

Bill No. 16-14
Concerning: Elections - Public
Campaign Financing
Revised: September 23, 2014 Draft No. 19
Introduced: February 4, 2014
Enacted: September 30, 2014
Executive: _____
Effective: January 15, 2015
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Andrews, Elrich, Berliner, Riemer, Council Vice President Leventhal,
Council President Rice, Councilmembers Navarro, Floreen, and Branson

AN ACT to:

- (1) establish a Public Election Fund to provide public campaign financing for a candidate for a County elective office;
- (2) regulate certain campaign finance activity of a candidate for County elective office who voluntarily accepts public campaign financing;
- (3) authorize the Maryland State Board of Elections to administer and enforce the public campaign financing system;
- (4) provide for penalties for violations of the public campaign financing system; and
- (5) generally amend the law governing elections for County elective offices.

By amending

Montgomery County Code
Chapter 16, Elections
Section 16-17

By adding

Montgomery County Code
Chapter 16, Elections
Article IV, Public Campaign Financing

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 16-17 is amended as follows:

16-17. Council vacancy - election required.

* * *

(c) Except as otherwise provided in this Section, and to the extent applicable:

(1) The special election must be conducted in a manner consistent with provisions of state law that govern special elections to fill vacancies in the office of representative in Congress. The deadlines and time periods required under those provisions of state law apply to a special Council election unless the Council, acting under subsection (d) or subsection (e), expressly modifies them.

(2) Except as provided in paragraph (1), the general provisions of state and County law that govern quadrennial elections for Councilmembers apply to the special election conducted under this Section.

(d) (1) Within 30 days after a Council vacancy occurs, the Council must adopt a resolution that:

(A) sets the dates of the special primary election and the special general election;

(B) sets the timeline for certification of a candidate for public campaign financing for the special primary election and the special general election; and

~~(B)~~ (C) takes any other action authorized by this Section or state law.

If a Councilmember submits a resignation with a later effective date, the vacancy occurs when the Council receives the resignation.

* * *

28
29 **Sec. 2. Article IV of Chapter 16 is added as follows:**

30 **Article IV. Public Campaign Financing.**

31 **16-18. Definitions.**

32 In this Article, the following terms have the meanings indicated:

33 *Applicant candidate* means a person who is running for a covered office and
34 who is seeking to be a certified candidate in a primary or general election.

35 *Board* means the Maryland State Board of Elections.

36 *Campaign finance entity* means a political committee established under Title
37 13 of the State Election Law, as amended.

38 *Certified candidate* means a candidate running for a covered office who is
39 certified as eligible for public campaign financing from the Fund.

40 *Committee to Recommend Funding for the Public Election Fund* means the
41 Committee established in Section 16-27.

42 *Consumer Price Index* means the Consumer Price Index for All Urban
43 Consumers: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA),
44 as published by the United States Department of Labor, Bureau of Labor
45 Statistics, or a successor index.

46 *Contested election* means an election in which there are more candidates for an
47 office than the number who can be elected to that office. Contested election
48 includes a special election held to fill a vacancy in a covered office under
49 Section 16-17.

50 *Contribution* means the gift or transfer, or promise of gift or transfer, of money
51 or other thing of value to a campaign finance entity to promote or assist in the
52 promotion of the success or defeat of a candidate, political party, or question.

53 Contribution includes proceeds from the sale of tickets to a campaign fund—

54 raising event, as defined in Section 101 of the Election Law Article of the
 55 Maryland Code, as amended.

56 County Board means the Montgomery County Board of Elections.

57 Covered office means the office of County Executive or County
 58 Councilmember.

59 Director means the Director of the Department of Finance or the Director's
 60 designee.

61 Distribution period means the period of time beginning 365 days before the
 62 primary election for the office the candidate seeks and ending 15 days after the
 63 date of the general election. The distribution period for a special election
 64 under Section 16-17 must be set by Council resolution.

65 Election cycle means the primary and general election for the same term of a
 66 covered office.

67 Eligible contribution means an aggregate donation in a 4-year election cycle of
 68 \$150 or less from an individual, including an individual who does not reside in
 69 the County.

70 Fund means the Public Election Fund.

71 Noncertified candidate means a person who is running for a covered office
 72 who either:

73 (1) chooses not to apply to be a certified candidate; or

74 (2) applies to be a certified candidate but fails to qualify.

75 Non-participating candidate means a person who is running for a covered
 76 office who is either a noncertified candidate or a certified candidate who
 77 declines to accept a public contribution.

78 Participating candidate means a certified candidate who has received a public
 79 contribution from the Fund for a primary or general election.

80 Public contribution means money disbursed from the Fund to a certified
 81 candidate.

82 Publicly funded campaign account means a campaign finance account
 83 established by a candidate for the exclusive purpose of receiving [[qualifying]]
 84 eligible contributions and spending funds in accordance with this Article.

85 Qualifying contribution means [[a donation]] an eligible contribution of at
 86 least \$5.00 but no more than \$150.00 in support of an applicant candidate that
 87 is:

- 88 (1) made by [[a registered voter of the County]] [[an individual]] a
 89 County resident;
- 90 (2) made after the beginning of the designated qualifying period, but
 91 no later than 15 days before the election; and
- 92 (3) [[obtained through efforts made with the knowledge and approval
 93 of the applicant candidate; and
- 94 (4)]] acknowledged by a receipt that identifies the contributor's name
 95 and residential address and signed by the contributor directly or
 96 by a digital signature using a method approved by the Board.

97 Qualifying period means the period of time beginning [[365 days before the
 98 primary]] on January 1 following the last election for the office the candidate
 99 seeks and ending 45 days before the date of the primary election. The
 100 qualifying period for a special election under Section 16-17 must be set by
 101 Council resolution.

102 Slate means a political committee of two or more candidates who join together
 103 to conduct and pay for joint campaign activities.

104 **16-19. Public Election Fund established.**

- 105 (a) The Director must create a Public Election Fund. This Fund is
 106 continuing and non-lapsing.

107 (b) The Fund consists of:

- 108 (1) all funds appropriated to it by the County Council;
 109 (2) any unspent money remaining in a certified candidate's publicly
 110 funded campaign account after the candidate is no longer a
 111 candidate for a covered office;
 112 (3) any public contribution plus interest returned to the Fund by a
 113 participating candidate who withdraws from participation;
 114 (4) all interest earned on money in the Fund; and
 115 (5) voluntary donations made directly to the Fund.

116 **16-20. Collecting Qualifying Contributions.**

117 (a) Before raising any contribution governed by this Article, an applicant
 118 candidate must:

- 119 (1) file notice of intent with the Board on or before April 15 of the
 120 year of the election on a form prescribed by the Board; and
 121 (2) establish a publicly funded campaign account for the candidate
 122 for the purpose of receiving eligible contributions and spending
 123 funds in accordance with this Article.

124 (b) Other than a contribution from an applicant candidate or the candidate's
 125 spouse, an applicant candidate must not accept [[a qualifying]] an
 126 eligible contribution from an individual greater than \$150. An applicant
 127 candidate must not accept a loan from anyone other than the candidate
 128 or the candidate's spouse. An applicant candidate or the candidate's
 129 spouse must not contribute or lend a combined total of more than \$6000
 130 each to the candidate's publicly funded campaign account.

131 (c) [[Annual]] Consumer Price Index adjustment. The Chief
 132 Administrative Officer must adjust the contribution limit established in
 133 Subsection (b), effective July 1, [[2016]] 2018, and July 1 of each

134 subsequent fourth year, by the annual average increase, if any, in the
 135 Consumer Price Index for the previous 4 calendar [[year]] years. The
 136 Chief Administrative Officer must calculate the adjustment to the
 137 nearest multiple of [[5 cents]] 10 dollars, and must publish the amount
 138 of this adjustment not later than March 1 of each fourth year.

139 **16-21. Requirements for Certification.**

140 (a) To qualify as a certified candidate:

141 (1) a candidate for Executive must collect from County residents at
 142 least:

143 (A) 500 qualifying contributions; and

144 (B) an aggregate total of \$40,000;

145 (2) a candidate for At-Large Councilmember must collect from
 146 County residents at least:

147 (A) 250 qualifying contributions; and

148 (B) an aggregate total of \$20,000; and

149 (3) a candidate for District Councilmember must collect from County
 150 residents at least:

151 (A) 125 qualifying contributions; and

152 (B) an aggregate total of \$10,000.

153 (b) An applicant candidate must deposit all [[qualifying]] eligible
 154 contributions received into the candidate's publicly funded campaign
 155 account. An applicant candidate must deliver to the Board a copy of a
 156 receipt for each qualifying contribution.

157 (c) A candidate must apply to the Board for certification during the
 158 qualifying period.

159 (d) The Executive, after consulting with the Board, must adopt regulations
 160 under Method 1 that specify:

- 161 (1) how and when receipts for qualifying contributions from
 162 contributors must be submitted to the Board;
 163 (2) the documents that must be filed with the Board for certification;
 164 (3) the allowable uses of money in a publicly funded campaign
 165 account; and
 166 (4) other policies necessary to implement this Article.

167 **16-22. Board Determination.**

- 168 (a) The Board must certify an applicant candidate if the Board finds that the
 169 candidate has received the required number of qualifying contributions
 170 and the required aggregate total dollars for the office no later than 10
 171 business days after receiving:
 172 (1) a declaration from the candidate agreeing to follow the
 173 regulations governing the use of a public contribution; [[and]]
 174 (2) a campaign finance report that includes:
 175 (A) a list of each qualifying contribution received;
 176 (B) a list of each expenditure made by the candidate during the
 177 qualifying period; and
 178 (C) the receipt associated with each contribution and
 179 expenditure; and
 180 (3) a certificate of candidacy for a covered office.
 181 (b) The decision by the Board whether to certify a candidate is final.
 182 (c) A candidate may submit only one application for certification for any
 183 election.
 184 (d) If the Board certifies a candidate, the Board must authorize the Director
 185 to disburse a public contribution to the candidate's publicly funded
 186 campaign account.

187 **16-23. Distribution of Public Contribution.**

- 188 (a) The Director must distribute a public contribution from the Fund to each
 189 certified candidate in a contested election only during the distribution
 190 period as follows:
- 191 (1) for a certified candidate for County Executive, the matching
 192 dollars must equal:
- 193 (A) \$6 for each dollar of a qualifying contribution received for
 194 the first \$50 of each qualifying contribution;
- 195 (B) \$4 for each dollar of a qualifying contribution received for
 196 the second \$50 of each qualifying contribution; and
- 197 (C) \$2 for each dollar of a qualifying contribution received for
 198 the [[third \$50]] remainder of each qualifying contribution.
- 199 (2) for a certified candidate for County Council, the matching dollars
 200 must equal:
- 201 (A) \$4 for each dollar of a qualifying contribution received for
 202 the first \$50 of each qualifying contribution
- 203 (B) \$3 for each dollar of a qualifying contribution received for
 204 the second \$50 of each qualifying contribution; and
- 205 (C) \$2 for each dollar of a qualifying contribution received for
 206 the [[third \$50]] remainder of each qualifying contribution.
- 207 (3) The total public contribution payable to a certified candidate for
 208 either a primary or a general election must not exceed:
- 209 (A) \$750,000 for a candidate for County Executive;
- 210 (B) \$250,000 for a candidate for At Large Councilmember;
 211 and
- 212 (C) \$125,000 for a candidate for District Councilmember.
- 213 (b) The Director must not distribute matching dollars from the Fund to a
 214 certified candidate for:

- 215 (1) a contribution from the candidate or the candidate's spouse; or
216 (2) an in-kind contribution of property, goods, or services.
- 217 (c) A certified candidate may continue to collect qualifying contributions
218 and receive a matching public contribution up to ~~[[15 days before]]~~ a
219 primary or a general election. A qualifying contribution must not
220 exceed \$150 from any individual in the aggregate during ~~[[an]]~~ a 4-year
221 election cycle.
- 222 (d) On or before July 1 of the year preceding the primary election, the
223 Director must determine if the amount in the Fund is sufficient to meet
224 the maximum public contributions reasonably expected to be required
225 during the next election cycle. If the Director determines that the total
226 amount available for distribution in the Fund is insufficient to meet the
227 allocations required by this Section, the Director must reduce each
228 public contribution to a certified candidate by the same percentage of
229 the total public contribution.
- 230 (e) Within 3 business days after the County Board certifies the results of the
231 primary election, the Board must authorize the Director to continue to
232 disburse the appropriate public contribution for the general election to
233 each certified candidate who is certified to be on the ballot for the
234 general election.
- 235 (f) Within ~~[[15]]~~ 30 days after the County Board certifies the results of the
236 primary election, a participating candidate who is not certified to be on
237 the ballot for the general election must return any unspent money in the
238 candidate's publicly funded campaign account to the Fund. Within
239 ~~[[15]]~~ 30 days after the County Board certifies the results of the general
240 election, a participating candidate must return any unspent money in the
241 candidate's publicly funded campaign account to the Fund.

- 242 (g) A certified candidate nominated by petition may receive a public
 243 contribution for the general election if:
- 244 (1) the candidate's nomination is certified by the County Board; and
 245 (2) the candidate did not participate in a primary election.
- 246 (h) A participating candidate must submit a receipt for each qualifying
 247 contribution to the Board to receive a public contribution. The Director
 248 must deposit the appropriate public contribution into a participating
 249 candidate's publicly funded campaign account within 3 business days
 250 after the Board authorizes the public contribution.
- 251 (i) [[Annual]] Consumer Price Index adjustment. The Chief
 252 Administrative Officer must adjust the public contribution limits
 253 established in Subsection (a)(3) and the [[qualifying]] eligible
 254 contribution limit established in Subsection (c), effective July 1,
 255 [[2016]] 2018, and July 1 of each subsequent fourth year, by the annual
 256 average increase, if any, in the Consumer Price Index for the previous 4
 257 calendar [[year]] years. The Chief Administrative Officer must
 258 calculate the adjustment to the nearest multiple of [[5 cents]] 10 dollars,
 259 and must publish the amount of this adjustment not later than March 1
 260 of each fourth year.

261 **16-24. Use of Public Contribution.**

- 262 (a) A participating candidate may only use the [[qualifying]] eligible
 263 contributions and the matching public contribution for a primary or
 264 general election for expenses incurred for the election. A participating
 265 candidate must not pay in advance for goods and services to be used
 266 after certification with non-qualifying contributions received before
 267 applying for certification unless the expenditure is permitted by
 268 Executive regulation adopted under Section 16-21.

- 269 (b) A complaint alleging an impermissible receipt or use of funds by a
 270 participating candidate must be filed with the Board.
- 271 (c) A participating candidate must provide the Board with reasonable
 272 access to the financial records of the candidate's publicly funded
 273 campaign account, upon request.
- 274 (d) Within ~~[[15]]~~ 30 days after the County Board certifies the results of the
 275 general election, a participating candidate must return to the Fund any
 276 unspent money in the candidate's publicly funded campaign account.

277 **16-25. Withdrawal.**

- 278 (a) A certified candidate may withdraw an application for a public
 279 contribution any time before the public contribution is received by the
 280 candidate's publicly funded campaign account.
- 281 (b) A participating candidate may withdraw from participation if the
 282 candidate:
- 283 (1) files a statement of withdrawal with the Board on a form
 284 prescribed by the Board; and
- 285 (2) repays to the Fund the full amount of the public contribution
 286 received, together with the applicable interest established by
 287 regulation.

288 **16-26. Applicant and Participating Candidate Restrictions .**

- 289 An applicant candidate or a participating candidate must not:
- 290 (a) accept a private contribution from any group or organization, including
 291 a political action committee, a corporation, a labor organization, or a
 292 State or local central committee of a political party;
- 293 (b) accept ~~[[a]]~~ private ~~[[contribution]]~~ contributions from an individual in
 294 an aggregate greater than \$150 during a 4-year election cycle, or the

295 maximum amount of [[a qualifying]] an eligible contribution, as
 296 adjusted by Section 16-23(i);

297 (c) must not pay for any campaign expense after filing a notice of intent
 298 with the Board to seek public funding with any campaign finance
 299 account other than the candidate's publicly funded campaign account;

300 (d) be a member of a slate in any election in which the candidate receives a
 301 public contribution [[unless all members of the slate are participating
 302 candidates]]; [[or]]

303 ~~[(d)]~~ (e) accept a loan from anyone other than the candidate or the
 304 candidate's spouse; or

305 ~~[(e)]~~ (f) transfer funds:

306 (1) to the candidate's publicly funded campaign account from any
 307 other campaign finance entity established for the candidate; and

308 (2) from the candidate's publicly funded campaign account to any
 309 other campaign finance entity.

310 **16-27. Committee to Recommend Funding for the Public Election Fund**

311 (a) The Committee to Recommend Funding for the Public Election Fund
 312 consists of 5 members appointed by the County Council for a four-year
 313 term beginning on May 1 of the first year of the Council's term of
 314 office. A vacancy occurring before the end of a term must be filled by
 315 appointment for the remainder of the term. The Council must ask the
 316 County Executive to recommend within 30 days one or more qualified
 317 applicants before making any appointment.

318 (b) Each member must be a resident of the County while serving on the
 319 Committee. No more than 3 members must be of the same political
 320 party. The Council must designate the chair and vice-chair.

- 321 (c) Each member must serve without compensation, but may be reimbursed
322 for reasonable expenses.
- 323 (d) The Committee must issue a report to the Council on or before March 1
324 of each year estimating the funds necessary to implement the public
325 campaign finance system and recommending an appropriation to the
326 Public Election Fund for the following fiscal year.
- 327 (e) The Council Administrator must provide staff support for the
328 Committee.

329 **16-28. Penalties.**

330 Any violation of this [[Section]] Article is a Class A civil violation. Each day
331 a violation exists is a separate offense.

332 **Sec. 2. Initial Regulations.** The County Executive must submit the initial
333 regulations required by Subsection 16-21(d) to the Council for approval not later than
334 180 days after this Act becomes law.

335 **Sec. 3. Effective Date.** This Bill takes effect on January [[1]] 15, 2015.

336 *Approved:*

337



10/2/2014

Craig L. Rice, President, County Council

Date

338 *Approved:*

339

Isiah Leggett, County Executive

Date

340 *This is a correct copy of Council action.*

341

Linda M. Lauer, Clerk of the Council

Date