



**COMMITTEE TO RECOMMEND FUNDING  
FOR THE  
PUBLIC ELECTION FUND**

Hon. Nancy Navarro, President  
Montgomery County Council  
100 Maryland Ave.  
Rockville, MD 20850

**Re: 2019 Report of Committee to Recommend Funding for the Public Election Fund**

Dear President Navarro and Councilmembers:

As you know, the \$11 million appropriated to the Public Election Fund (PEF) for the 2018 election cycle accurately anticipated the amount payable by the Fund if all participating campaigns had earned the maximum payout. However, only 6 out of 47 did so, and the final payout was approximately \$6 million.

After reallocations in 2018, **the amount remaining in the Fund today is \$1.8 million.**

In 2013, New York City's similar matching program paid out \$38 million. Based on that experience, the city's Campaign Finance Board (NYCCFB) prepared for a \$35 million payout in 2017, but were taken by surprise when the actual payout was only \$15 million.

What explained the 60% decline in demand from 2013 to 2017? In 2013, Mayor Bloomberg reached his 3-term limit, touching off hot contests for open citywide and boroughwide seats, with consequently high payouts. In 2017, by contrast, there wasn't a single open citywide or boroughwide seat.

In Montgomery County in 2018, term limits opened 5 of the 10 county offices, including 4 of the 5 high-payout countywide offices. Those openings, and the advent of public financing, triggered record numbers of candidates and vigorous campaigns.

In 2022, by contrast, although term limits will open another 3 offices, including one council-at-large seat, it seems reasonable to expect there will be fewer open seats, fewer candidates and smaller payouts than in 2018.

On the other hand, 2018's enthusiastic response suggests that future participants may begin their campaigns earlier and therefore have longer to achieve maximum payout. It should also be noted that minority party participation in 2018 was lower than would normally be expected with public financing newly available -- a dynamic that could be absent four years from now.

The PEF limits matching to contributions received from County "residents," but there is presently no procedure for auditing whether those contributors were in fact County residents.

The County may wish to consider whether “resident” requires further definition, and whether auditing should be instituted.

The Committee recommends the County lean in the direction of somewhat overfunding the anticipated demand, both to assure that adequate funds will be available, and to avoid subjecting incumbents to criticism, in the heat of an election year, for votes on last-minute emergency appropriations that might be framed as benefitting themselves or disadvantaging their challengers.

The Committee **recommends that another \$1.8 million be added to the Fund in each of the next three budget cycles, thus bringing the total to \$7.2 million by the outset of 2022.**

### **Additional Recommendation – Staff and Software Support**

The Committee would like to call attention to the efficiency with which the State Board of Elections and County Dept. of Finance administered the PEF’s first cycle: a relative handful of employees, each shouldering other responsibilities besides the PEF, distributed \$6 million. The NYCCFB, by comparison, has a staff of 120.

However, New York’s program, enacted in 1988 and now having completed 8 election cycles, does offer services that Montgomery County might consider as it evaluates the PEF’s performance. These include 1) a website that all campaigns can use as an easy way for supporters to make online contributions, rather than requiring each campaign to develop its own, and saves staff time by automatically generating the required campaign reports. There is also 2) an outreach effort by NYCCFB staffers, who go to individual campaign offices to explain the program and assist with using the software and forms. More detail is available at <https://www.nyccfb.info/>

The Committee believes Montgomery County’s PEF program has made substantial progress toward its goals of levelling the financial playing field and fostering greater public participation in County politics, and has thus significantly strengthened our democracy.

We thank the Council for the opportunity to assist in the development of this important program.

Respectfully submitted,

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

**Minority Statement**  
**For the Committee to Recommend Funding for the Public Election Fund's**  
**2019 Report to the County Council**

The 2018 election for County Executive and County Council in Montgomery County was unique due to the combined impact of the County's new Term Limits provision and the opportunity for County-provided public election funding to qualifying candidates. These two dynamics will continue to play out in the years ahead in terms of how much funding is needed for the County's Public Election Fund (PEF). I argue that because more seats overall were term limited at the "higher maximum PEF payout" seats (County Executive and At Large Council Seats) in the 2018 election, PEF Funding needs for 2022 will NOT be as large because most term-limited seats will be at the lower Council PEF maximum payout levels, and for this reason I did not support the Committee's PEF 2019 funding recommendation to the Council.

Looking at the data from the 2018 election in terms of where the most candidates filed to run, it is clear the term-limited seats drew in the most candidates to run. In 2018, the County Executive seat was term limited and 9 candidates filed to compete for this seat. For At-Large Council seats, three of four seats were term limited and that drew in a whopping 38 candidates to run. Council District 1 – the only term-limited Councilmatic seat – drew in 9 candidates. The other 4 council seats -- none of which were term limited (Districts 2, 3, 4 and 5) -- had very limited competition with only two or three candidates all from the same party running only in the Primary against the incumbent. District 2 was the only non-term limited District seat that drew a challenger to the incumbent in the Primary and three Primary challengers from a different party.

Given how the public election fund is structured, the County Executive and At-Large County Council seats are those with the highest potential payout levels for qualifying PEF candidates. In 2018, the vast majority of qualifying PEF candidates ran and qualified for these higher maximum PEF payout categories. This scenario is NOT likely to be repeated in 2022 because more District Council seats at the lower maximum PEF payout levels will be term limited.

This points to the fact that an open seat created by term limits is more of a driving force in getting candidates to run for that office, rather than any potential for public financing. When determining the appropriate dollar amount for the public election fund in the next election, examining which category of seats in the next election (2022) are term limited, and where those seats line up (at higher or lower maximum payout levels) is a more accurate analysis to estimate PEF funding needs for the next election. Assuming a recurring number of candidates will file **AND** qualify across **ALL** PEF payout levels is not realistic.

Further, as seen in the 2018 election, many filed PEF candidates do NOT qualify. Others qualified but do NOT reach the maximum payout levels. This too puts downward pressure on PEF funding needs. In estimating PEF funding needs the majority on this Committee tends to assume all filed PEF candidates will qualify and ALL of them will receive the maximum matching fund payouts in BOTH the Primary and General Elections. This is simply NOT the case and the facts from the 2018 election bear this out.

In 2018, only one PEF County Executive candidate received the maximum payout (\$750K), in both the Primary and General Elections. Two other Democratic PEF-County Executives candidates qualified, but did NOT receive the maximum PEF payout amount.

Among At-Large PEF candidates who qualified, only a third reached or came near the maximum PEF payout of \$250K in the Primary, and while all four qualifying PEF candidates in the General Election received PEF matching funds NONE even came close to the maximum PEF payout amounts.

Of those running for Council District seats, only two qualifying PEF candidates reached the maximum PEF payout level (\$125K), but only in the Primary Election. No Council District PEF candidate came close to the maximum PEF payout amount in the General Election.

The other lesson the 2018 PEF numbers tell us is that by far, PEF matching funds come into play in the Primary Election and do NOT play as significant a role (in terms of overall dollars match and spent) in the General Election. That means for the most part this taxpayer-financed program is one that funds challengers within the County's dominant party to compete against each other in the Primary Election rather than helping candidates from different parties compete against one another in the General Election.

The number of non-dominant party candidates running, qualifying and receiving maximum PEF payout amounts confirms this analysis. Very few non-dominant party candidates ran in the 2018 election regardless of term limits OR public financing. Of the 68 candidates overall, only nine were Republican candidates, the majority of whom were "ACLE or limited campaign fund candidates" meaning they did not attempt to raise or spend more than \$1K. Two Republican candidates filed, qualified for PEF and received matching PEF funds. This was frankly more funding for Republican candidates combined than previously possible. Only three other "non-dominant" party candidates ran, two from the Green party (neither of whom qualified for PEF). The third, a so-called "unaffiliated" candidate actually was a Democrat who lost in Primary and then decided to change party affiliation in order to run in the General, obviously an outlier situation, not likely to be repeated. Meaning in reality there was no true unaffiliated candidate who ran for local office in 2018, yet they make up nearly a third of the electorate. Therefore the goal of PEF to encourage candidates from non-dominant, non-incumbent parties to run for

office was not actually achieved in the county's inaugural run of public financing for local elections.

Even with the huge number of candidates running in 2018 -- many of who filed, qualified and received matching PEF funds -- the funding in the PEF pot greatly exceeded what was actually needed. So much so, the County Council choose to claw back millions from the PEF fund, as it was clear these dollars were needed for other County priorities.

The 2022 election is likely to have more candidates at the "lower PEF maximum payout levels" running for office due to which candidates are term limited. Therefore, less PEF funding overall is likely needed for 2022 relative to what was spent in 2018. The majority on the Committee, however, likes to err on the side of overfunding the PEF. Millions of unspent funds remain in the PEF fund NOW. Because the County budget is in a serious short fall (revenues are down), siphoning dollars from other priority County projects just to sit in the PEF funding pot and NOT be spent until 2022 is inappropriate. Further, additional funding could be added to the PEF in subsequent budget years if County revenues improve, OR if a large number of candidates file to run as PEF candidates for the 2022 election.

The minority on this Committee offered an amendment to reduce the recommended funding amount from \$1.8M to \$1M. That Amendment failed. Yes these amounts seem inconsequential compared to the County's multibillion dollar county budget; but why tie up nearly \$2M dollars in a the PEF pot when those dollars might be more appropriately used elsewhere in the County budget? Overfunding a nice to have NOT a need to have program, in a time of revenue shortfall is irresponsible. The County Council should not adopt the PEF funding amount recommended by this Committee.

Submitted by  
Sharon Cohen, Committee Vice-Chairman and Lee Annis, Committee Member