



THE CITY OF NEW YORK  
INDEPENDENT BUDGET OFFICE

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Deputy Director

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The Honorable David Yassky  
Council of the City of New York  
250 Broadway, 18<sup>th</sup> Floor  
New York, NY 10007

Dear Council Member Yassky:

At your request, the Independent Budget Office has estimated the cost of including candidates for elected judicial positions in the New York City campaign finance program. We estimate that providing public matching funds for these judicial campaigns would cost between \$1.9 million and \$2.8 million per year during the next three years, depending on the number of vacant seats. These estimates are subject to some uncertainties, discussed in more detail below.

A total of 59 judicial seats will be up for election in the city in the next three fiscal years, 2006 through 2008 (calendar years 2005 through 2007). This figure includes elections arising from completed judicial terms, as well as vacancies left by judges reaching the maximum age limit permitted by law. Fourteen of the elections are for civil district court judges; the remaining 45 vacancies are for countywide civil, supreme court, or surrogate judges. We estimate the cost of providing public matching funds for these judicial campaigns at \$1.9 million in fiscal year 2006, \$2.8 million in 2007, and \$2.1 million in 2008.

**Assumptions.** We derived our estimate based on the spending and public funds limits under the current campaign finance law. Under current law for 2005, the city provides public funds at a ratio of four-to-one for individual contributions up to \$250, to a maximum of \$82,500 per election for council seats, and \$708,950 for borough president seats. We were asked to assume that candidates for civil district court seats are eligible for matching funds on the same terms as candidates for City Council seats, and that candidates for countywide civil court, supreme court, and surrogates court are eligible for matching funds on the same terms as candidates for Borough President. As we discuss below, however, we expect that countywide judicial campaigns would generally receive much less in public funds than have Borough President campaigns.

**Method.** To estimate the annual cost, we multiplied an estimate of the number of candidates receiving matching funds in each year, by an estimate of average public matching funds received.

*Candidates.* To estimate the number of potential candidates for each seat, we examined judicial elections from the past three election cycles. On average, there have been two candidates on the ballot for every judicial position from 2001 through 2003 (with the exception of surrogate court positions, for which there was only one seat and one candidate). We assumed, therefore, that there would be two participating candidates for each seat, or 118 total. Not all participating candidates receive public matching funds, however. On average, about three-quarters of candidates for both City Council and Borough President received matching funds. The total number of candidates receiving public matching funds was therefore estimated to be 89, for the 59 seats.

*Public Funds.* To estimate the average amounts of public funds candidates would receive, we employed two different methods. For civil district court candidates, we reviewed data on matching public funds from the 2003 City Council race. Candidates for City Council in 2003 received an average of \$66,900 total, including both primary and general elections. We assumed that civil district court candidates would receive that same amount on average. For countywide civil, supreme court, and surrogate candidates, however, a closer proxy for spending was available. The state Board of Elections collects and makes readily available data on the amount of contributions received by supreme court candidates. In 2003, candidates for supreme court in New York City received an average of \$9,840 in private contributions. We assumed that this number would double when public matching funds were offered, and that all contributions were eligible for matching funds, bringing the average amount of public funds countywide candidates are likely to receive to \$78,720. This appeared to us to be a more reasonable estimate for all countywide positions than the \$500,000 the average candidate for Borough President received in the most recent elections for that office.

*Uncertainties.* Judicial campaigns currently differ considerably from those for City Council or Borough President in several respects, which is a source of considerable uncertainty in estimating the fiscal impact of their participation in the city's campaign finance system.

First, our assumption regarding countywide judgeships was that they would raise more money on average than they currently do, but much less than candidates for Borough President, although both are elected on a borough-wide basis. Although supreme court, countywide civil court, and surrogate court judges are all elected from the county, there would be from 14 to 16 vacancies in each of the next three years. They also do not have the important political role in land use, budget, and other decisions that Borough Presidents play. We therefore somewhat arbitrarily assumed that judicial candidates would raise twice the recent average for supreme court candidates—or just under \$20,000—all of which would be eligible for matching funds.

Second, we relied on contributions filings for supreme court candidates for our estimate of the amount of contributions raised. However, the nominating process of supreme court candidates—who are nominated by county party delegates—differs markedly from that of countywide civil and surrogate candidates, both of which participate in primaries. Using the average of contributions raised by supreme court judges may or may not provide an accurate estimate for candidates in other judicial races.

Third, in the absence of information about contributions received by candidates for civil district court judgeships, we cannot know whether the average funds received by City Council candidates is a reliable predictor of the amount judicial candidates would receive if they were included in the campaign finance system.

Finally, including judges in the campaign finance system would likely alter the dynamics of judicial elections. Candidates might seek more eligible contributions than they have in the past, and spend more on campaigns. Moreover, the possibility of receiving public matching funds in an election could have the effect of drawing more candidates into the electoral field, at least for those nominated through a primary system, raising the amount of public matching funds.

If you would like additional detail on this analysis we would be happy to provide it. The IBO staff contact is Elisabeth Franklin.

Sincerely yours,

C. Preston Niblack