 (2011). Generally speaking, eligible candidates included candidates for "Governor, State Treasurer, Secretary of State, Attorney General, Auditor of Public Accounts, the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education." NEB. REV. STAT. § 32-1604(1) (2011).

<sup>38</sup> Neb. Attorney Gen., Advisory Opinion No. 11003, *Constitutionality of Nebraska's Campaign Public Funding Laws Under Ariz. Free Enter. Club's Freedom Club PAC v. Bennett* 4 (2011).

<sup>39</sup> Associated Press, *Neb. Will No Longer Enforce Campaign Finance Law*, REALCLEARPOLITICS (Aug. 27, 2011), [http://www.realclearpolitics.com/news/ap/politics/2011/Aug/27/neb\\_\\_will\\_no\\_longer\\_enforce\\_campaign\\_finance\\_law.html](http://www.realclearpolitics.com/news/ap/politics/2011/Aug/27/neb__will_no_longer_enforce_campaign_finance_law.html).

<sup>40</sup> N.J. STAT. ANN. § 19:44A-33 (West 2011). *See also* STATE OF N.J. ELECTION LAW ENFORCEMENT COMM'N, GUBERNATORIAL PUBLIC FINANCING, [http://www.elec.state.nj.us/publicinformation/gub\\_man.htm](http://www.elec.state.nj.us/publicinformation/gub_man.htm).

<sup>41</sup> *See* N.J. STAT. ANN. § 19:44A-3(m) (West 2011).

<sup>42</sup> N.J. STAT. ANN. § 19:44A-7 (West 2011).

<sup>43</sup> N.J. STAT. ANN. § 19:44A-44 (West 2011).

<sup>44</sup> *See* N.M. STAT. ANN. § 1-19A-2(D).

<sup>45</sup> *See* N.M. STAT. ANN. § 1-19A-13(B)(2).

<sup>46</sup> N.C. GEN. STAT. ANN. § 163-278.62(12) (West 2011).

<sup>47</sup> N.C. Right to Life Comm. Fund for Indep. Political Expenditures v. Leake, 524 F.3d 427 (2008), *cert. denied* 129 S. Ct. 490 (2008).

<sup>48</sup> R.I. GEN. LAWS ANN. §§ 17.25.19-20 (West 2011).

<sup>49</sup> R.I. GEN. LAWS ANN. § 17.25.24 (West 2011).

<sup>50</sup> *See* W. VA. CODE ANN. §§ 3-12-4, 3-12-17 (West 2011).

<sup>51</sup> W. VA. CODE ANN. §§ 3-12-11(a)(1), 3-12-11(b)(1), 3-12-12(e) (West 2011).

<sup>52</sup> Letter from Darrell V. McGraw, Jr., W. Va. Attorney Gen., to Natalie E. Tennant, W. Va. Sec'y of State (July 28, 2011), *available at* <http://www.sos.wv.gov/news/topics/elections-candidates/Documents/July%2028,%202011%20-%20AG%20SupCo%20Public%20Financing%20Opinion.PDF>.

<sup>53</sup> *Id.*

<sup>54</sup> *See, e.g.*, W. VA. SEC'Y OF STATE, PUBLIC FINANCING EXPLANATION (REVISED 8/10/11), *available at* [http://www.sos.wv.gov/elections/Documents/Public%20Financing%20FAQs%20\(revision%20\) .doc](http://www.sos.wv.gov/elections/Documents/Public%20Financing%20FAQs%20(revision%20) .doc).

<sup>55</sup> Press Release, W. Va. Sec'y of State, Tennant Requests Supreme Court Public Financing Be Added To Special Session (July 28, 2011), <http://www.sos.wv.gov/news/topics/elections-candidates/Pages/TennantRequestsSupremeCourtPublicFinancing.aspx>.

<sup>56</sup> VT. STAT. ANN. tit. 17, §§ 2851-56 (West 2011).

<sup>57</sup> ALBUQUERQUE, N.M., CHARTER OF THE CITY OF ALBUQUERQUE art. XVI, §§ 8, 12 (2011), *available at* [http://www.amlegal.com/albuquerque\\_nm/](http://www.amlegal.com/albuquerque_nm/).

<sup>58</sup> N.M. Turn Around v. City of Albuquerque, No. 1:11-cv-00536 MVRHS (D.N.M. July 26, 2011).

<sup>59</sup> See Marjorie Childress, *ABQ Public Financing System May Change After 2011 Election*, KUNM GOV'T PROJECT, Apr. 6, 2011, <http://kunmgov.org/blog/2011/04/06/abq-public-financing-system-may-change-after-2011-election/>.

<sup>60</sup> Austin Fair Campaign Contract, [http://www.ci.austin.tx.us/election/downloads/candidate\\_contract.pdf](http://www.ci.austin.tx.us/election/downloads/candidate_contract.pdf).

<sup>61</sup> AUSTIN, TEX., CITY CODE §§ 2-2-12, 2-2-13 (2011), available at [http://www.amlegal.com/nxt/gateway.dll/Texas/austin/thecodeofthecityofaustintexas?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:austin\\_tx\\$anc=](http://www.amlegal.com/nxt/gateway.dll/Texas/austin/thecodeofthecityofaustintexas?f=templates$fn=default.htm$3.0$vid=amlegal:austin_tx$anc=).

<sup>62</sup> AUSTIN, TEX., CITY CODE § 2-2-63 (2011); see also *id.* § 2-2-11.

<sup>63</sup> AUSTIN, TEX., CITY CODE § 2-2-17 (2011).

<sup>64</sup> BOULDER, COLO. REVISED CODE § 13-2-21 (2011), available at <http://www.colocode.com/boulder2/chapter13-2.htm>.

<sup>65</sup> BOULDER, COLO. REVISED CODE § 13-2-20 (2011).

<sup>66</sup> *Id.*

<sup>67</sup> Aaron Keck, "Voter-Owned Elections" Faces Uncertain Future, CHAPELBORO.COM, July 18, 2011, <http://www.chapelboro.com/pages/10380366.php>.

<sup>68</sup> CHAPEL HILL, N.C., CODE OF ORDINANCES § 2-95(a) (2010), available at <http://library.municode.com/index.aspx?clientID=19952&stateID=33&statename=North%20Carolina>.

<sup>69</sup> See LONG BEACH, CAL., MUNICIPAL CODE § 2.01.410 (2010), available at [http://library.municode.com/HTML/16115/level4/VO1\\_TIT2ADPE\\_CH2.01THLOBECAREAC\\_DIVIVEXCEMAFU.html#VO1\\_TIT2ADPE\\_CH2.01THLOBECAREAC\\_DIVIVEXCEMAFU\\_2.01.410EXCE](http://library.municode.com/HTML/16115/level4/VO1_TIT2ADPE_CH2.01THLOBECAREAC_DIVIVEXCEMAFU.html#VO1_TIT2ADPE_CH2.01THLOBECAREAC_DIVIVEXCEMAFU_2.01.410EXCE).

<sup>70</sup> *Id.*

<sup>71</sup> LOS ANGELES, CAL., MUNICIPAL CODE § 49.7.20 (2010), available at [http://ethics.lacity.org/PDF/laws/law\\_cfo\\_2010.pdf](http://ethics.lacity.org/PDF/laws/law_cfo_2010.pdf).

<sup>72</sup> LOS ANGELES, CAL., MUNICIPAL CODE § 49.7.13 (2010).

<sup>73</sup> LOS ANGELES, CAL., MUNICIPAL CODE § 49.7.14 (2010).

<sup>74</sup> LOS ANGELES, CAL., MUNICIPAL CODE § 49.7.22 (2010).

<sup>75</sup> MIAMI-DADE COUNTY, FLA., CODE OF ORDINANCES § 12-22(c) (2011), available at [http://library.municode.com/HTML/10620/level2/PTIICOOR\\_CH12EL.html#PTIICOOR\\_CH12EL\\_S12-22ELCAFITRFU](http://library.municode.com/HTML/10620/level2/PTIICOOR_CH12EL.html#PTIICOOR_CH12EL_S12-22ELCAFITRFU).

<sup>76</sup> *Id.*

<sup>77</sup> MIAMI-DADE COUNTY, FLA., CODE OF ORDINANCES § 12-22(f)(3) (2011).



<sup>78</sup> NEW HAVEN, CONN., CODE OF GENERAL ORDINANCES § 2-822(2) (2011), *available at* <http://library.municode.com/index.aspx?clientID=14668&stateID=7&statename=Connecticut>.

<sup>79</sup> NEW HAVEN, CONN., CODE OF GENERAL ORDINANCES § 2-827(2) (2011).

<sup>80</sup> NEW HAVEN, CONN., CODE OF GENERAL ORDINANCES § 2-825(c) (2011). Independent expenditures do not count toward the trigger threshold.

<sup>81</sup> NEW HAVEN, CONN., CODE OF GENERAL ORDINANCES § 2-825(d) (2011).

<sup>82</sup> Paul Bass, *Trigger May Be Half-Pulled on Clean Elections*, NEW HAVEN INDEP., July 5, 2011, [http://www.newhavenindependent.org/index.php/archives/entry/trigger\\_may\\_be\\_half-pulled\\_on\\_clean\\_elections/](http://www.newhavenindependent.org/index.php/archives/entry/trigger_may_be_half-pulled_on_clean_elections/) (quoting Robert Wechsler, who administers the city's Democracy Fund). The public financing ordinance has a severability clause. NEW HAVEN, CONN., CODE OF GENERAL ORDINANCES, § 2-834 (2011).

<sup>83</sup> N.Y.C., N.Y., NEW YORK CITY ADMINISTRATIVE CODE § 3-706(3) (2010), *available at* <http://www.nyccfb.info/act-program/CFACT.htm>.

<sup>84</sup> *Id.*

<sup>85</sup> OAKLAND, CAL., MUNICIPAL CODE § 3.13.110 (2010), *available at* <http://oakland.legistar.com/LegislationDetail.aspx?ID=750217&GUID=A6AECF2-369A-4B94-A63D-1C90029C186B>.

<sup>86</sup> OAKLAND, CAL., MUNICIPAL CODE § 3.13.110(E) (2010).

<sup>87</sup> RICHMOND, CAL., MUNICIPAL CODE §§ 2.43.020, 2.43.030 (2011), *available at* <http://library.municode.com/index.aspx?clientId=16579&stateId=5&stateName=California>.

<sup>88</sup> SACRAMENTO, CAL., CITY CODE § 2.14.140 (2011), *available at* <http://www.qcode.us/codes/sacramento/>.

<sup>89</sup> SACRAMENTO, CAL., CITY CODE § 2.14.050 (2011).

<sup>90</sup> SACRAMENTO, CAL., CITY CODE § 2.14.060 (2011).

<sup>91</sup> S.F., CAL., SAN FRANCISCO CAMPAIGN & GOVERNMENTAL CONDUCT CODE § 1.144 (2010), *available at* [http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco\\_ca](http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca).

<sup>92</sup> S.F., CAL., SAN FRANCISCO CAMPAIGN & GOVERNMENTAL CONDUCT CODE § 1.143 (2010).

<sup>93</sup> See S.F. Bd. of Supervisors, *Legislation Introduced – Tuesday, July 12, 2011*, *available at* <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/introduced/2011/LI071211.pdf>.

<sup>94</sup> *Ariz. Free Enter. Club's Freedom Club PAC v. Bennett*, 131 S. Ct. 2806 (2011).

