

# Racial Equity and Social Justice (RESJ) Impact Statement

## EXPEDITED ELECTIONS — PUBLIC CAMPAIGN FINANCING — BILL 45-21: RESTRICTIONS

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates a minor positive impact of Expedited Bill 41-21 on racial equity and social justice in the County as this bill would provide additional, in-kind resources to publicly financed candidates that available data suggest are disproportionately Black, Indigenous, and Other People of Color (BIPOC).

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### PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF EXPEDITED BILL 45-21

The purpose of Expedited Bill 45-21 is to amend the County's public campaign finance law to allow candidates to accept in-kind contributions valued at up to \$10,000 from a state or County central committee of a political party.<sup>3</sup> Currently, central committees are prohibited from displaying or distributing literature for publicly financed candidates.<sup>4</sup> Expedited Bill 45-21 would carve out an exception to this prohibition that would allow a central committee to display or distribute a publicly financed candidate's literature.<sup>5</sup> Expedited Bill 45-21 would also allow a central committee to make another limited in-kind contribution to a publicly financed candidate if it is valued at \$10,000 or less.<sup>6</sup>

Expedited Bill 45-21 amends the County's Public Campaign Financing Law (Bill 16-14) that was first enacted during the 2018 election cycle.<sup>7</sup> Bill 16-14 authorizes public campaign financing for candidates seeking a County elective office. The overall goals of Bill 16-14 are to encourage greater voter participation in County elections, to increase opportunities for more residents to run for office, and to reduce the influence of large contributions from businesses, political action groups, and other large corporations in County elections.<sup>8</sup> Bill 16-14 has been amended twice since it was enacted with Bills 40-18 and 31-20.<sup>9</sup> Expedited Bill 45-21 was introduced on November 16, 2021.

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### CAMPAIGN FINANCE, POLITICAL REPRESENTATION, AND RACIAL EQUITY

Understanding the impact of Expedited Bill 45-21 on racial equity and social justice requires understanding the historical context that shapes campaign finance and political representation today. To describe this historical context, this section describes the historical drivers of racial inequities in campaign finance and political representation and available data on disparities in political representation by race and ethnicity both nationally and locally.

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**Inequities in Campaign Finance.** The role of campaign finance in contributing to racial inequity is long-standing. Racial inequities in wealth and income created by government were historically used to disenfranchise BIPOC voters especially in the South via poll taxes and other Jim Crow laws. These wealth driven barriers to voting rights for BIPOC have diminished since the Voting Rights Act of 1965. However, the impact of wealth inequities as a driver of disenfranchising BIPOC voters continues today with the reliance on wealthy donors to fund campaigns for elected office.<sup>10</sup>

Candidates for public office must often rely on large donations from a small group of people to run and win competitive elections. In turn, the interests of large donors — of disproportionately White, wealthy, and male benefactors — are often represented by elected officials more than the interests of lower-income and BIPOC residents.<sup>11</sup> Research shows that 90 percent of campaign donors are wealthy, white, and male.<sup>12</sup>

Candidates backed by the rich may support policies that undermine progress on racial equity, like mass incarceration or bank deregulation that enables predatory lending.<sup>13</sup> Conversely, the power of people without much money wanes as their interests are less represented among candidates disproportionately funded by wealthy White donors.<sup>14</sup> BIPOC candidates without access to the rich donor networks are less likely to run; the candidates that do run and win are less responsive to the policies and priorities of BIPOC communities that include criminal justice reform and eliminating racial inequities in economic opportunity, health, housing, and education.<sup>15</sup>

In short, the political system's reliance on donations for campaigns entrenches political inequity for BIPOC residents. BIPOC candidates and residents are especially harmed because they are less likely to have the same resources to fund political campaigns as White candidates, residents, and corporations. As a result, lawmakers may be more responsive to the policy priorities of the donor class than they are to ordinary people, leaving unaddressed the priorities and policy concerns of BIPOC communities and low- and middle-income communities of any race or ethnicity.<sup>16</sup>

To limit the influence of wealth in campaign finance and elections, public campaign financing can help enhance the political voice and power of working-class people and people of color.<sup>17</sup> Public campaign financing, also known as small donor financing, is a system in which public funds match and multiply small donations.<sup>18</sup> Reducing the influence of special interests, empowering the average voter, incentivizing candidates to seek out many supporters rather than a few big donors, enabling candidates from more diverse backgrounds to run, and amplifying the voices of regular people have been identified as benefits of public campaign financing programs.<sup>19</sup>

**Inequities in Political Representation.** Since 1965, the number of elected officials of color has grown. African Americans went from holding fewer than 1,000 elected offices nationwide to more than 10,000, Latinos from a small number of offices to over 6,000, and Asian Americans from under one hundred documented cases to almost 1,000.<sup>20</sup> People of color, however, remain underrepresented in elected office due in part to the role of wealth in campaign financing. In turn, BIPOC power and interests are diminished in the political sphere and BIPOC despite the Voting Rights Act. The under-representation of BIPOC residents among elected officials is especially acute for Asian Americans. In 2020:<sup>21</sup>

- Asian Americans represented 0.9 percent of elected offices compared to 6.1 percent of the U.S. population.
- Latinx residents represented 3.3 percent of elected offices compared to 18.5 percent of the U.S. population.
- Native Americans represented 0.4 percent of elected offices compared to 1.3 percent of the U.S. population.
- African Americans represented 7.6 percent of elected offices compared to 13.4 percent of the U.S. population.
- White Americans represented 87.5 percent of elected offices compared to 60.1 percent of the U.S. population.

Of note, the over-representation of White people among elected officials in the U.S. is driven by the over-representation of White men in elected office. Whereas, in 2019,<sup>22</sup>

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- White men accounted for 62 percent of elected officials compared to 30 percent of the U.S. population.
- White women accounted for 27 percent of elected officials compared to 31 percent of the U.S. population.
- Men of color accounted for 7 percent of elected officials compared to 19 percent of the U.S. population.
- Women of color accounted for 4 percent of elected officials compared to 20 percent of the U.S. population.

The representation of White men among elected officials varies by level of government: they accounted for 63 percent of members of Congress compared to 54 percent of statewide office holders in 2019.<sup>23</sup> The proportion of elected positions held by White women and BIPOC men and women also varied with the latter having the lowest levels of representation among County level offices. More specifically, representation among elected officials for:<sup>24</sup>

- White women ranged from 15 percent (Congressional offices) to 30 percent (Statewide offices).
- Men of color ranged from 6 percent (County level offices) to 13 percent (Congressional offices).
- Women of color ranged from 4 percent (County level offices) to 9 percent (Congressional offices).

Because of the historical barriers faced by women and people of color in politics, most incumbent officeholders are White men.<sup>25</sup> The power of incumbency rather than electability is viewed as a driver of the current skew by race, ethnicity, and gender in political representation.<sup>26</sup> Of note, across all levels of office, 96 percent of incumbents won their 2020 primaries.<sup>27</sup> Moreover, in Congress, 97 percent of Congressional incumbents won their 2020 primaries.<sup>28</sup>

**Local Data on Public Financing and Representation.** The demographics of Montgomery County Council members suggest that public financing has enhanced the representation of BIPOC residents among elected officials. Since the 2018 election, Montgomery County has offered a public campaign financing system for County Executive and Council candidates. Currently, contributions from County residents are eligible for matching funds as follows:<sup>29</sup>

- County Executive candidates: \$6 for each dollar for the first \$50 of qualifying contributions received, \$4 for each dollar for the second \$50, and \$2 for each dollar for the third \$50.
- County Council candidates: \$4 for each dollar for the first \$50 of qualifying contributions received, \$3 for each dollar for the second \$50, and \$2 for each dollar for the third \$50.

The maximum limits on public funds for either the primary election or the general election are \$750,000 for a County Executive candidate, \$250,000 for a Council at-large candidate, and \$125,000 for a district Council candidate.<sup>30</sup> Of note, during the 2018 election cycle:<sup>31</sup>

- 68 candidates ran for either County Executive or County Council. Of the 38 candidates that indicated their intent to use public financing, 23 candidates obtained public financing.
- Two-thirds of Councilmembers that won an elected office in 2018 chose public financing.
- During the primary election, one County Executive Candidate, two Council At-Large candidates, and two Council District candidates obtained the maximum allowable in matching funds.

Like national norms, White men were over-represented among Council candidates, including those that received public financing in 2018. More specifically, among 19 Council candidates with public financing in 2018:<sup>32</sup>

- White men accounted for 47 percent of candidates compared to 24 percent of County residents.<sup>33</sup>
- White women accounted for 16 percent of candidates compared to 25 percent of County residents.<sup>34</sup>
- Men of color accounted for 21 percent of candidates compared to 25 percent of County residents.<sup>35</sup>

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- Women of color accounted for 16 percent of candidates compared to 26 percent of County residents.<sup>36</sup>

But unlike national norms, there was racial parity in at-large Councilmembers elected in 2018 in Montgomery County with public campaign financing. In 2018, White residents accounted for half of the at-large members compared to 49 percent of the County's population in 2010, and BIPOC residents accounted for the other half of at-large members compared to 51 percent of County residents.<sup>37</sup> This compares to the 2014 election where White residents accounted for 100 percent of at-large members.<sup>38</sup> The shift in diversity among at-large members between 2014 and 2018 suggests that public financing has the potential to enhance the representation of BIPOC residents as elected in the County.

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## ANTICIPATED RESJ IMPACTS

If enacted, Expedited Bill 45-21 will bolster the support available to publicly financed candidates by enabling them to receive up to \$10,000 in kind contributions from central committees. While any publicly financed candidate will be able to receive this benefit, available data suggest that this change in the law could especially benefit BIPOC candidates since public financing may increase the racial and ethnic diversity of candidates seeking elected office.

Overall, Expedited Bill 45-21 may increase the competitiveness of publicly funded candidates relative to traditionally funded candidates. This bill may also help increase the number of candidates that seek office with public financing. Increasing the number of candidates seeking public financing, and potentially the number of BIPOC candidates seeking office, increasing the possibility that elected officials will be responsive to the needs of BIPOC residents and communities. As such, OLO finds that Expedited Bill 45-21 could potentially improve racial equity and social justice in the County because it could help increase the number of elected officials that are responsive to concerns of BIPOC residents and low- and middle-income residents more broadly.

Further, OLO finds that Expedited Bill 45-21 could especially improve RESJ if central committees awarded in-kind contributions enabled under this legislation to all publicly financed candidates rather than just to incumbents since historically, most incumbents have been White males. Yet, given the limited size of the in-kind contribution allowed under this bill, OLO anticipates an at best a minor impact of Expedited Bill 45-21 on RESJ in the County.

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## RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>39</sup> OLO finds that Bill 45-21 could narrow racial and ethnic inequities in political representation, particularly if central committees made in-kind contributions to all publicly financed candidates, not solely incumbents. Consequently, this RESJ impact statement does not offer recommendations.

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## CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> Montgomery County Council, Expedited Bill 45-21, Elections – Public Campaign Financing – Restrictions – Introduced, November 16, 2021

<sup>4</sup> Christine Wellons, Memorandum to County Council on Expedited Bill 45-21, November 10, 2021

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Public Campaign Financing, Montgomery County Council

<sup>8</sup> Ibid

<sup>9</sup> Amanda Mihill, Memorandum to County Council on Bill 31-20, Public Campaign Financing – Amendments, October 1, 2020

<sup>10</sup> Emily Badger, Why big spending on political campaigns makes racial inequality worse. The Washington Post, December 14, 2014 <sup>11</sup>

Ibid

<sup>12</sup> Amshula Jayaram, How Can New York Advance the Cause of Racial Justice? Start with Fair Elections, Demos.org, February 13, 2018 <sup>13</sup> Adam Lioz, Stacked Deck: How the Racial Bias in Our Big Money Political System Undermines Our Democracy and Our Economy, Demos

<sup>14</sup> Ibid

<sup>15</sup> Ibid

<sup>16</sup> Amshula Jayaram

<sup>17</sup> Demos, Designing Public Financing Systems to Advance Equity and Independent Political Power, 2016

<sup>18</sup> Brennan Center for Justice, Public Campaign Financing, Why It Matters?

<sup>19</sup> Ibid

<sup>20</sup> Khalilah Brown-Dean, Zoltan Hajnal, Christina Rivers and Ismail White, 50 Years of the Voting Rights Act: The State of Race in Politics, Joint Center for Political and Economic Studies, 2015

<sup>21</sup> Reflective Democracy Campaign, #Advance AAPI Power: Asian American Pacific Islander Leadership, May 2021

<sup>22</sup> Reflective Democracy Campaign, The Electability Myth: The Shifting Demographics of Political Power in America, June 2019

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> Reflective Democracy Campaign, System Failure: What the 2020 Primary Elections reveal about of democracy, May 2021

<sup>26</sup> Ibid

<sup>27</sup> Ibid

<sup>28</sup> Ibid

<sup>29</sup> Public Campaign Financing, Montgomery County Council

<sup>30</sup> Ibid

<sup>31</sup> Amanda Mihill

<sup>32</sup> See Fiscal Impact Statement for Bill 31-20 attached to Amanda Mihill memorandum for data.

<sup>33</sup> Candidates counted are Hans Riemer, Chris Wilhelm, Bill Conway, Evan Glass, Seth Grimes, Ed Amatetti, Sidney Katz, Jim McGee, and Kevin Harris.

<sup>34</sup> Candidates counted are Danielle Meitiv, Jill Ortman-Fouse, and Reggie Oldak.

<sup>35</sup> Candidates counted are Will Jawando, Hoan Dang, Mohammad Siddique, and Gabe Albornoz.

<sup>36</sup> Candidates counted are Brandy Brooks, Nancy Navarro, and Ana Sol Gutierrez.

<sup>37</sup> Evan Glass and Hans Riemer counted as White at-large members; Will Jawando and Gabe Albornoz counted as BIPOC at-large members

<sup>38</sup> In 2014, the elected at-large Council members were Nancy Floreen, George Leventhal, Marc Elrich, and Hans Riemer

<sup>39</sup> Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established