

MEMORANDUM

January 31, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 16-14, Elections – Public Campaign Financing

Bill 16-14, Elections – Public Campaign Financing, sponsored by Councilmembers Andrews, Elrich, Berliner, Riemer, and Council Vice President Leventhal is scheduled to be introduced on February 4. A public hearing is tentatively scheduled for March 4 at 7:30 p.m.

Bill 16-14 would:

- (1) establish a Public Election Fund to provide public campaign financing for a candidate for a County elective office;
- (2) regulate 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; and
- (4) provide for penalties for violations of the public campaign financing system.

Background

One of the provisions in the Campaign Finance Reform Act of 2013 (Chapter 419 of the 2013 Laws of Maryland), enacted by the General Assembly in its 2013 Session, authorizes the governing body of a county to establish, by law, a public campaign finance system for the election of County Executive and County Council. A copy of this part of Chapter 419 is at ©13.

Bill 16-14 would implement this authority by establishing a public campaign finance system for the election of County Executive and County Council. The goal of this Bill is to encourage greater voter participation in County elections, increase opportunities for more residents to run for office, and reduce the influence of large contributions from businesses, political action groups, and other large organizations. Councilmember Andrews explained the purpose of the Bill in his January 29 memorandum at ©15 and summarized the components of the Bill at ©16.

The Bill would designate the Maryland State Board of Elections to certify candidates and generally administer the public campaign financing system. The Director of Finance would be responsible for establishing the Public Election Fund and distributing the public contributions to certified candidates. The Council would have to appropriate funds for the Public Election Fund.

This packet contains:

Bill 16-14

Legislative Request Report

House Bill 1499 (excerpt)

Councilmember Andrews Memorandum

Summary of Bill

Circle #

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Bill No. 16-14
Concerning: Elections – Public
Campaign Financing
Revised: January 31, 2014 Draft No. 15
Introduced: February 4, 2014
Expires: August 4, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Andrews, Elrich, Berliner, Riemer, and Council Vice President Leventhal

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:

* * *

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

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

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

46 *County Board* means the Montgomery County Board of Elections.

47 *Covered office* means the office of County Executive or County
48 Councilmember.

49 *Director* means the Director of the Department of Finance or the Director's
50 designee.

51 *Election cycle* means the primary and general election for the same term of a
52 covered office.

53 *Fund* means the Public Election Fund.

54 Noncertified candidate means a person who is running for a covered office
 55 who either:

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

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

58 Non-participating candidate means a person who is running for a covered
 59 office who is either a noncertified candidate or a certified candidate who
 60 declines to accept a public contribution.

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

63 Public contribution means money disbursed from the Fund to a certified
 64 candidate.

65 Publicly funded campaign account means a campaign finance account
 66 established for the exclusive purpose of receiving qualifying contributions and
 67 spending funds in accordance with this Article.

68 Qualifying contribution means a donation of at least \$5.00 but no more than
 69 \$150.00 in support of an applicant candidate that is:

70 (1) made by a registered voter of the County;

71 (2) made after the beginning of the designated qualifying period, but
 72 no later than 15 days before the election;

73 (3) obtained through efforts made with the knowledge and approval
 74 of the applicant candidate; and

75 (4) acknowledged by a receipt that identifies the contributor's name
 76 and residential address and signed by the contributor.

77 Qualifying period means the period of time beginning 365 days before the
 78 primary election for the office the candidate seeks and ending 45 days before
 79 the date of the primary election. The qualifying period for a special election
 80 under Section 16-17 must be set by Council resolution.

81 **16-19. Public Election Fund established.**

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

84 (b) The Fund consists of:

85 (1) all funds appropriated to it by the County Council;

86 (2) any unspent money remaining in a certified candidate's publicly
87 funded campaign account after the candidate is no longer a
88 candidate for a covered office;

89 (3) any public contribution plus interest returned to the Fund by a
90 participating candidate who withdraws from participation;

91 (4) all interest earned on money in the Fund; and

92 (5) voluntary donations made directly to the Fund.

93 **16-20. Collecting Qualifying Contributions.**

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

96 (1) file notice of intent with the Board on or before April 15 of the
97 year of the election on a form prescribed by the Board; and

98 (2) establish a publicly funded campaign account for the candidate
99 for the purpose of receiving contributions and spending funds in
100 accordance with this Article.

101 (b) Other than a contribution from an applicant candidate or the candidate's
102 spouse, an applicant candidate must not accept a qualifying contribution
103 from an individual greater than \$150. An applicant candidate or the
104 candidate's spouse must not contribute more than \$6000 each to the
105 candidate's publicly funded campaign account.

106 (c) Annual adjustment. The Chief Administrative Officer must adjust the
107 contribution limit established in Subsections (b), effective July 1, 2016,

108 and July 1 of each subsequent year, by the annual average increase, if
 109 any, in the Consumer Price Index for the previous calendar year. The
 110 Chief Administrative Officer must calculate the adjustment to the
 111 nearest multiple of 5 cents, and must publish the amount of this
 112 adjustment not later than March 1 of each year.

113 **16-21. Requirements for Certification.**

114 (a) To qualify as a certified candidate:

115 (1) a candidate for Executive must collect at least:

116 (A) 500 qualifying contributions; and

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

118 (2) a candidate for At-Large Councilmember must collect at least:

119 (A) 250 qualifying contributions; and

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

121 (3) a candidate for District Councilmember must collect at least:

122 (A) 125 qualifying contributions; and

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

124 (b) An applicant candidate must deposit all qualifying contributions
 125 received into the candidate's publicly funded campaign account. An
 126 applicant candidate must deliver to the Board a copy of a receipt for
 127 each qualifying contribution.

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

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

132 (1) how and when receipts for qualifying contributions from
 133 contributors must be submitted to the Board;

134 (2) the documents that must be filed with the Board for certification;

135 (3) the allowable uses of money in a publicly funded campaign
136 account; and

137 (4) other policies necessary to implement this Article.

138 **16-22. Board Determination.**

139 (a) The Board must certify an applicant candidate if the Board finds that the
140 candidate has received the required number of qualifying contributions
141 and the required aggregate total dollars for the office no later than 10
142 business days after receiving:

143 (1) a declaration from the candidate agreeing to follow the
144 regulations governing the use of a public contribution; and

145 (2) a campaign finance report that includes:

146 (A) a list of each qualifying contribution received;

147 (B) a list of each expenditure made by the candidate during the
148 qualifying period; and

149 (C) the receipt associated with each contribution and
150 expenditure.

151 (b) The decision by the Board whether to certify a candidate is final.

152 (c) A candidate may submit only one application for certification for any
153 election.

154 (d) If the Board certifies a candidate, the Board must authorize the Director
155 to disburse a public contribution to the candidate's publicly funded
156 campaign account.

157 **16-23. Distribution of Public Contribution.**

158 (a) The Director must distribute a public contribution from the Fund to each
159 certified candidate in a contested election as follows:

160 (1) for a certified candidate for County Executive, the matching
161 dollars must equal:

- 162 (A) \$6 for each dollar of a qualifying contribution received for
 163 the first \$50 of each qualifying contribution;
 164 (B) \$4 for each dollar of a qualifying contribution received for
 165 the second \$50 of each qualifying contribution; and
 166 (C) \$2 for each dollar of a qualifying contribution received for
 167 the third \$50 of each qualifying contribution.
- 168 (2) for a certified candidate for County Council, the matching dollars
 169 must equal:
- 170 (A) \$4 for each dollar of a qualifying contribution received for
 171 the first \$50 of each qualifying contribution
 172 (B) \$3 for each dollar of a qualifying contribution received for
 173 the second \$50 of each qualifying contribution; and
 174 (C) \$2 for each dollar of a qualifying contribution received for
 175 the third \$50 of each qualifying contribution.
- 176 (3) The total public contribution payable to a certified candidate for
 177 either a primary or a general election must not exceed:
- 178 (A) \$750,000 for a candidate for County Executive;
 179 (B) \$250,000 for a candidate for At Large Councilmember;
 180 and
 181 (C) \$125,000 for a candidate for District Councilmember.
- 182 (b) The Director must not distribute matching dollars from the Fund to a
 183 certified candidate for a contribution from the candidate or the
 184 candidate's spouse.
- 185 (c) A certified candidate may continue to collect qualifying contributions
 186 and receive a matching public contribution up to 15 days before a
 187 primary or a general election. A qualifying contribution must not
 188 exceed \$150 from any individual during an election cycle.

- 189 (d) If the total amount available for distribution in the Fund is insufficient to
190 meet the allocations required by this Section, the Director must reduce
191 each public contribution to a certified candidate by the same percentage
192 of the total public contribution.
- 193 (e) Within 3 business days after the County Board certifies the results of the
194 primary election, the Board must authorize the Director to continue to
195 disburse the appropriate public contribution for the general election to
196 each certified candidate who is certified to be on the ballot for the
197 general election.
- 198 (f) Within 15 days after the County Board certifies the results of the
199 primary election, a participating candidate who is not certified to be on
200 the ballot for the general election must return any unspent money in the
201 candidate's publicly funded campaign account to the Fund. Within 15
202 days after the County Board certifies the results of the general election,
203 a participating candidate must return any unspent money in the
204 candidate's publicly funded campaign account to the Fund.
- 205 (g) A certified candidate nominated by petition may receive a public
206 contribution for the general election if:
- 207 (1) the candidate's nomination is certified by the County Board; and
208 (2) the candidate did not participate in a primary election.
- 209 (h) A participating candidate must submit a receipt for each qualifying
210 contribution to the Board to receive a public contribution. The Director
211 must deposit the appropriate public contribution into a participating
212 candidate's publicly funded campaign account within 3 business days
213 after the Board authorizes the public contribution.
- 214 (i) Annual adjustment. The Chief Administrative Officer must adjust the
215 public contribution limits established in Subsection (a)(3) and the

216 qualifying contribution limit established in Subsection (c), effective July
 217 1, 2016, and July 1 of each subsequent year, by the annual average
 218 increase, if any, in the Consumer Price Index for the previous calendar
 219 year. The Chief Administrative Officer must calculate the adjustment to
 220 the nearest multiple of 5 cents, and must publish the amount of this
 221 adjustment not later than March 1 of each year.

222 **16-24. Use of Public Contribution.**

223 (a) A participating candidate may only use the qualifying contributions and
 224 the matching public contribution for a primary or general election for
 225 expenses incurred for the election.

226 (b) Within 15 days after the County Board certifies the results of the
 227 general election, a participating candidate must return to the Fund any
 228 unspent money in the candidate's publicly funded campaign account.

229 **16-25. Withdrawal.**

230 (a) A certified candidate may withdraw an application for a public
 231 contribution any time before the public contribution is received by the
 232 candidate's publicly funded campaign account.

233 (b) A participating candidate may withdraw from participation if the
 234 candidate:

235 (1) files a statement of withdrawal with the Board on a form
 236 prescribed by the Board; and

237 (2) repays to the Fund the full amount of the public contribution
 238 received, together with the applicable interest established by
 239 regulation.

240 **16-26. Applicant and Participating Candidate Restrictions .**

241 An applicant candidate or a participating candidate must not:

- 242 (a) accept a private contribution from any group or organization, including
- 243 a political action committee, a corporation, a labor organization, or a
- 244 State or local central committee of a political party;
- 245 (b) accept a private contribution from an individual greater than \$150, or
- 246 the maximum amount of a qualifying contribution as adjusted by
- 247 Section 16-23(i);
- 248 (c) be a member of a slate in any election in which the candidate receives a
- 249 public contribution unless all members of the slate are participating
- 250 candidates; or
- 251 (d) transfer funds:
 - 252 (1) to the candidate's publicly funded campaign account from any
 - 253 other campaign finance entity established for the candidate; and
 - 254 (2) from the candidate's publicly funded campaign account to any
 - 255 other campaign finance entity.

16-27. Penalties.

Any violation of this Section is a Class A civil violation. Each day a violation exists is a separate offense.

Sec. 2. Effective Date. This Bill takes effect on January 1, 2015.

Approved:

Craig L. Rice, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Bill 16-14

Elections – Public Campaign Financing

DESCRIPTION: Bill 16-14 would establish a Public Election Fund to provide public campaign financing for a candidate for County Executive and County Council. The Bill would also regulate the campaign finance activity of a candidate who voluntarily accepts public campaign finance.

PROBLEM: State law recently authorized a County to enact a public campaign finance law for the election of County Executive and County Council. Under current law, a candidate for County elective office, who must raise significant amounts of private donations, will often need large donations from businesses and other large organizations to run a campaign.

GOALS AND OBJECTIVES: The goal is to encourage candidates to seek out large numbers of small donations from County residents and open opportunities for more people to run for County elective offices.

COORDINATION: State Board of Elections, Finance, County Attorney

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: Class A civil violation.

HOUSE BILL 1499 (excerpt)

13-505.

- (A) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE GOVERNING BODY OF A COUNTY MAY ESTABLISH, BY LAW, A SYSTEM OF PUBLIC CAMPAIGN FINANCING FOR ELECTIVE OFFICES IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF COUNTY GOVERNMENT.**
- (2) *WHEN ESTABLISHING A SYSTEM OF PUBLIC CAMPAIGN FINANCING FOR ELECTIVE OFFICES IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF COUNTY GOVERNMENT, THE GOVERNING BODY OF A COUNTY SHALL SPECIFY THE CRITERIA THAT IS TO BE USED TO DETERMINE WHETHER AN INDIVIDUAL IS ELIGIBLE FOR PUBLIC CAMPAIGN FINANCING.***
- (B) A SYSTEM OF PUBLIC CAMPAIGN FINANCING ENACTED UNDER SUBSECTION (A) OF THIS SECTION:**
- (1) SHALL PROVIDE FOR PARTICIPATION OF CANDIDATES IN PUBLIC CAMPAIGN FINANCING ON A STRICTLY VOLUNTARY BASIS;**
 - (2) MAY NOT REGULATE CANDIDATES WHO CHOOSE NOT TO PARTICIPATE IN PUBLIC CAMPAIGN FINANCING;**
 - (3) SHALL PROHIBIT THE USE OF PUBLIC CAMPAIGN FINANCING FOR ANY CAMPAIGN EXCEPT A CAMPAIGN FOR COUNTY ELECTIVE OFFICE;**
 - (4) SHALL REQUIRE A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING TO:**

- (I) ESTABLISH A CAMPAIGN FINANCE ENTITY SOLELY FOR THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE; AND
 - (II) USE FUNDS FROM THAT CAMPAIGN FINANCE ENTITY ONLY FOR THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE;
 - (5) SHALL PROHIBIT A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING FROM TRANSFERRING FUNDS:
 - (I) TO THE CAMPAIGN FINANCE ENTITY ESTABLISHED TO FINANCE THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE FROM ANY OTHER CAMPAIGN FINANCE ENTITY ESTABLISHED FOR THE CANDIDATE; AND
 - (II) FROM THE CAMPAIGN FINANCE ENTITY ESTABLISHED TO FINANCE THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE TO ANY OTHER CAMPAIGN FINANCE ENTITY;
 - (6) SHALL PROVIDE FOR A PUBLIC ELECTION FUND FOR COUNTY ELECTIVE OFFICES THAT IS ADMINISTERED BY THE CHIEF FINANCIAL OFFICER OF THE COUNTY; AND
 - (7) SHALL BE SUBJECT TO REGULATION AND OVERSIGHT BY THE STATE BOARD TO ENSURE CONFORMITY WITH STATE LAW AND POLICY TO THE EXTENT PRACTICABLE.
- (C) A SYSTEM OF PUBLIC CAMPAIGN FINANCING ENACTED UNDER SUBSECTION (A) OF THIS SECTION MAY:
- (1) PROVIDE FOR MORE STRINGENT REGULATION OF CAMPAIGN FINANCE ACTIVITY BY CANDIDATES WHO CHOOSE TO ACCEPT PUBLIC CAMPAIGN FINANCING, INCLUDING CONTRIBUTIONS, EXPENDITURES, REPORTING, AND CAMPAIGN MATERIAL, THAN IS PROVIDED FOR BY STATE LAW; AND
 - (2) PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS, IN ACCORDANCE WITH ARTICLE 25A, § 5 OF THE CODE.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

PHIL ANDREWS
COUNCILMEMBER - DISTRICT 3

MEMORANDUM

January 29, 2014

TO: Councilmembers

FROM: Phil Andrews, Councilmember 

SUBJECT: Public financing option for County Council and Executive candidates

Since 2001, the County Council has urged the General Assembly to provide Montgomery County with the authority to adopt campaign finance reforms. In 2013, the General Assembly adopted a bill that enables counties to provide for the option of public financing for county elections beginning with the 2015-18 election cycle. Participation by candidates would be voluntary.

The goals of Bill 16-14, which is attached, are to reduce the influence of big money in County elections, encourage more voters to participate in County elections, and to expand opportunities for more candidates to run for County office who do not have access to big contributions from interest groups or individuals. The bill provides strong incentives for candidates to seek small, individual contributions from County voters.

A summary of the bill's major provisions is attached.

The bill is scheduled for introduction on February 4. Please let me know if you would like to co-sponsor the bill or have any questions or suggestions. I look forward to working with you on this measure.

SUMMARY OF BILL 16-14

Campaign Finance Reform

- Public Election Fund Established

Requirements for Qualifying

- Notice of Intent must be filed by a candidate prior to collecting qualifying money
- Publicly funded campaign account must be established
- Qualifying contribution - a donation of more than \$5.00 but no more than \$150 from a registered voter in Montgomery County
- Qualifying number of contributions – County Executive - 500; Council At-large - 250
Council – District - 125
Qualifying dollar threshold-\$40,000 County Executive; \$20,000 Council At-Large; \$10,000 Council District
- Qualifying timing - beginning 365 days before the primary election and ending 45 days before the primary election

Public Matching Fund Ratios

- Matching dollars - County Executive - \$6 for each dollar of a qualifying contribution received for the first \$50; \$4 for each dollar for the second \$50; \$2 for each dollar for the third \$50
- Matching dollars - County Council - \$4 for each dollar for the first \$50; \$3 for each dollar for the second \$50; \$2 for each dollar for the third \$50

Maximum Limits on Public Funds to a Candidate

- County Executive - \$750,000; Council At-Large - \$250,000; Council District - \$125,000 (matching dollars are not distributed for self/spouse contributions)
- Funding for system from general revenues

Allowable Contributions for Participating Candidates

- System is voluntary for candidates, but candidates who participate must limit their fundraising to individual contributions of \$150 or less except for contributions from the candidate or spouse, which are limited to \$6,000 each. No PAC money, labor organization, corporate money.

Application to Slates

- If a candidate is a member of a slate, all slate members must participate in public funding system for any one of them to qualify

Other Provisions

- Unspent money must be returned to the fund
- Spending and contribution limits would be adjusted for inflation

Effective Date

- System would be effective beginning for the 2015-18 election cycle