

**MEMORANDUM**

March 31, 2016

TO: Government Operations and Fiscal Policy Committee

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **FY17 Operating Budget: NDA: Public Election Fund**

Those expected to attend this worksession include:

Members of the Committee to Recommend Funding for the Public Election Fund  
Robert Hagedoorn, Chief, Division of Fiscal Management, Department of Finance  
David Crow, Fiscal Projects Manager, Div. Fiscal Management, Department of Finance  
Jane Mukira, Management and Budget Specialist, Office of Management and Budget

Members of the Committee to Recommend Funding for the Public Election Fund are:

David Scull, Chair  
Sharon Cohen, Vice Chair  
Lee Annis  
Margaret Greene  
Paul Schwartz

Relevant pages from the FY17 Recommended Operating Budget are attached on ©1.

**Budget Summary:**

- The Executive recommends appropriating \$1 million for the Public Election for FY17.
- Added to the amount the Council appropriated in FY16, the Fund will have a total of \$2 million.
- The Committee to Recommend Funding for the Public Election Fund's majority recommended a total funding level of \$10 million for the 2018 elections.

**Council Staff Recommendation:**

- If the Committee supports the funding level recommended by the Committee to Recommend Funding for the Public Election Fund, Council staff suggests adding \$4 million to the Reconciliation List in \$1 million increments.
- Council staff also recommends adding \$160,000 to the Reconciliation List for anticipated State-billed charges for software upgrades necessary to implement the public campaign financing law.

## **Overview**

On September 30, 2014, the Council enacted, and the Executive later signed, Bill 16-14, Elections – Public Campaign Financing. Bill 16-14 established a Public Election Fund to provide public campaign financing for a candidate for a County elective office. Bill 16-14 also established a Committee to Recommend Funding for the Public Election Fund. This Committee is charged with reporting to the Council by March 1 each year estimating the funds necessary to implement the campaign finance system and recommending an appropriation to the Public Election Fund for the following year.

In FY16, the Council appropriated \$1 million for the Public Election Fund. In his FY17 Recommended Operating Budget, the Executive has appropriated an additional \$1 million.

### **Committee to Recommend Funding for the Public Election Fund**

The Committee to Recommend Funding for the Public Election fund submitted its report to the Council on January 15. Although not required to submit its report until March, the Committee complied with the Council's request to submit it earlier so that the Executive could consider it when formulating his recommended FY17 budget. The Committee's report is attached on ©2-10.

In its report, the Committee estimates the cost of providing matching funds to eligible candidates during the 2018 election cycle to be between approximately \$6.6 million to approximately \$9.9 million and therefore recommended the County budget \$10 million for the 2018 election cycle. Committee Vice-Chair Sharon Cohen penned a dissenting view in which she argued that \$10 million overestimates the amount needed to appropriately fund the program and recommended funding between \$2.5 million and \$3.5 million.

### **Public Hearing Testimony**

The Council will be holding public hearings on the Operating Budget on April 5, 6, and 7. The Council received a joint letter from Maryland Common Cause, Progressive Maryland, Maryland PIRG, the Sierra Club, Maryland League of Conservation Voters, and Every Voice supporting the Committee to Recommend Funding for the Public Election Fund's recommendations. These groups urged a funding level in this year's budget of \$4-5 million and another \$4-5 million during next year's budget to reach a total of \$10 million (©13).<sup>1</sup> The Council also received a letter from the Legislative District 15 Republican Party agreed with Ms. Cohen's dissenting view and recommended a total allocation of \$2 million for the Public Election Fund for the 2018 elections (©25).

### **Additional Implementation Costs**

As Committee members know, the State Board of Elections will be involved in the administration of the law. State election employees have estimated that the State will bill the County for one-time costs associated with the implementation of the law – totaling approximately \$160,000. These funds would be used to pay for system software upgrades necessary to operate the public financing

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<sup>1</sup> Council staff notes that the Council had been assuming that an appropriate funding level would be \$6 million, per analysis performed in 2014.

program. **Council staff recommends** adding \$160,000 to the reconciliation list for these administrative costs.

### **Council Staff Recommendation**

Estimating the actual cost necessary to implement the public financing program is difficult and depends on a number of factors including:

- the number of candidates that run and want to participate in the public financing program;
- whether there are open seats for which candidates could use the public financing program (open seats tend to, though not always, draw more candidates);
- whether candidates who want to participate are likely to meet the thresholds required in the law; and
- if the minimum thresholds are met, whether candidates are likely to qualify for the maximum payout from the Fund.

Council strongly believes that appropriate funding must be provided for the program to be successful. The law requires that the Finance Director determine by July 1, 2017 whether the amount in the Fund is sufficient to meet the maximum public contributions expected to be required during the election cycle. If insufficient funding is provided, participating candidates will only receive a fraction of what they would have otherwise received. Therefore, appropriate funding should be provided during the FY17 and FY18 budget cycles.

If Committee members support the Committee to Recommend Funding for the Public Election Fund's majority recommendation of \$10 million, then Council staff suggests adding \$4 million to the Reconciliation List in \$1 million increments. If this amount is funded, then an additional \$4 million will be required during FY17. In addition, as noted above, Council staff recommends adding \$160,000 to the Reconciliation List for administrative costs that will be billed by the State for necessary upgrades.

This packet contains:

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Common Cause testimony	13
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FY17 Recommended Changes	Expenditures	FTEs
FY16 Approved	20,000	0.00
FY17 Recommended	20,000	0.00

### Public Election Fund

Article IV of Chapter 16 of the County Code requires the Director of Finance to create a Public Election Fund to provide public campaign financing for qualified candidates for County Executive or County Council. The law is intended to encourage more candidates who do not have access to large contributions from interest groups or individuals to run for County elective offices. This NDA provides for the distribution of public contributions to qualified candidates in a contested election.

FY17 Recommended Changes	Expenditures	FTEs
FY16 Approved	1,000,000	0.00
FY17 Recommended	1,000,000	0.00

### Public Technology, Inc.

Funds are budgeted each year to continue membership in Public Technology, Inc. (PTI) as the County's research and development link to the National Association of Counties. Annual dues cover research and development assistance for innovative projects; access to a computerized information-sharing network; and membership in the Urban Consortium. The County participates in, and has received grants as a result of, initiatives in task forces on energy, solid waste, and telecommunications. PTI, as an organization, specializes in research and assessment of ideas of interest to local governments for increasing efficiency, reducing costs, improving services, and solving problems. A current emphasis is on public enterprise, toward helping local governments identify and capture potential sales from products and information that are outcomes of government investment.

FY17 Recommended Changes	Expenditures	FTEs
FY16 Approved	20,000	0.00
FY17 Recommended	20,000	0.00

### Retiree Health Benefits Trust

Consolidated Retiree Health Benefits Trust: Beginning in FY08, the County implemented a plan to set aside funds for retiree health benefits, similar to the County's 50 year-old practice of prefunding for retiree pension benefits. The reasons for doing this are simple: Due to exponential growth in expected retiree health costs, the cost of funding these benefits, which were being paid out as the bills came due, would soon become unaffordable. Setting aside money now and investing it in a Trust Fund, which is invested in a similar manner as the pension fund, not only is a prudent and responsible approach, but will result in significant savings over the long term.

One approach used to address retiree health benefit funding is to determine an amount which, if set aside on an annual basis and actively invested through a trust vehicle, will build up over time and provide sufficient funds to pay future retiree health benefits and any accrued interest on unfunded liability. This amount is known as an Annual OPEB Cost or "AOC", consists of two pieces - the annual amount the County would usually pay out for health benefits for current retirees (the pay as you go amount), plus the additional amount estimated as needed to fund retirees' future health benefits (the pre-funding portion). The pay as you go amount can be reasonably projected based on known facts about current retirees, and the pre-funding portion is estimated on an actuarial basis.

The County has committed to an approach of "ramping up" to the AOC amount over several years, with the amount set aside each year increasing steadily until the full AOC is reached. In FY 2011, the County Council enacted Bill 17-11 which established the Consolidated Retiree Health Benefits Trust. The bill amended existing law and provided a funding mechanism to pay for other post employment benefits for employees of Montgomery County Public Schools and Montgomery County College. In FY15, the County and all other agencies implemented the Medicare Part D Employer Group Waiver Program for Medicare eligible retirees/survivors effective January 1, 2015. This will reduce retiree drug insurance costs and the County's OPEB liability. The County achieved full pre-funding in FY15, consistent with Council resolution No. 16-555. In FY16, these contributions were \$43.5 million (County General Fund), \$61.7 million (MCPS Consolidated Trust), and \$1.4 million (Montgomery College Consolidated Trust).



COMMITTEE TO RECOMMEND FUNDING  
FOR THE  
PUBLIC ELECTION FUND

January 15, 2016

Hon. Nancy Floreen, President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20850

Re: First Report of Committee to Recommend Funding for the Public Election Fund

Dear President Floreen and Councilmembers:

Our Committee has met monthly since April 2015 and researched the methods used in other jurisdictions to estimate public financing costs for future elections. We have received reports and information from Common Cause Maryland, Maryland, the Director of Campaign Finance at the Maryland Board of Elections, Jared DeMarinis, and the Campaign Finance Institute -- a non-profit think tank that specializes in analyzing public financing programs across the country.

As shown on the attached chart, we estimate the actual cost to Montgomery County of providing the matching funds promised to candidates under the current law will range between a high of \$9,875,000 to a low of \$6,645,000, depending on the number of candidates who choose to participate and their relative success in raising qualifying contributions.<sup>1</sup>

In our view, however, more important than accurately guesstimating future payout is providing enough funding to assure the Montgomery County program will be able to meet its promises even if actual participation rates exceed our estimates. This is critical to gaining acceptance of the program by candidates and the public.

We find New York City's example compelling. Over seven election cycles, New York's public financing program has enjoyed wide and increasing public acceptance, and ever-increasing participation by candidates, and has evolved into a matching program very similar to ours.

For the 2013 election, the City's Campaign Finance Board, an independent agency created by referendum with the power to direct the Mayor how much money to put in the budget

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<sup>1</sup> Even lower estimates appear on the chart; however, because they assume the number of qualifying contributions raised in 2014 (\$150 or less) will remain the same in 2018, and as the Committee expects the advent of a matching program will significantly increase candidates' efforts to raise matchable contributions, these lower estimates are not deemed realistic.

for public financing, estimated that the amount payable would be \$34 million; however, the Board decided to increase the budgeted amount to \$50 million 'just to be safe.' In fact, \$38.5 million was ultimately paid out. See the attached history provided by the Board.

This isn't "use it or lose it" budgeting. The amount a candidate can earn is capped at a specific dollar amount, so "over-budgeting" doesn't allow any candidate to spend more money, and any amount not actually earned by some candidate will simply roll over into the next election cycle. What's proposed is merely a cushion, acknowledging that estimates are just that - estimates -- but if it turns out the estimate of how many candidates will participate, or how successful they'll be in raising matchable contributions proves too low, the program will still be able to deliver.

The Committee therefore recommends that Montgomery County budget \$10 million for the 2018 election cycle, and that appropriation of this amount be completed by May 2017, so the State's Director of Campaign Finance, who must determine by July 2017 whether enough funds are available to meet estimated costs, will not have to mandate a pro rata reduction in the amounts that will be matched.

The Committee's original deadline for reporting was March 1. However, to respond to Councilmember concerns that our recommendations be available as the County Executive develops his operating budget, we agreed to submit our recommendations in January. Several members expressed a desire to continue gathering information, so it is possible the Committee could send supplemental recommendations.

In that connection, Committee Vice-Chair Sharon Cohen made a request during our voting session on January 11, for permission to append to our report her "dissenting view." Attached below, it raises issues that were discussed and decided at our meeting, but some of which, because we did not see the statement until the next day, our report did not specifically seek to address.

The Committee would be glad to provide supplemental information on, or meet with the Council to discuss, any matters of interest to the Council.

Thank you for the opportunity to participate in the development of this important program.

David Scull, Chair  
Lee Annis  
Margaret Greene  
Paul Schwartz

### Dissenting View Of Sharon Cohen, Committee Vice-Chair

The Committee did not come to unanimous agreement on a recommended funding amount for the Public Election Fund for the 2018 election. It is important for the County Council, the County Executive and the public to understand concerns raised about the extremely large \$10M figure referenced in this letter as well as the \$9,875,000 to \$6,645,000 range purported to reflect the high and low estimated allocations needed for the fund. First, the calculations for these figures were based on rough guesstimates of how many candidates running in 2018 would opt in to participate in public funding. It is likely that many candidates will choose NOT to participate because the thresholds to qualify and receive public funds are high. Candidates must forgo aggregate individual contributions in excess of \$150.00 as well as forgo contributions from PACs, corporations, unions, and other organizations such as state or local party organizations. It is unrealistic to assume incumbents accustomed to raising large dollar contributions from big money donors (individual, PAC, union, corporations, etc.) will forgo those funding sources. Additionally, to receive the maximum pay out from the fund, the amounts required to be raised are steep. Candidates for County Executive — for example — to receive the max pay out (\$750K) would have to raise approximately \$187,500 from individual County residents but no more than \$150.00 in the aggregate per individual. That's a lot to raise while at the same time forgoing other large dollar contributions as previously noted. Keep mind that our current County Executive raised just \$90K from individuals in Maryland (not explicitly from County residents) in the 2014 election.

There have been two independent analyses — one by Common Cause of Maryland and one by the Campaign Finance Institute (a non-profit think tanks that specializes in public financing). The Common Cause analysis presented to the Committee on July 8, 2015 estimated that program would have cost \$2.5M in the 2014 primary election cycle if the program existed. In a second report presented to us from the Campaign Finance Institute in late December which was also based on the 2014 election data estimated that the program would have cost \$3.272M. While the public campaign fund was not in effect in 2014 so these figures obviously are not entirely reflective of future campaign contributions, I believe that the majority's estimate of \$10M (which is three to four times the experts estimates for 2014) grossly over estimates the amount needed by the fund. This also doesn't take into account two other facts: 1) that incumbents in all Montgomery County elections raise almost all of their funding from PACs/unions/corporations and big dollar donors that they'd have to forgo under public financing; and 2) that all Republican candidate combined for all county positions in 2014 raised just over \$5K in individual contributions under \$150.00. Based on these facts and considerations I believe a range between \$2.5 (Common Cause as of July 2015) and \$3.5M (Campaign Finance Institute as of late December 2015) is a reasonable place to start for a new program as I believe many candidates won't choose to participate and of those that participate not all will receive the max pay out amounts.

This is a brand new program which is using tax payer funds to finance County elections based on "qualified contributions." There's already a concern about those contributions previously identified by Jared DeMarinis Director of Candidacy and Campaign Finance for the State Board of Elections: "told the Committee that the Board would not be able to verify County residence without using the records for registered voters. Therefore, moving beyond

registered voters to County residents would result in no verification of residency before the money is disbursed (emphasis added).<sup>\*</sup> Therefore the first statutory requirement defining a "qualified contribution" for the County's public campaign financing statute is NOT verifiable before the funds are disbursed according Mr. DeMarinis. This is a new start up program without the ability to verify the base contributions upon which matching funds will be calculated so it is prudent to fund the program at the lower level.

Finally, the majority points toward the New York City public financing program as a model for Montgomery County. After seven election cycles New York estimated a \$34M payout in 2013. New York City has a population of 8.1M people so on a per capita basis New York City is spending \$4.20 per person in tax payer funds. Montgomery County has approximately 1M residents and the majority on the Committee has recommended \$10M for the public campaign fund for the 2018 election. At the proposed \$10M appropriation for Montgomery County's new program the tax payer expenditure would be \$10.00 per capita, more than double New York City's expenditure. And of course New York City has the highest media costs in the country and is the most expensive market to campaign in the entire country. A \$10M allocation to this new fund seem extraordinarily excessive.

\* Memo Agenda Item 6B, from September 30, 2014 from Robert Drummer and Josh Hamlin to the County Council regarding Bill 16-14 (page 10), Jared DeMarinis.

**Cost Estimates for Montgomery County Public Funding Program Based on Various Candidate Scenarios**

Summary	Cost
<b>Cost Based on 2014 Candidates Actual In-state Contributions Dec. 31, 2014</b>	
County Executive (3 of 4)	\$1,601,995
County Council At-Large (5 of 6)	\$1,034,049
County Council District (6 of 17)	\$636,817
<b>Total</b>	<b>\$3,272,861</b>

<b>Additional Cost if 2014 candidates who would not qualify, had raised the min.</b>	
County Executive (1)	\$210,000
County Council At-Large (1)	\$72,500
County Council District (10)	\$362,500
<b>Total</b>	<b>\$645,000</b>

**New total cost with additional candidates qualifying \$3,917,861**

<b>Cost Based on 2014 Candidates Actual In-state Contributions Dec. 31, 2014 from money</b>	
County Executive (2 P&G; 2P only)	\$4,500,000
County Council At-Large (5 P&G; 2 P only)	\$3,000,000
County Council District (8 P&G; 3 P only)	\$2,375,000
<b>Total</b>	<b>\$9,875,000</b>

<b>Cost Based on 2014 Candidates Actual In-state Contributions Dec. 31, 2014 from money</b>	
County Executive (4 Candidates, 2 max, 1 mid, 1 low)	\$3,743,998
County Council At-Large ( 6 Candidates, 3 max, 2 mid, 1 low)	\$1,779,309
County Council District (16 Candidates, 8 max, 4 mid, 4 low)	\$2,654,452
<b>Total</b>	<b>\$8,177,759</b>

<b>Cost Based on 2014 Candidates Actual In-state Contributions Dec. 31, 2014 from money</b>	
County Executive (4 Candidates, 1 max, 2 mid, 1 low)	\$2,777,996
County Council At-Large ( 6 Candidates, 2 max, 2 mid, 2 low)	\$1,558,620
County Council District (16 Candidates, 6 max, 5 mid, 5 low)	\$2,318,065
<b>Total</b>	<b>\$6,654,681</b>

Note: Mid-level candidates are based on the 2014 average

**Cost Points:**

<b>County Executive</b>	
Max. Public Funds (P&G)	\$1,600,000
Min. Public Funds for Qualifying Candidate <sup>1</sup>	\$210,000
Avg. of 2014 Candidates Actual Under New System	\$533,988
Max any 2014 candidate would have been eligible for	\$647,372
Avg. 2014 Actual w/additional small donors <sup>2</sup>	\$656,398

<b>County Council At Large</b>	
Max. Public Funds (P&G)	\$500,000
Min. Public Funds for Qualifying Candidate <sup>1</sup>	\$72,500
Avg. of 2014 Candidates Actual Under New System	\$206,810
Max any 2014 candidate would have been eligible for	\$304,690
Avg. 2014 Actual w/additional small donors <sup>2</sup>	\$246,950

<b>County Districts</b>	
Max. Public Funds (P&G)	\$250,000
Min. Public Funds for Qualifying Candidate <sup>1</sup>	\$36,250
Avg. of 2014 Candidates Actual Under New System	\$127,363
Max any 2014 candidate would have been eligible for	\$197,784
Avg. 2014 Actual w/additional small donors <sup>2</sup>	\$155,863

1. Minimum amounts calculated from considering amount and number of contributions threshold. For example, County Executive candidates must raise \$40,000 from 500 qualifying contributions. Contributions would need to average \$80. This would generate \$210,000 in matching funds.

2. Under the assumption that the new system will lead to candidates raising additional dollars from small donors, this calculation adds in 50% more donors at the \$50 level.



## History of the CFB

There have been many changes to the law since the CFB was established in 1988. Learn more about the evolution of the CFB and its mandates.

- 1988** As a result of several corruption scandals, a series of ethics reforms is enacted, most notably the Campaign Finance Act. Through a city referendum, NYC voters approved a Charter revision establishing the Campaign Finance Board (CFB). The independent, nonpartisan agency is charged with limiting the role and influence of private money in the political process by providing public matching funds to candidates running for city office. The CFB is also mandated to publish a voter guide and provide public disclosure of campaign finance information.
- 1989** The Board disburses \$4.5 million in public matching funds, matching private contributions from NYC residents at a rate of \$1-to-\$1 (up to the first \$1,000 per contributor), to 36 candidates in the citywide elections. The first Voter Guide is published in English and Spanish, and distributed to nearly 3 million households in NYC.
- 1990** In response to feedback from candidates, the Candidate Services Unit (CSU) is created. CSU works closely with campaigns, explaining the way the Program works, and helps campaigns comply with the law.
- 1993** Nearly \$6.5 million in public matching funds is paid to 65 participating candidates. The CFB creates software (C-SMART) to assist candidates in organizing and filing their financial disclosures electronically. The Voter Guide is expanded to include printings in Chinese. New York City voters approve term limits by referendum, limiting all city office holders to two terms (four years per term).

- 1996** Legislation is enacted requiring Program participants running for citywide offices to participate in a series of public debates as a condition of receiving public matching funds.
- 1997** Over \$6.9 million in public matching funds is distributed to 85 candidates. The CFB's website launches in July, providing instantaneous access to campaign finance disclosure and other candidate information.
- 1998** Through legislation and a citywide referendum, contribution limits are reduced, a ban is placed on corporate contributions, and the public matching funds rate changes from \$1-to-\$1 for the first \$1,000 per contributor to \$4-to-\$1 for the first \$250 per contributor.
- 2001** With term limits creating an unprecedented number of open seats, a historic number of candidates join the Program, taking advantage of the new, more generous matching rate. Over \$42 million in public matching funds is distributed to 199 participants. The attacks on the World Trade Center on September 11th force a postponement of primary elections and displace CFB employees from their office. Despite working from a temporary office at Fordham University, the CFB responds successfully to the needs of hundreds of first-time candidates. A searchable database is added to the CFB website, allowing the public and press to view and sort data on campaign fundraising and spending.
- 2004** New legislation expands the CFB disclosure requirements to all candidates despite their participation status in the Program. All candidates are also subject to the CFB's contribution limits and ban on corporate contributions. The new law creates a category called "limited participant" for candidates who wish to participate in the Program, but fund their campaigns with personal money.
- 2005** Over \$24 million in public matching funds is paid to 108 participants. The CFB makes significant changes to the Voter Guide, making it more accessible and easier to read. CFB debates are broadcast in Spanish, Chinese, and Korean for the first time.
- 2006** New legislation establishes that contributions from lobbyists, their spouses, and domestic partners are no longer eligible to be matched with public funds.

- 2007** New legislation severely restricts contributions from people who do business with the city and prohibits contributions from LLCs and partnerships. The public matching funds rate changes from \$4-to-\$1 up to the first \$250 per contributor to \$6-to-\$1 up to the first \$175 per contributor.
- 2009** In the 2009 elections, \$28.0 million is paid to 140 participating candidates. Despite the extension of term limits in 2008, the elections are very competitive, with a narrow general election margin in the mayor's race, vigorous open-seat races for public advocate and comptroller, and five Council challengers defeating incumbents in primaries.
- 2010** In *Citizens United vs. Federal Election Commission*, the U.S. Supreme Court rules that federal limits on political independent expenditures by corporations, associations, or labor unions are unconstitutional. Voters overwhelmingly approve an amendment to the NYC Charter that requires independent expenditures in city elections to be disclosed and reported to the CFB. The November 2010 Charter revision also reconstituted the independent Voter Assistance Commission (VAC) within the CFB as the Voter Assistance Advisory Committee (VAAC). The Voter Assistance Unit is created to implement the voter engagement mandates to the CFB by the Charter.
- 2011** The U.S. Supreme Court issues its decision in *McComish v. Bennett*. The decision finds that "bonus" matching funds provided to candidates in Arizona's public financing system who faced high-spending opponents or outside spending campaigns are unconstitutional. As a result, bonus funds in New York City's system are no longer available to candidates facing high-spending non-participants.
- 2012** After an unprecedented yearlong process of public comment, the CFB adopts rules implementing the mandate for disclosure of independent expenditures.
- 2013** Legislation enacted in early 2013 amends the Charter's requirement to disclose independent expenditures, exempting "membership communications" from disclosure. During the 2013 citywide elections, \$38.2 million is paid to 149 participating candidates. For the first time since the matching rate was increased in 1998, a participating candidate is elected mayor. The CFB unveils NYCVotes.org, a unique resource for civic engagement that allows New Yorkers to make contributions and access election information via their

smartphones. The printed Voter Guide is distributed in Bengali for the first time, and the CFB produces its first video Voter Guide, which is televised the week prior to the election as well as integrated into the online Guide.

**2014**

Legislation is adopted to strengthen the requirements for disclosure of independent expenditures in New York City elections. The new law requires spenders to list their top three contributors on their communications, and to disclose more details about their largest contributors, making it more difficult for the ultimate funders to shield their identity from public view. New legislation is passed requiring candidates to include "paid for by" notices on all their communications, which bans anonymous communications from city elections.



**MONTGOMERY COUNTY COUNCIL**  
**ROCKVILLE, MARYLAND**

**December 8, 2015**

**The Honorable Isiah Leggett**  
**County Executive**  
**101 Monroe Street, 2<sup>nd</sup> Floor**  
**Rockville, MD 20850**

**Dear Mr. Leggett:**

**Bill 16-14, Elections – Public Campaign Financing, which the Council enacted unanimously on September 30, 2014 and you signed into law on October 6, 2014, will enable certain candidates for County Council and County Executive to qualify for partial public financing for their campaigns starting with the primary and general elections in 2018.**

**As we wrote in our November 25, 2014 letter to you, it is important for upcoming County budgets to include adequate support for the Public Election Fund established by the bill. Last year you did not include support for the Public Election Fund in your FY16 Recommended Budget. The Council included \$1 million as part of the FY16 Approved Budget.**

**This year we request once again that you provide adequate support in your FY17 Recommended Budget next March. Bill 16-14 requires the Committee to Recommend Funding for the Public Election Fund to report by March 1 on a recommended funding amount for the following fiscal year. Since this date is late in your budget process for FY17, we have asked the Committee to submit its recommendation in January 2016 so that you can fully consider it. The Committee has agreed to pursue this goal.**

**Providing funding sooner rather than later is critical to the success of this program. While three years remain in the current election cycle, Section 16-23(d) requires the Director of Finance to determine, by July 1 of the year preceding the election, "if the amount in the Fund is sufficient to meet the maximum public contributions reasonably expected to be required during the next election cycle." If there is insufficient funding, "the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution." Therefore, in reality, adequate funding must be provided in the next two fiscal years, FY17 and FY18. Also, the Committee has heard from State election employees that the State is likely to require the County to provide \$160,000 and \$180,000 for technical adjustments to implement the program during FY17.**

**Given the County's projected fiscal situation, it would be unwise to wait until FY18 to provide support for this program. Adequate funding starting in FY17 will help confirm the County's**

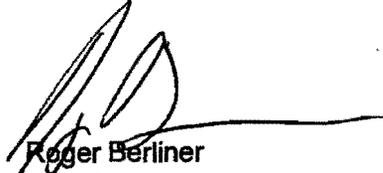
The Honorable Isaiah Leggett, County Executive  
December 8, 2015  
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commitment to the successful implementation of this law. We look forward to working with you on this important matter.

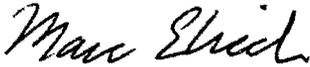
Sincerely,



Nancy Floreen  
President



Roger Berliner  
Vice President



Marc Elrich  
Councilmember



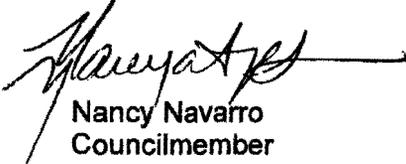
Tom Hucker  
Councilmember



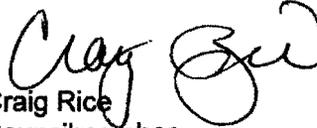
Sidney Katz  
Councilmember



George Leventhal  
Councilmember



Nancy Navarro  
Councilmember



Craig Rice  
Councilmember



Hans Riemer  
Councilmember



March 30, 2016

**Testimony on Montgomery County's Public Election Fund  
For the Government Operations Committee Hearing, April 4 2016**

The groups listed above urge the Government Operations Committee to aggressively fund Montgomery County's Public Election Fund. **We recommend a funding level in this year's budget of \$4-5 million, with a renewed commitment of that amount one year from now, to ensure that the program is ready for the County elections in 2018.**

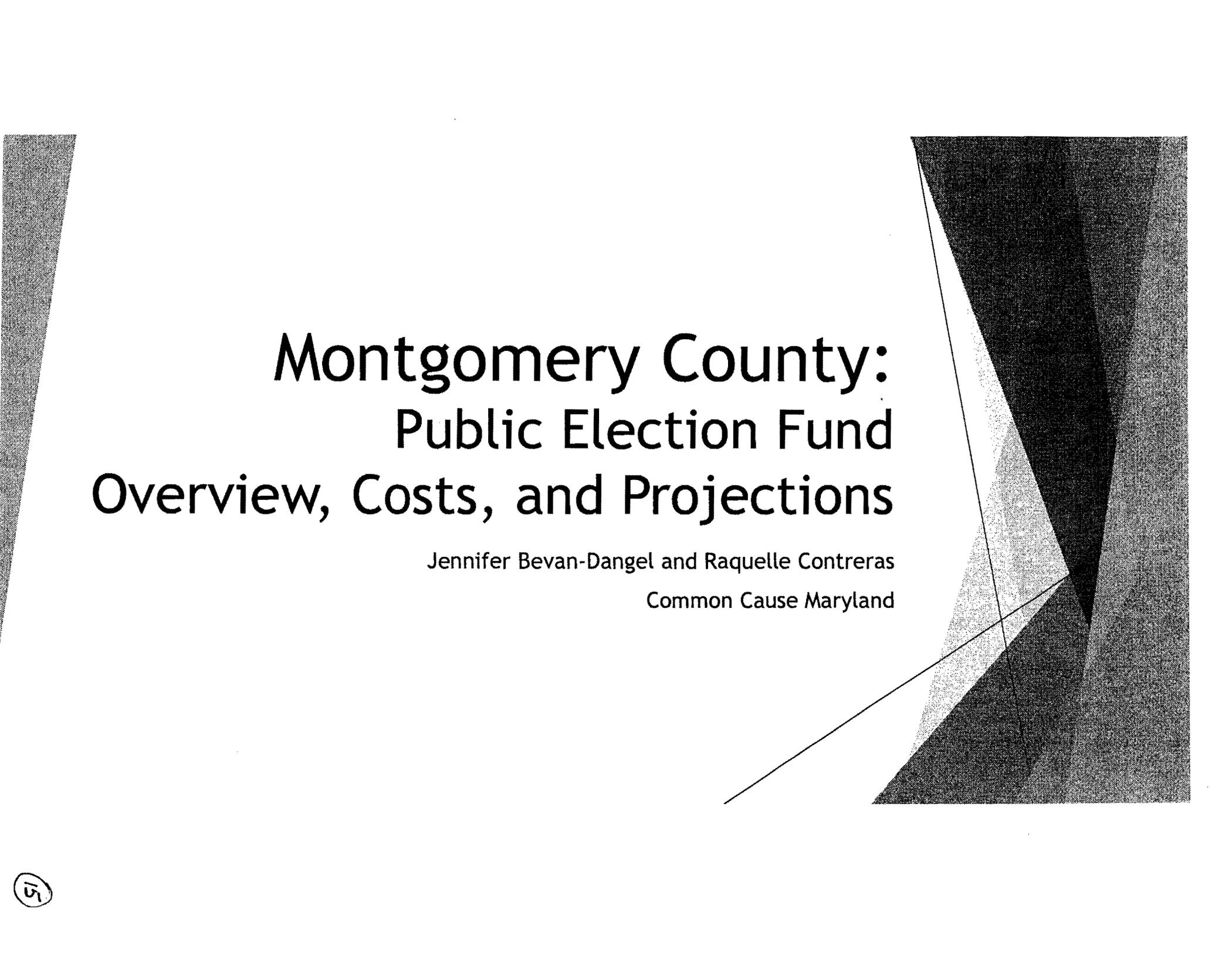
In 2014, the Montgomery County Council unanimously passed Bill 16-14, creating Maryland's first county-level fair elections program. At the time of its passage, County residents and advocates cheered the bold step the Council had made in the name of fair elections and open democracy. However, work must be done every year to ensure that the program is fully funded.

The legislation established a Commission to Recommend Funding for the Public Election Fund – an independent, bipartisan commission. That Commission recently issued its recommendation, stating that the Public Election Fund needs \$10 million by May 2017 to guarantee its success. The Commission rightly noted that in July of 2017 the State's Director of Campaign Finance must determine whether enough funds are available to meet the estimated costs. If adequate funds are not available, the Director will have to mandate a pro rata reduction in the amounts that will be matched. Such a reduction would jeopardize public trust in the program, the willingness of candidates to seek public funding, and the reputation of the Public Election Fund itself.

We fully support the Commission's recommendations. Common Cause Maryland researched election trends going back to 2006. We looked at the number of candidates who ran and the cost of those elections. (A summary of that research was provided to the Commission and is attached to this letter.) We believe that the Commission's recommendation is strong and accurate, and that \$4-5 million is needed this year to reach the \$10 million goal on time.

County Executive Leggett included only a fraction of the funding needed for the fair elections program in his FY17 budget – \$1 million. **We urge the Government Operations Committee to recommend, and the Council to adopt, the full \$4-5 million needed to keep the program on track for 2018.**

An investment in fair elections is an investment in our democracy. Public funding allows a diverse set of candidates to run for office and increases citizen engagement in the process. This results in a more substantive policy debate. But Montgomery County’s public funding program can only work if it is fully funded. Please invest in fair elections and ensure that our public funding program is allotted the funds necessary to succeed.

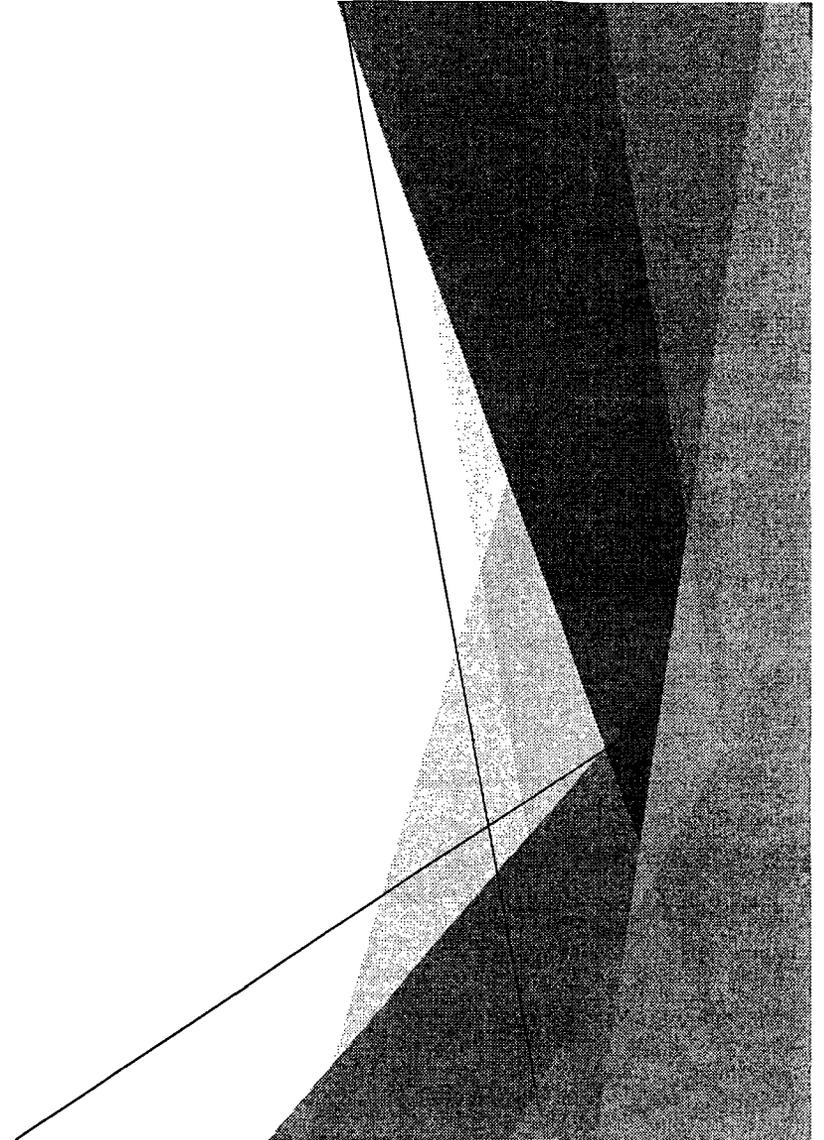


# Montgomery County: Public Election Fund Overview, Costs, and Projections

Jennifer Bevan-Dangel and Raquella Contreras  
Common Cause Maryland

# Many, Many Thanks

- ▶ Raquelle Contreras
- ▶ Taylor Simpson
- ▶ Nikki Hurley
- ▶ Samuel Gogan
- ▶ Emily Vitacolonna
- ▶ Kaitlyn Stovall

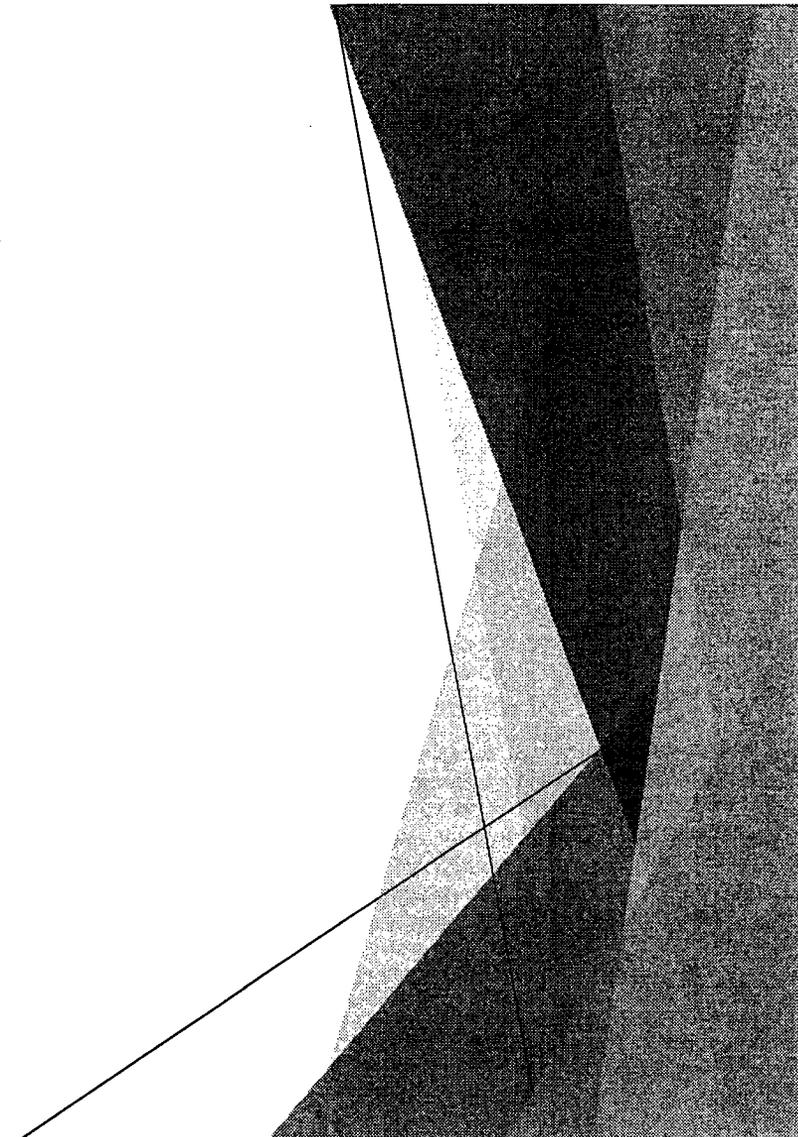


# Public Election Fund

- ▶ Candidates who qualify for the program may only receive donations of \$150 or less from individuals, aggregated across the four-year election cycle.
- ▶ Only donations of \$5 to \$150 from residents within the county will qualify a candidate for the program or receive a match.
- ▶ Different offices have a different match requirement:
  - ▶ County Executive - 500 qualifying contributions totaling \$40,000;
  - ▶ At-Large Councilmember - 250 qualifying contributions totaling \$20,000;
  - ▶ District Councilmember - 125 qualifying contributions totaling \$10,000.
- ▶ The match is also scaled to each elected office, and tiered to encourage small donations:
  - ▶ County Executive - 6:1 for the first \$50, 4:1 for the second \$50, and 2:1 for the final \$50.
  - ▶ County Council - 4:1 for the first \$50, 3:1 for the second \$50, and 2:1 for the final \$50.
- ▶ There is no expenditure limit for campaigns, but the County's match is capped at:
  - ▶ County Executive - \$750,000
  - ▶ At-Large Councilmember - \$250,000;
  - ▶ District Councilmember - \$125,000.
- ▶ A candidate running in an uncontested election will not be eligible for a match.

# Four “How” Process

- ▶ How many candidates will run?
- ▶ How many candidates will want to use the program?
- ▶ How many candidates will qualify for the program?
- ▶ How much will those candidates qualify for in the match?



# 2014 Analysis: Common Cause Maryland

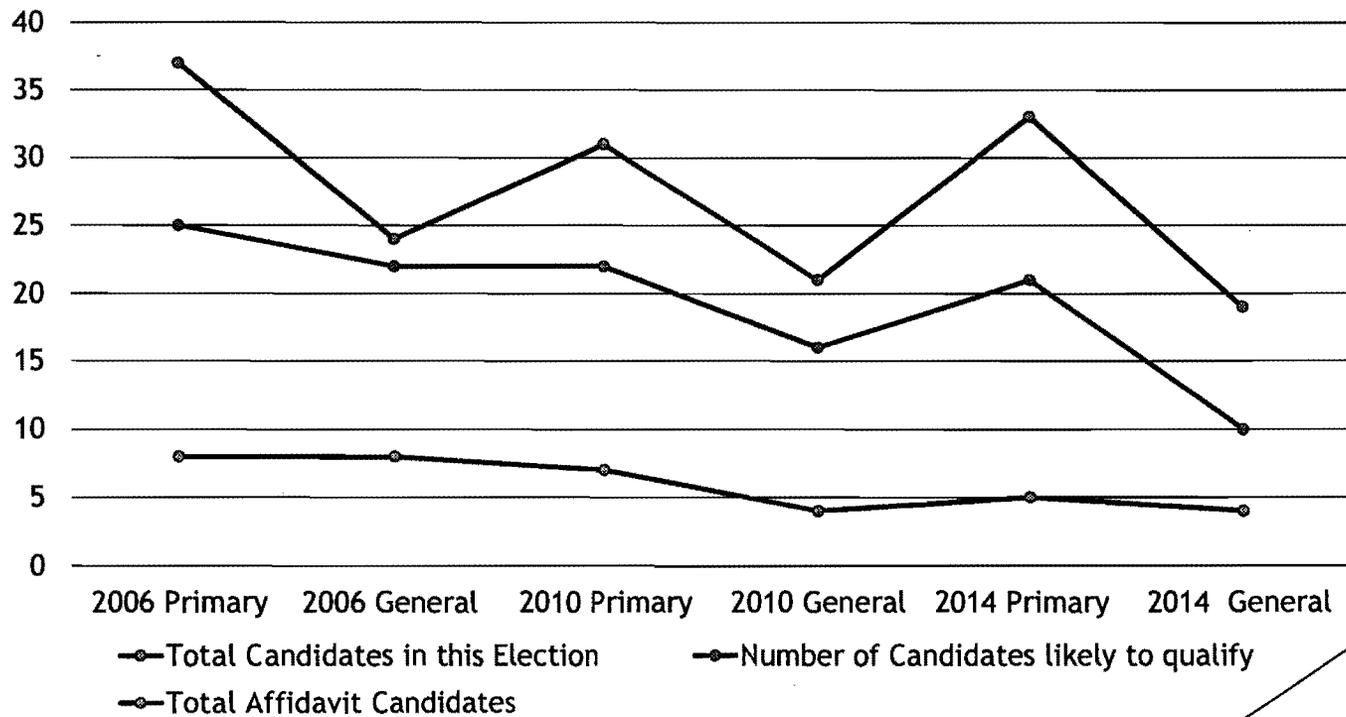
- ▶ Common Cause Maryland analyzed the campaign fundraising during the primary for the 2014 election.
- ▶ In total, the program would have cost the county only \$2.5 million in the 2014 primary election cycle. That includes all council and executive candidates.
- ▶ Of 11 at-large candidates, only 4 would have qualified for a match.
- ▶ Of 18 district candidates, only 5 would have qualified for a match.
- ▶ 3 of the 4 executive candidates would have qualified.
- ▶ It is important to note that this number is lower than we would anticipate if candidates were trying to maximize their public funding match. However, only 4 additional council candidates were even close to qualifying.
- ▶ *Can be regarded as the low-end cost estimate*

# 2014 Analysis: County Executive

- ▶ 2014: \$5.625 million for the Primary (actual spent: \$4.97 million)
- ▶ 2010: \$9.625 million for the Primary and General (actual spent: \$7.2 million)
- ▶ 2006: \$13 million for the Primary and General (actual spent: \$9.5 million)
- ▶ Analysis assumed that all candidates that ran for office would have qualified for the fund and all candidates that would have qualified for the fund would have received the maximum match.
- ▶ *Can be regarded as the high-end cost estimate*

# How Many Candidates Will Run

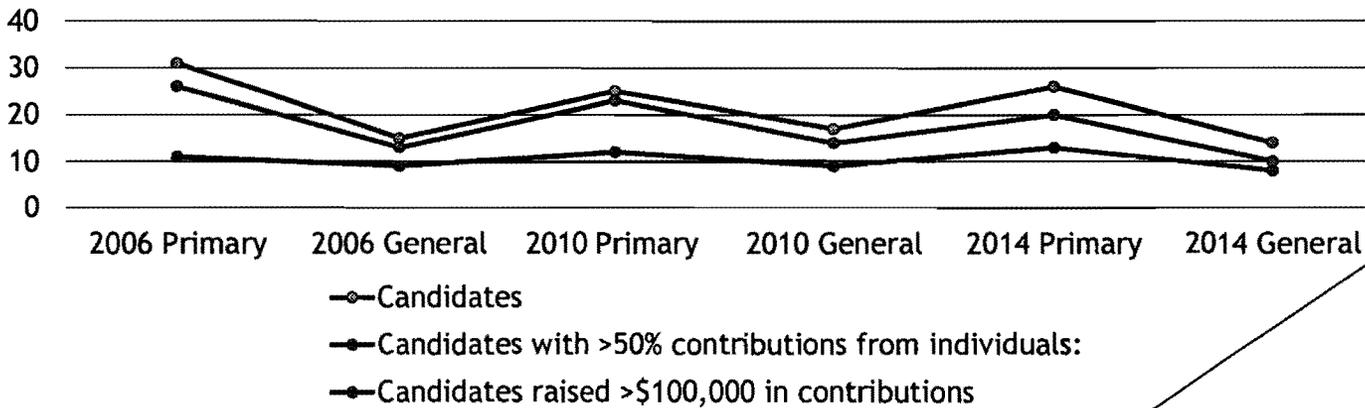
## Candidates Per Year



# How Many Candidates Will Qualify

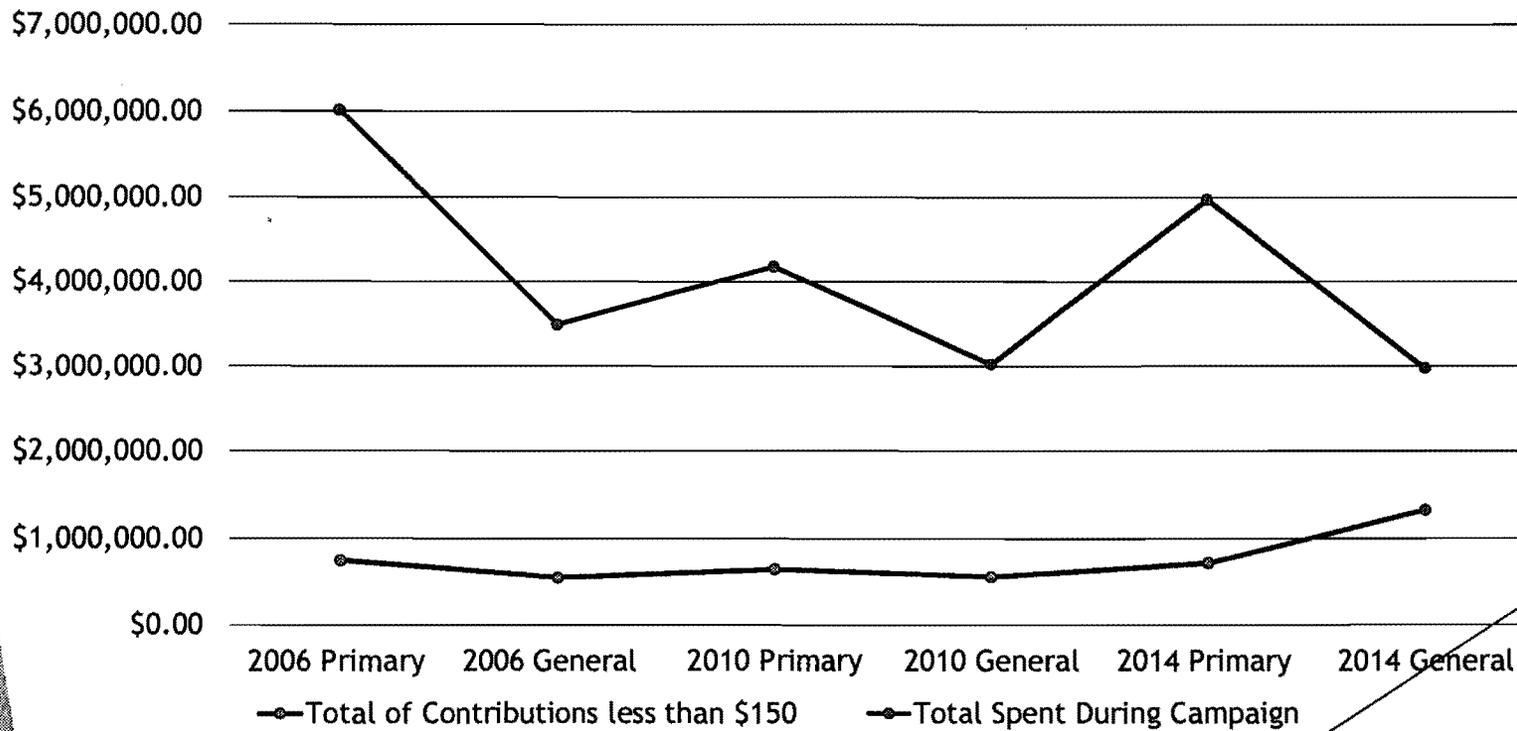
	Total Number of Candidates	Candidates with >50% contributions from individuals:	>50% contributions from individuals	Raised >\$100,000 in contributions	Percent raised >\$100,000 in contributions
2006 Primary	31	26	83.87%	11	35.48%
2006 General	15	13	86.67%	9	60.00%
2010 Primary	25	23	92.00%	12	48.00%
2010 General	17	14	82.35%	9	52.94%
2014 Primary	26	20	76.92%	13	50.00%
2014 General	14	10	71.43%	8	57.14%
Average	21	18	82%	10	51%

Candidate Fundraising



# How Much to Match?

## Spending Per Year



## To Consider...

- ▶ Better to fund aggressively:
  - ▶ The number of candidates running, qualifying, and maximizing their use of funds could always exceed projections.
  - ▶ Any additional funds after 2018 election cycle is finished will become the down-payment for 2022.
  - ▶ If there is not sufficient funding in the program, it will hurt the credibility of the Public Election Fund and hurt the candidates who would seek to use the program.



**Maryland Legislative District 15  
P.O. Box 60033  
Potomac, MD 20859**

Statement from the Republican Party of Legislative District 15 for the  
Montgomery County Council's Government Operations Committee Hearing  
April 4, 2016

Members of the Republican Party of Legislative District 15 (LD-15) have attended the several meetings of the Committee to Recommend Funding for the Public Election Fund (PEF) established by Bill 16-14 as a purportedly bipartisan commission charged with recommending annual funding levels for the new Public Election Fund. While we have been pleased to do so and from time to time have had opportunity to ask questions at those meetings, the process has been less than optimal for a truly well-functioning Committee. That lack of reasonable process undoubtedly has impacted the work of the Committee and its inaugural recommendations to the Montgomery County Council.

While the Committee began meeting in the late spring of 2015, it was not until the Committee's December 2015 meeting that estimated PEF funding needs were discussed. This discussion was based on data from alleged experts who were not available to answer questions from Committee members. Furthermore, it was made clear at that December meeting that while Bill 16-14 states that the PEF Committee was to report no later than March 2016, we were told that the County Council wanted the Committee's recommendations by mid January so that the County Executive would have its recommendation in time for inclusion in the County Executive's annual budget request. That meant the Committee had to greatly speed up its work.

In our view, that accelerated deadline failed to provide sufficient time for Committee members to discuss the figures presented at the December meeting nor was there sufficient opportunity to obtain answers from the outside experts regarding campaign contributions collected for the most prior election (2014) which were used for calculating the Committee's recommendations. Nor did the data presented clearly explain why campaign contributions described in tables presented to Committee members were identical for both the primary and general elections.

In any event, the data presented for collection of general election campaign contributions clearly showed that no Republican candidate would have qualified for matching PEF funds if the system had existed in 2014. And that situation would have pertained even if *all* Republican campaign contributions were combined. In other words, the structure of the County's system sets

thresholds – number of contributions to be collected for individuals and the aggregate amounts to be collected to receive matching funds – so steep that most candidates for public office will not meet them and therefore the amounts needed for the PEF should be adjusted accordingly.

Furthermore, the fact that PEF requires candidates not accept individual campaign contributions in excess of \$150 and forgo contributions from entities such as PACs, political organizations, unions, et al means that many - if not all - incumbents will likely NOT seek public election funds. Indeed, which of you members of the County Council intends to seek public election funds for the 2018 election and therefore intends to forgo individual contributions in excess of \$150 as well as contributions from unions, PACs, political organization, business entities, etc?

These two conditions --- high thresholds and severely restricted contribution limits – means most incumbents and challengers will either choose NOT to participate in PEF or the majority of those who do will fail to meet the matching funds thresholds. Furthermore, for those candidates who do participate and exceed the minimum thresholds for matching funds, some no doubt will just barely cross those thresholds, many will be somewhere in the middle between the minimum and maximum thresholds, and only a few will be at the maximum level. In other words, it is unreasonable to assume that all candidates will come in at the maximum threshold amounts. Yet the PEC Committee's recommendation presented to the County Council assumes that all who participate in PEF will all do so.

These concerns, as well as the possibility of fraud as there presently is no way for the Board of Elections to verify qualifying contributions are from county residents, is why one member of the PEC Committee provided the County Council with a dissent. LD-15 agrees with the concerns outlined in that dissent and urges the County Council to fully consider the points therein before making a final PEF funding allocation for this year.

Given your fiduciary responsibility to county tax payers, putting excessive funds into the PEF is unreasonable in light of other budget priorities facing the County. Therefore, we strongly recommend the County Council not appropriate \$10 million as requested by the Committee majority but suggest no more than \$2 million aggregate should be allocated to the PEF for the 2018 election year.

Respectfully submitted this 31<sup>st</sup> day of March 2016  
Executive Committee  
Republican Party of Maryland Legislative District 15