



**MEMORANDUM**

September 26, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney   
Josh Hamlin, Legislative Attorney 

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

<b>Government Operations and Fiscal Policy Committee recommendation (3 - 0): approve the Bill with amendments.</b>
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Bill 16-14, Elections – Public Campaign Financing, sponsored by Councilmembers Andrews, Elrich, Berliner, Riemer, Council Vice President Leventhal, Council President Rice, Councilmembers Navarro, Floreen, and Branson was introduced on February 4. A public hearing was held on March 4 and Government Operations and Fiscal Policy Committee worksessions were held on March 20 and September 15.

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 ©15-16.

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 ©17 and summarized the components of the Bill at ©18.

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 a Public Election Fund and distributing the public contributions to certified candidates. The Council would have to appropriate funds for the Public Election Fund.

A candidate would need to obtain a specific number of small contributions from a County resident of between \$5 and \$150 in order to qualify for public funding. Each of these qualifying contributions must be received within 365 days before the primary election and at least 45 days before the primary. A candidate for Executive would need to collect at least 500 qualifying contributions and an aggregate total of at least \$40,000 to qualify. A candidate for At-Large Councilmember would need 250 qualifying contributions and an aggregate total of at least \$20,000. A candidate for District Councilmember must collect at least 125 qualifying contributions and an aggregate total of at least \$10,000.

A candidate for Executive certified to receive public funding would be eligible for a matching contribution of \$6 for each dollar of a qualifying contribution for the first \$50 of the contribution; \$4 for each dollar of the second \$50; and \$2 for each dollar of the third \$50. The match for a candidate for Councilmember would be \$4 for each dollar of the first \$50, \$3 for each dollar of the second \$50, and \$2 for each dollar of the third \$50. Therefore, a candidate for Executive who collects 3 qualifying contributions of \$50 would receive \$900 in matching funds and a candidate who collects 1 qualifying contribution of \$150 would receive \$600 in matching funds. The maximum public contribution for a candidate for Executive would be \$750,000 for the primary and \$750,000 for the general election. The maximum public contribution for each election for At-Large Councilmember would be \$250,000 and the maximum public contribution for each election for District Councilmember would be \$125,000.

A candidate who voluntarily accepts a public contribution must pay for all campaign expenses with the qualifying contributions, the matching public contributions, and a personal loan from the candidate and the candidate's spouse of no more than \$6000 from each.

### **Public Hearing**

The Council's Government Operations and Fiscal Policy Committee held a public hearing on March 4. Each of the speakers representing an organization supported the Bill. Finance Director Joseph Beach, testifying on behalf of the Executive, (©26), Kate Waybright, Progressive Maryland (©27), Jennifer Bevan-Dangel, Common Cause Maryland (©28), Toni Holness, ACLU of Maryland (©29), William Roberts, Montgomery County Young Democrats (©30-32), Ronald Levin, Sierra Club of Montgomery County (©33-34), Brian Doherty, Progressive Neighbors (©35), and Shelley Sherman, USAction (©36), each supported the Bill. Tom Moore (©37-38), Marc Korman (©39-40), Evan Glass (©41), Dan Furmansky (©42-43), Natali Fani-Gonzalez (©44), Armin Behr (©45), Beth Allen (©46), and Alan Hyman (©47-48) also supported the Bill as individuals. Ralph Watkins (©49) opposed the Bill as an ineffective use of taxpayer money. Mr. Watkins suggested public money be used for voter services to explain candidates' positions on important issues, such as sending out a sample ballot with position statements written by each candidate.

### **March 20 GO Committee Worksession**

Councilmember Andrews attended the worksession. Council President Rice and Council Vice President Leventhal attended part of the worksession. Robert Hagedoorn, Finance, represented the Executive Branch. Jared DeMarinis, Director of Candidacy and Campaign Finance for the State Board of Elections answered questions from the Committee.

The Committee discussed the Bill and how the public campaign finance system would work. The Committee asked the Council staff to work with Finance and the SBOE to answer the Committee's questions concerning expenditures by independent political committees, slates, funding, and how to limit matching dollars when funding is insufficient.

### **September 15 GO Committee Worksession**

Councilmember Andrews and Council Vice President Leventhal attended the worksession. Council President Rice and Councilmember Elrich attended part of the worksession. Robert Hagedoorn, Finance, represented the Executive Branch. Jared DeMarinis, Director of Candidacy and Campaign Finance for the State Board of Elections answered questions from the Committee.

The Committee discussed the Bill and how the public campaign finance system would work. The Committee approved the Bill (3-0) with the following amendments:

1. prohibit loans from anyone other than the candidate or the candidate's spouse;
2. require the Director of Finance to determine if there is enough money in the Fund by July 1 before the primary;
3. establish an independent citizen committee to recommend funding;
4. direct complaints about receipt or use of contributions to the State Board and require candidates to permit the Board to access their financial records;
5. prohibit a participating candidate from joining a slate;
6. 2 technical amendments;
7. permit digital signatures;
8. require CPI adjustments made to nearest \$10 and only done every 4 years;
9. matching dollars after \$100 would be matched at 2-1 after a CPI adjustment;
10. require the Executive to submit the first regulation 180 days after the Act takes effect;
11. prohibit a match for in-kind contribution;
12. delete the requirement that a qualifying contribution be obtained with knowledge and approval of a candidate;
13. prohibit a candidate from pre-paying expenses with other funds for use after certification unless permitted by regulation; and
14. permit qualifying contributions for matching from an individual instead of a registered County voter, but require all qualifying contributions used for certification to come from a County resident.

## **Issues**

### **1. What is the fiscal and economic impact of the Bill?**

The Bill contains 2 different cost generators. First, OMB estimated that administering and reconciling the Public Election Fund would require ½ of the time of a contractual Accountant/Auditor in the Department of Finance at a recurring cost of \$33,700. See (©20-21). The other cost generator would be the funds necessary to properly fund the Public Election Fund. The actual cost of the public contributions distributed to candidates depends upon the number of candidates participating and the success of those candidates in collecting qualifying contributions. OMB estimated that if each candidate for County office in 2010 had participated in public funding under this Bill and received the maximum publicly funded match for both the primary and the general election, the Fund would have paid out \$9,625,000. See (©25). The maximum cost for the 2006 election cycle would have been \$13 million.

It is unlikely that an election cycle would reach the maximum cost estimated by OMB. Also, public contributions, absent a special election, would only be distributed every 4<sup>th</sup> year. Finally, a candidate must return any unspent money in the candidate's publicly funded campaign account to the Fund after the person is no longer a candidate. Despite these mitigating factors, the public contributions distributed to candidates in an election cycle could be substantial. Although this cost could be reduced by reducing the matching dollars in the Bill, the system must provide enough matching funds to run a creditable campaign or candidates will be discouraged from using it. Maryland Common Cause prepared an estimate of the matching dollars that would have been paid to candidates in the June 2014 primary election for Executive and Council if the Bill had been in effect and each candidate who qualified accepted a public contribution. Common Cause estimated that the County would have paid approximately \$2.5 million in matching funds in this primary election. See ©60-63.

The most responsible method of paying for these costs would be to appropriate money for the Fund annually, beginning with the first year after the Bill is enacted.

### **2. Should the Bill prohibit loans from people or organizations other than the candidate or the candidate's spouse?**

The Bill does not permit or prohibit a candidate from accepting a loan from someone else that is greater than \$150. The State Election Law permits a candidate to accept a loan from anyone in any amount with certain restrictions. The creditor must charge interest at the prime rate or the lack of interest is considered a separate contribution. The loan must also have a repayment schedule. If the candidate does not pay back the loan, it is considered a contribution. See the SBOE Guidelines for Loans at ©50-51.

The purpose of Bill 16-14 is to restrict participating candidates to accepting only small contributions from individuals and matching those contributions received from a County resident. The candidate can only use money deposited in the candidate's publicly funded campaign account for campaign expenses and must return any unspent money at the end of the

election. A candidate would also be prohibited from using the public contribution received to pay back the loan. Since failure to repay the loan makes it a contribution under State Election Law, the result is likely to be the receipt of a contribution greater than \$150. In order to protect the integrity of the publicly funded system, the Bill should prohibit a loan to the candidate from anyone other than the candidate or the candidate's spouse.

**Committee recommendation (3-0):** prohibit loans from people or organizations other than the candidate or the candidate's spouse. See lines 116-118 at ©6 and lines 285-286 at ©12.

### **3. How should the Director of Finance limit distributions if the amount available in the Fund is insufficient?**

The Bill (see lines 212-216 at ©10) would require the Director to reduce each public contribution to a certified candidate by the same percentage if there are insufficient funds. Finance Director Joseph Beach suggested, in his testimony, that the Bill be amended to clarify the order of priority of distributions if there are insufficient funds. Although the Bill would require equal reductions, a candidate who was certified early in the process may receive more funding per qualifying contribution than a candidate certified later after the Fund is drawn down.

One alternative is to establish a date certain before the primary for the Director to decide if the amount in the Fund is sufficient to provide a full match to all candidates. With the primary election currently scheduled for June, the full amount of appropriations to the Fund should be known after the fiscal year budget resolution is approved in May of the preceding year. The Director could estimate the maximum public distribution necessary based upon the number of candidates who participated during the preceding election cycle and announce percentage reductions, if any, on or before July 1 of the preceding year. Although this determination would be speculative for the first election cycle after the Bill is enacted, it would become easier to estimate after the system has been in operation for future election cycles.

**Committee recommendation (3-0):** require the Director of Finance to determine if there is enough money in the Fund by July 1 before the primary. See lines 209-212 at ©9.

### **4. Should the Bill establish an independent citizen committee to recommend an annual appropriation for the Fund?**

Although the Council establishes the salary for the Executive, Councilmembers, the Sheriff, and the State's Attorney by law, the Council receives recommendations from an independent citizen committee before enacting the law setting salaries for these elected officials. A similar independent citizen committee could be established to recommend an appropriation to the Fund each year to the Executive and the Council before the operating budget is approved. Councilmember Navarro introduced an amendment to do this.

**Committee recommendation (3-0):** amend the Bill to establish an independent citizen committee to recommend to the Council an annual appropriation for the Fund. See lines 292-310 at ©12-13.

**5. Should the Bill direct complaints alleging violations of the law to the State Board of Elections?**

The Campaign Finance Reform Act of 2013 requires that a County enacted public campaign financing system be regulated by the State Board of Elections (SBOE). The SBOE is responsible for investigating and enforcing the State campaign finance laws. Finance Director Joseph Beach suggested, in his testimony, that the Bill be amended to clarify that all complaints alleging illegal uses of the public contribution be filed with the independent SBOE. An incumbent County Executive running for reelection would have a fatal conflict of interest if required to investigate and enforce these types of alleged violations by another candidate. **Committee recommendation (3-0):** direct complaints about receipt or use of contributions to the State Board and require candidates to permit the Board to access their financial records. See lines 255-259 at ©11.

**6. Is the Bill consistent with the proposed regulations of the State Board of Elections?**

The SBOE adopted regulations governing the establishment and operation of a County public campaign finance system. These regulations are at ©52-53. The SBOE requires each County to submit its public campaign finance law to the Board for approval. According to the Board's staff, Montgomery County is the first county in the State to propose legislation establishing a public campaign finance system in the State. The current regulation prohibits a participating candidate from joining a slate. The Bill would permit a participating candidate to join a slate if each member of the slate is also a participating candidate.

**Committee recommendation (3-0):** prohibit a participating candidate from joining a slate and add a definition of a slate based upon State law. See lines 282-284 at ©12 and lines 92-93 at ©5.

**7. Technical amendments.**

Council staff recommends the following technical amendments:

*Amend lines 75-77 at ©4 as follows:*

Publicly funded campaign account means a campaign finance account established by a candidate for the exclusive purpose of receiving qualifying contributions and

*Amend lines 312-313 at ©13 as follows:*

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

**Committee recommendation (3-0):** approve the technical amendments. See line 75 at ©4 and line 312 at ©13.

## **8. Digital signatures.**

The Bill requires a contributor to sign a receipt for a qualifying contribution, but is silent as to the acceptance of a digital signature. A solicitation through electronic mail or websites is common in today's society. Although this can be resolved by regulation, the Committee may want to consider expressly permitting a digital signature on the receipt. However, in today's changing world of technology, the type of electronic signature permitted may be better addressed by regulation.

**Committee recommendation (3-0):** expressly permit a digital signature using a method approved by the Board. See lines 86-87 at ©5.

## **9. CPI adjustments.**

The Bill provides for an annual CPI adjustment to the \$150 contribution limit to the nearest multiple of 5 cents. The Bill also provides for an annual CPI adjustment to the public contribution limits for each office to the nearest multiple of 5 cents. This calculation will result in a difficult to remember contribution limit stated in both dollars and cents. One possibility would be to adjust the limits to the nearest multiple of \$10 to keep to whole numbers.

Annual adjustments to the contribution limits could result in different contribution limits for each year of the same election cycle. If the Committee decides that this adjustment should be made only one time each election cycle to avoid confusion, the Bill could be amended to require the CPI adjustment to be made only one time at the beginning of each election cycle.

**Committee recommendation (3-0):** adjust the limits to the nearest \$10 and make the adjustment one time every 4 years. See lines 121-128 at ©6 and 238-246 at ©10-11.

## **10. Matching dollars after a CPI adjustment.**

For County Executive, the Bill establishes a \$6 match for each dollar of the first \$50 of a qualifying contribution, \$4 for each dollar of the second \$50, and \$2 for each dollar of the third \$50. Although this works well when the qualifying contribution limit is \$150, once it is adjusted for an increase in the CPI, the math no longer works. Council staff recommends that the Bill be amended to require the \$2 match to cover the remaining amount of the contribution. Therefore, if the limit is raised to \$160, the first \$50 would receive \$300, the second \$50 would receive \$200, and the remaining \$60 would receive \$120. The same change should be made for Council candidates.

**Committee recommendation (3-0):** amend the Bill to require the \$2 match to cover the remaining amount of the contribution after \$100. See lines 186 and 194 at ©8-9.

## **11. Deadline for the initial regulations.**

The Bill requires the Executive to adopt regulations after consulting with the Board to implement the Bill. It is important that the initial regulations are adopted by the Executive and approved by the Council before candidates start collecting qualifying contributions in the next election cycle. The Committee may want to consider adding uncoded language to the Bill

requiring the Executive to submit the initial regulations to the Council on or before a date certain.

**Committee recommendation (3-0):** require the Executive to submit the first regulation 180 days after the Act takes effect. See lines 314-316 at ©13.

**12. Should a qualified candidate be able to receive a match from qualifying donations received before the candidate applies for public funding?**

Many candidates solicit and receive campaign contributions before the one-year qualifying period. The Bill would not permit a certified candidate to receive a match for a contribution of \$150 or less received during the election cycle, but before the qualifying period. The State law authorizing the County to enact a public campaign finance law requires the County law to:

*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; See ©16.*

Pursuant to State law, a qualifying contribution must be deposited directly into the candidate's publicly funded campaign account in order to be eligible for a match and cannot be transferred into this account from another account established by the candidate. Once the candidate establishes a publicly funded campaign account and files a notice of intent with the Board to seek public financing, the applicant candidate must cease all campaign finance activity using any other authorized campaign committee affiliated with the candidate.

If the Committee wants to expand the opportunity to solicit and receive qualifying contributions, the Bill could be amended to expand the qualifying period beyond one year. This could be done by amending the definition of the qualifying period on lines 88-91 of the Bill as follows:

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

If the Council decides to expand the qualifying period, the Bill could also be amended to restrict the distribution of matching funds to the one-year period before the primary election in order to ensure that public funding is only used in the last year of the election cycle.

Some Committee members felt that restricting the qualifying period to one year would benefit all candidates (and voters) by helping to limit the time a candidate needs to spend soliciting contributions and campaigning.



**Committee recommendation (2-1, Councilmember Riemer wanted to extend the qualifying period to 4 years):** do not extend the qualifying period.

**13. Should in-kind contributions be eligible for matching funds?**

The Bill is designed to encourage a candidate to solicit small dollar donations from County voters by offering matching public funds for each qualifying contribution. It is unclear if an in-kind contribution valued at less than \$150 would also be eligible for a match. If the Committee wants to prohibit a match for an in-kind contribution, it could be clarified in the Bill.

**Committee recommendation (3-0):** prohibit a match for an in-kind contribution. See line 204 at ©9.

**14. Should the Bill expressly permit a candidate's designee to obtain a qualifying contribution?**

It is unreasonable to require a participating candidate to personally obtain each qualifying contribution. Council staff does not believe the Bill requires this.

**Committee recommendation (3-0):** delete the requirement that a qualifying contribution be obtained through efforts made with the knowledge and approval of the applicant.

See lines 83-85 at ©5.

**15. How has public campaign financing worked in other States?**

One of the goals of public campaign financing is to increase the participation of local residents in elections by encouraging candidates to solicit small dollar contributions from local residents. New York City has enacted a 6-to-1 match for the first \$175 contributed by a city resident to a City Council candidate who voluntarily participates in public funding. The Brennan Center at New York University Law School and the Campaign Finance Institute jointly studied the effect of the New York City public campaign finance law on the diversity of small donor contributors. The study compared the contributors to City Council campaigns with the contributors to State Assembly candidates where there is no public campaign financing. The study found that small donors to City Council campaigns came from 90% of the City's census blocks. In contrast, small donors to State Assembly campaigns came from only 30% of the City's census blocks. The Executive Summary for the Brennan Center Study is at ©54-59.

**16. What are the various combinations of qualifying contributions that must be obtained to be certified?**

The Office of Legislative Oversight (OLO) has developed a calculator that computes the matching funds a candidate would receive under the provisions of Bill 16-14. Upon entering data on the number and amount of contributions received by a candidate, the calculator returns the total amount raised by the candidate and the amount of matching funds the candidate would receive. The calculator performs different calculations for County Executive, At Large County Council, and District County Council candidates based on the matching fund requirements

specified in Bill 16-14. OLO can give a brief demonstration of the calculator at the Council meeting.

**17. Should a candidate be permitted to pre-pay expenses with other sources of income before applying for certification?**

The intent of the Bill is to prohibit a candidate from using campaign funds from a campaign account other than the public campaign account set up to qualify for public funding. However, the Bill does not expressly prohibit a candidate from pre-paying for goods and services with funds from other sources before applying for certification. Using these pre-paid goods and services after the candidate applies for certification would violate the spirit and intent of the Bill. However, there are certain expenditures for services, such as creating a website, which may be paid for before a candidate applies for certification yet still used after certification. The Committee may want to provide for exceptions to this rule adopted by regulation.

Councilmember Riemer introduced an amendment to prohibit this practice.

**Committee recommendation (3-0):** approve the Riemer amendment. See lines 250-254 at ©11.

**18. Should the requirement that a qualifying contribution be from a registered voter of the County be changed to a County resident or any individual?**

The Bill would require all qualifying contributions to be received from a registered voter of the County. The Committee discussed whether that was too restrictive. Opening up qualifying contributions to any County resident may increase the likelihood that a candidate would seek public funding since there are many County residents who are not eligible to vote or who are not registered to vote. Opening up matches for small dollar contributions from any individual would permit candidates to leverage small dollar contributions from outside the County. However, expanding the pool of qualifying contributors beyond registered voters of the County could result in public funding for a candidate that does not have significant support from the people who are eligible to vote for the candidate. Matching contributions from non-County residents could result in a candidate who has little support in the County receiving public funding.

Jared DeMarinis 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. The Board could still investigate a complaint that a candidate submitted a qualifying contribution from a non-County resident after the fact. The Committee discussed this issue at length.

Councilmember Riemer introduced an amendment that would permit a qualifying contribution to come from any individual for matching, but require a candidate to receive the required number of qualifying contributions for certification only from County residents.

**Committee recommendation (2-1, Councilmember Branson opposed):** approve the Riemer amendment. See lines 80 at ©4 and 130-142 at ©6-7.

**19. Should the \$150 maximum contribution be in the aggregate for the entire 4-year election cycle?**

The Bill is unclear if the \$150 maximum contribution applies in the aggregate to the entire 4-year election cycle or only during the qualifying period. For example, can a candidate accept a \$150 contribution during the qualifying period from an individual who contributed \$150 to the candidate the year before the qualifying period? Council staff believes the original intent of the Bill was to apply the \$150 maximum in the aggregate during the entire 4-year election cycle. If the Council wants to clarify this, the Bill could be amended as follows:

*Amend lines 78-79 at ©4 as follows:*

Qualifying contribution means [[a]] an aggregate donation in a 4-year election cycle of at least \$5.00 but no more than \$150.00 in support of an applicant candidate that is:

*Amend lines 207-208 at ©9 as follows:*

A qualifying contribution must not exceed \$150 from any individual in the aggregate during [[an]] a 4-year election cycle.

*Amend lines 279-281 at ©12 as follows:*

(b) accept [[a]] private [[contribution]] contributions from an individual in an aggregate greater than \$150, or the maximum amount of a qualifying contribution, as adjusted by Section 16-23(i), during a 4-year election cycle;

**20. Should a candidate have more than 15 days to return unspent money after an election?**

After the last Committee meeting, Jared DeMarinis, Director of Candidacy and Campaign Finance for the State Board of Elections, suggested to Council staff that 15 days may not be a reasonable time period for a candidate to account for all expenses and return unspent money after an election. Mr. DeMarinis suggested changing this to 30 days. This could be done by the following amendment:

*Amend lines 222-228 at ©10 as follows:*

(f) Within [[15]] 30 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election must return any unspent money in the candidate's publicly funded campaign account to the Fund. Within [[15]] 30 days after the County Board certifies the results of the general election, a participating candidate must return any unspent money in the candidate's publicly funded campaign account to the Fund.

*Amend lines 260-262 at ©11 as follows:*

- (d) Within [[15]] 30 days after the County Board certifies the results of the general election, a participating candidate must return to the Fund any unspent money in the candidate's publicly funded campaign account.

**21. Should the Bill be amended to clarify that an applicant or participating candidate must not pay for campaign expenses from any source other than the candidate's publicly financed campaign account?**

The intent of the Bill is to require a candidate who voluntarily enters the system to make all expenditures for campaign expenses from the candidate's publicly funded campaign account. Despite this intent, the Bill is subject to an interpretation that a candidate can use another source of funds to pay campaign expenses. Councilmember Floreen may introduce the following amendment to clarify this point:

*Add a new paragraph after line 281 at ©12 as follows:*

- (c) must not pay for any campaign expense with funds from any campaign finance account other than the candidate's publicly funded campaign account;

**22. Should the Bill permit a participating candidate to solicit and accept qualifying contributions up to the primary or the general election, instead of until 15 days before the primary or general election?**

The Bill would prohibit a participating candidate from soliciting or accepting a qualifying contribution within 15 days before a primary or general election. The Board is unlikely to be able to authorize a match during this 15-day period. However, a candidate may have incurred campaign expenses that could still be paid through contributions and matching funds received after the primary or general election. Councilmember Floreen may introduce an amendment to permit contributions up to the primary or the general election as follows:

*Amend lines 205-207 at ©9 as follows:*

- (c) A certified candidate may continue to collect qualifying contributions and receive a matching public contribution up to [[15 days before]] a primary or a general election.

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Bill No. 16-14  
Concerning: Elections – Public  
Campaign Financing  
Revised: September 23, 2014 Draft No. 18  
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

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

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**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

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

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

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

**16-17. Council vacancy - election required.**

\* \* \*

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

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

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

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

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

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

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

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

\* \* \*

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

**Article IV. Public Campaign Financing.**

**16-18. Definitions.**

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

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

*Board* means the Maryland State Board of Elections.

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

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

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

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

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

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

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



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

County Board means the Montgomery County Board of Elections.

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

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

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

Fund means the Public Election Fund.

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

- (1) chooses not to apply to be a certified candidate; or
- (2) applies to be a certified candidate but fails to qualify.

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

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

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

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

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

- (1) made by [[a registered voter of the County]] an individual;

- (2) made after the beginning of the designated qualifying period, but no later than 15 days before the election; and
- (3) [[obtained through efforts made with the knowledge and approval of the applicant candidate; and
- (4)] acknowledged by a receipt that identifies the contributor's name and residential address and signed by the contributor directly or by a digital signature using a method approved by the Board.

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

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

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

- (a) The Director must create a Public Election Fund. This Fund is continuing and non-lapsing.
- (b) The Fund consists of:
  - (1) all funds appropriated to it by the County Council;
  - (2) any unspent money remaining in a certified candidate's publicly funded campaign account after the candidate is no longer a candidate for a covered office;
  - (3) any public contribution plus interest returned to the Fund by a participating candidate who withdraws from participation;
  - (4) all interest earned on money in the Fund; and
  - (5) voluntary donations made directly to the Fund.

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

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

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

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

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

(c) [[Annual]] Consumer Price Index adjustment. The Chief Administrative Officer must adjust the contribution limit established in Subsections (b), effective July 1, [[2016]] 2018, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar [[year]] years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of [[5 cents]] 10 dollars, and must publish the amount of this adjustment not later than March 1 of each fourth year.

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

(a) To qualify as a certified candidate:

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

(A) 500 qualifying contributions; and

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

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

(A) 250 qualifying contributions; and

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

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

(A) 125 qualifying contributions; and

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

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

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

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

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

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

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

(4) other policies necessary to implement this Article.

## **16-22. Board Determination.**

(a) The Board must certify an applicant candidate if the Board finds that the candidate has received the required number of qualifying contributions

and the required aggregate total dollars for the office no later than 10 business days after receiving:

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

(2) a campaign finance report that includes:

(A) a list of each qualifying contribution received;

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

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

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

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

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

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

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

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

(A) \$6 for each dollar of a qualifying contribution received for the first \$50 of each qualifying contribution;

(B) \$4 for each dollar of a qualifying contribution received for the second \$50 of each qualifying contribution; and

(C) \$2 for each dollar of a qualifying contribution received for the [[third \$50]] remainder of each qualifying contribution.

(2) for a certified candidate for County Council, the matching dollars must equal:

(A) \$4 for each dollar of a qualifying contribution received for the first \$50 of each qualifying contribution

(B) \$3 for each dollar of a qualifying contribution received for the second \$50 of each qualifying contribution; and

(C) \$2 for each dollar of a qualifying contribution received for the [[third \$50]] remainder of each qualifying contribution.

(3) The total public contribution payable to a certified candidate for either a primary or a general election must not exceed:

(A) \$750,000 for a candidate for County Executive;

(B) \$250,000 for a candidate for At Large Councilmember; and

(C) \$125,000 for a candidate for District Councilmember.

(b) The Director must not distribute matching dollars from the Fund to a certified candidate for:

(1) a contribution from the candidate or the candidate's spouse; or

(2) an in-kind contribution of property, goods, or services.

(c) A certified candidate may continue to collect qualifying contributions and receive a matching public contribution up to 15 days before a primary or a general election. A qualifying contribution must not exceed \$150 from any individual during an election cycle.

(d) On or before July 1 of the year preceding the primary election, the Director must determine 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 the Director determines that the total amount available for distribution in the Fund is insufficient to meet the

allocations required by this Section, the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution.

(e) Within 3 business days after the County Board certifies the results of the primary election, the Board must authorize the Director to continue to disburse the appropriate public contribution for the general election to each certified candidate who is certified to be on the ballot for the general election.

(f) Within 15 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot for the general election must return any unspent money in the candidate's publicly funded campaign account to the Fund. Within 15 days after the County Board certifies the results of the general election, a participating candidate must return any unspent money in the candidate's publicly funded campaign account to the Fund.

(g) A certified candidate nominated by petition may receive a public contribution for the general election if:

- (1) the candidate's nomination is certified by the County Board; and
- (2) the candidate did not participate in a primary election.

(h) A participating candidate must submit a receipt for each qualifying contribution to the Board to receive a public contribution. The Director must deposit the appropriate public contribution into a participating candidate's publicly funded campaign account within 3 business days after the Board authorizes the public contribution.

(i) [[Annual]] Consumer Price Index adjustment. The Chief Administrative Officer must adjust the public contribution limits established in Subsection (a)(3) and the qualifying contribution limit

established in Subsection (c), effective July 1, ~~[[2016]]~~ 2018, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar ~~[[year]]~~ years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of ~~[[5 cents]]~~ 10 dollars, and must publish the amount of this adjustment not later than March 1 of each fourth year.

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

- (a) A participating candidate may only use the qualifying contributions and the matching public contribution for a primary or general election for expenses incurred for the election. A participating candidate must not pay in advance for goods and services to be used after certification with non-qualifying contributions received before applying for certification unless the expenditure is permitted by Executive regulation adopted under Section 16-21.
- (b) A complaint alleging an impermissible receipt or use of funds by a participating candidate must be filed with the Board.
- (c) A participating candidate must provide the Board with reasonable access to the financial records of the candidate's publicly funded campaign account, upon request.
- (d) Within 15 days after the County Board certifies the results of the general election, a participating candidate must return to the Fund any unspent money in the candidate's publicly funded campaign account.

**16-25. Withdrawal.**

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



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

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

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

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

An applicant candidate or a participating candidate must not:

(a) accept a private contribution from any group or organization, including a political action committee, a corporation, a labor organization, or a State or local central committee of a political party;

(b) accept a private contribution from an individual greater than \$150, or the maximum amount of a qualifying contribution, as adjusted by Section 16-23(i);

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

(d) accept a loan from anyone other than the candidate or the candidate's spouse; or

(e) transfer funds:

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

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

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

- (a) The Committee to Recommend Funding for the Public Election Fund consists of 5 members appointed by the County Council for a four-year term beginning on May 1 of the first year of the Council's term of office. A vacancy occurring before the end of a term must be filled by appointment for the remainder of the term. The Council must ask the County Executive to recommend within 30 days one or more qualified applicants before making any appointment.
- (b) Each member must be a resident of the County while serving on the Committee. No more than 3 members must be of the same political party. The Council must designate the chair and vice-chair.
- (c) Each member must serve without compensation, but may be reimbursed for reasonable expenses.
- (d) The Committee must issue a report to the Council on or before March 1 of each year estimating the funds necessary to implement the public campaign finance system and recommending an appropriation to the Public Election Fund for the following fiscal year.
- (e) The Council Administrator must provide staff support for the Committee.

### **16-28. Penalties.**

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

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

**Sec. 3. Effective Date.** This Bill takes effect on January 1, 2015.

## LEGISLATIVE REQUEST REPORT

Bill 16-14

### *Elections – Public Campaign Financing*

<b>DESCRIPTION:</b>	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.
<b>PROBLEM:</b>	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.
<b>GOALS AND OBJECTIVES:</b>	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.
<b>COORDINATION:</b>	State Board of Elections, Finance, County Attorney
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Robert H. Drummer, 240-777-7895
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Not applicable.
<b>PENALTIES:</b>	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.



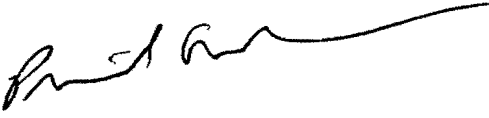
MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

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

B 16-14



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ROCKVILLE, MARYLAND

MEMORANDUM

March 6, 2013

TO: Craig Rice, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECT: Council Bill 16-14, Elections – Public Campaign Finance

Please find attached the Fiscal and Economic Impact Statement for the above-referenced council bill.

JAH:fz

c: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Robert Hagedoorn, Department of Finance  
Margaret Jurgensen, Election Director, Board of Elections  
Rachel Silberman, Office of Management and Budget  
Blaise DeFazio, Office of Management and Budget  
Alex Espinosa, Office of Management and Budget



**Fiscal Impact Statement**  
**Council Bill 16-14, Elections – Public Campaign Financing**

1. Legislative Summary:

The proposed legislation would:

- establish a public campaign finance system for County Executive and County Council elections;
  - regulate the campaign finance activity of candidates voluntarily accepting public campaign finance;
  - designate the Maryland State Board of Elections to certify candidates and administer the public campaign financing system;
  - direct the Department of Finance to establish a Public Election Fund and distribute public contributions to certified candidates; and
  - provides for penalties for violations of the public campaign system.
2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The bill would have no impact on County revenues. County expenditures will be limited by the Public Election Fund balance. Demand for public campaign financing is indeterminable at this time. Costs are estimated to be \$33,700 to administer and reconcile the Public Election Fund representing 0.5 contractual FTE in the Department of Finance.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

County expenditures would be limited by the Public Election Fund balance. Demand for public campaign Financing is indeterminable at this time. Expenditures to support Public Election Fund administration would be \$33,700 in FY18 and FY19 to support the June 2018 primary and November 2018 general elections.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

The bill would not affect retiree pension or group insurance costs.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable.

6. An estimate of the staff time needed to implement the bill.

The Department of Finance reports that a 0.5 contractual FTE Accountant/Auditor II during the election cycle would be required to administer and reconcile the Public Election Fund, estimated at \$33,700.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

As stated above, the Department of Finance estimates that a 0.5 contractual FTE Accountant/Auditor II will be required to administer and reconcile the Public Election fund. Staff responsibilities outside the election cycle would be absorbed within the existing personnel complement.

8. An estimate of costs when an additional appropriation is needed.

Not applicable.

9. A description of any variable that could affect revenue and cost estimates.

Factors affecting demand for public campaign financing include: the frequency of special elections, the number of local candidates choosing to participate in public campaign financing, the number of candidates running for contested seats, and the ability of participating candidates to raise funds under the public campaign financing system. The existence of public campaign financing could result in an increase in candidates for local public office, resulting in an increase in demand for public campaign financing funds.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

While program expenditures are limited by the Public Election Fund balance, demand for public campaign financing could range from \$0 in election cycles

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where no candidates participate to \$13.0 million (based on the 2006 election cycle) assuming all eligible candidates participate and are able to raise the maximum match (attachment 1).

11. If a bill is likely to have no fiscal impact, why that is the case.

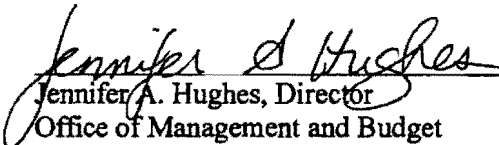
Not applicable.

12. Other fiscal impacts or comments.

None.

13. The following contributed to and concurred with this analysis:

Joseph F. Beach and Robert Hagedoorn, Department of Finance; Margaret Jurgensen, Board of Elections; and Rachel Silberman and Jed Millard, Office of Management and Budget.

  
Jennifer A. Hughes, Director  
Office of Management and Budget

\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Bill 16-14, Elections – Public Campaign Financing**

**Background:**

This legislation would:

- Establish a Public Election Fund to provide public campaign financing for a candidate for a County elective office;
- Regulate campaign finance activity of a candidate for County elective office who voluntarily accepts public campaign financing;
- Authorize the Maryland State Board of Elections to administer and enforce the public campaign financing system; and
- Provide for penalties for violations of the public campaign financing system.

Bill 16-14 (Bill) would require the Director, Department of Finance, to establish the Public Election Fund and to distribute the public contributions to certified candidates. The County Council would appropriate funds for the Public Election Fund (Fund). The Bill also provides a distribution formula for the public contribution from the Fund.

**1. The sources of information, assumptions, and methodologies used.**

The Office of Management and Budget provided an analysis of the amount of public funds that may potentially be spent for public campaign financing based on the number of contested elections in prior primary and general elections.

**2. A description of any variable that could affect the economic impact estimates.**

- The number of certified candidates in contested elections in both the primary and general elections.
- The total amount appropriated and spent in an election cycle by the County Council
- The total amount of qualifying contributions collected and spent by a certified candidate

**3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

Based on an analysis provided by the Office of Management and Budget, the total public contribution could have been as high as \$13 million based on the number of contested elections in 2006. The actual amount will vary based on a number of variables including the number of certified candidates in contested elections.

The Bill will provide an increase in business income to those companies that provide campaign consulting services and materials. However, because the funds are appropriated by the County Council, there is an opportunity cost such that the amount of funding appropriated by the County Council could offset or reduce spending for public programs. In addition, the additional public funded expenditures may offset what were previously privately funded campaign expenditures.

**Economic Impact Statement**  
**Bill 16-14, Elections – Public Campaign Financing**

Because of these potential offsetting factors, it is uncertain whether the bill will have a material net economic effect.

**4. If a Bill is likely to have no economic impact, why is that the case?**

Please see paragraph #3

**5. The following contributed to and concurred with this analysis: David Platt and Rob Hagedoorn, Finance; Rachel Silberman, Office of Management and Budget.**

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

3/6/14  
\_\_\_\_\_  
Date

**Modeling Demand**  
**Bill 16-14, Elections - Public Campaign Financing**

**2014 Election Cycle**

	Primary			General		Grand
	<u>Democratic</u> <u>Candidates</u>	<u>Republican</u> <u>Candidates</u>	<u>Maximum</u> <u>Match</u>	<u>Total</u> <u>Candidates</u>	<u>Maximum</u> <u>Match</u>	<u>Total</u>
County Executive	3	1	2,250,000	TBD	TBD	
Council at large	6	3	1,500,000	TBD	TBD	
Council District 1	2	1	250,000	TBD	TBD	
Council District 2	2	2	500,000	TBD	TBD	
Council District 3	4	0	500,000	TBD	TBD	
Council District 4	1	0	0	TBD	TBD	
Council District 5	5	0	625,000	TBD	TBD	
<b>Total</b>			<b>5,625,000</b>		<b>0</b>	<b>5,625,000</b>

**2010 Election Cycle**

	Primary			General		Grand
	<u>Democratic</u> <u>Candidates</u>	<u>Republican</u> <u>Candidates</u>	<u>Maximum</u> <u>Match</u>	<u>Total</u> <u>Candidates</u>	<u>Maximum</u> <u>Match</u>	<u>Total</u>
County Executive	1	2	1,500,000	2	1,500,000	
Council at large	9	4	2,250,000	9	2,250,000	
Council District 1	2	1	250,000	2	250,000	
Council District 2	5	1	625,000	2	250,000	
Council District 3	1	0	0	2	250,000	
Council District 4	1	1	0	2	250,000	
Council District 5	1	1	0	2	250,000	
<b>Total</b>			<b>4,625,000</b>		<b>5,000,000</b>	<b>9,625,000</b>

**2006 Election Cycle**

	Primary			General		Grand
	<u>Democratic</u> <u>Candidates</u>	<u>Republican</u> <u>Candidates</u>	<u>Maximum</u> <u>Match</u>	<u>Total</u> <u>Candidates</u>	<u>Maximum</u> <u>Match</u>	<u>Total</u>
County Executive	3	1	2,250,000	3	2,250,000	
Council at large	13	4	3,250,000	8	2,000,000	
Council District 1	1	1	0	2	250,000	
Council District 2	2	2	500,000	2	250,000	
Council District 3	2	2	500,000	2	250,000	
Council District 4	2	2	500,000	2	250,000	
Council District 5	2	2	500,000	2	250,000	
<b>Total</b>			<b>7,500,000</b>		<b>5,500,000</b>	<b>13,000,000</b>

**Assumptions:**

- 1) All eligible candidates elect to participate in public financing.
- 2) All eligible candidates receive the maximum match.

Note: 2014 primary candidate counts posted on the State Board of Elections website as of February 28.

1

**Testimony**  
**Bill 16-14, Elections – Public Campaign Financing**

Good evening, my name is Joseph Beach, Director of the County Department of Finance, and I am here on behalf of County Executive Isiah Leggett to testify in support of Council Bill 16-14 Elections – Public Campaign Financing. Based on authority granted in 2013 by the Maryland General Assembly, Bill 16-14 would establish a Public Election Fund and a voluntary system of public campaign financing beginning with the 2015 elections. The County Executive shares the Council's interest in creating a public campaign financing mechanism that would encourage greater voter participation in County elections, increase opportunities for residents to seek elective office, and reduce the influence of large contributions.

County Executive Leggett believes that certain amendments would clarify and strengthen the law and streamline its administration. First, the bill should clarify responsibility for investigation and enforcement of alleged violations of the law. The State Board of Elections currently has the responsibility to address violations of the campaign financing laws; however, the bill is silent on this issue, other than specifying that a violation is a Class A civil violation. It is important that investigation and enforcement be independent to assure that monitoring compliance would be carried out objectively and to enhance public confidence in the results of any investigation.

In addition, an amendment to clarify the order of priority in disbursing County contributions to certified candidates would clarify the Council's intent on administration of the Fund, especially in the event of an insufficiency of funds. For example, if more candidates participated in the Public Election Fund than anticipated in the amount appropriated to the Fund, those candidates who applied for and were certified early in the process could receive more funding than those candidates who applied later in the process.

Finally, it should be noted that, depending on the number of candidates in any contested election who participate in public campaign financing, the law could have a material fiscal impact. For example, the cost for the 2010 primary and general elections under the proposed legislation would have been over \$9.6 million and for the 2006 elections would have been as much as \$13 million, if all of the candidates participated in public financing and received the maximum amount of public funds. Because the public contribution would be funded out of general revenues, this allocation would compete with other general fund services including education, public safety, and safety net services. Before a qualifying period begins, there should be a public financial statement as to the total amount available for public financing of the ensuing election cycle.

Thank you for affording me the time to address the County Council. The Administration looks forward to working with the Council to refine this important legislation.



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**Testimony in Support of Montgomery County Council Bill 16-14**  
**Public Funding of Elections**

TO: Montgomery County Council  
FROM: Kate Planco Waybright, Executive Director  
DATE: March 4, 2014  
POSITION: Support

Thank you, Mr. President and Members of the Montgomery County Council, for the opportunity to testify tonight in support of Montgomery County Council Bill 16-14. Progressive Maryland is a grassroots, nonprofit organization of more than 23,000 members and supporters who live in nearly every legislative district in the state, many of whom reside right here in Montgomery County. In addition, there are 26 religious, community and labor organizations that are affiliated with our work. Our mission is to improve the lives of working families in Maryland. Please note our strong support for this bill.

Bill 16-14 would establish a Public Election Fund to provide public campaign financing for a candidate for a County elective office. We are absolutely delighted that this longtime priority of Progressive Maryland has been introduced here in Montgomery County and has your unanimous support.

Progressive Maryland began advocating for public financing of elections as a result of our efforts nearly a decade ago to expand healthcare coverage and raise wages for all Marylanders. Organizationally, we noticed that the playing field was tilted against us and it remains so today. The average middle class family isn't able to contribute to a campaign in the same way a wealthy special interest entity is able. This creates a public opinion climate in which people feel as if they aren't being heard.

But public funding of elections will change that public perception.

Public funding works because it shifts the focus of the campaign away from big dollar, wealthy donors and back to everyday people. Investing in clean elections is an investment in our democracy. In states from Maine to Connecticut, public funding has improved the election process. These programs allow more diverse candidates to run for office, increase competitiveness in the process, and result in a more substantive legislative debate. These bills have the potential to change the very nature of elections in Montgomery County and beyond and are essential to a governing body that values enacting policies that build a strong middle class.

Thank you so much for your time and consideration of this critical legislation. We urge a favorable vote on Bill 16-14.





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March 4, 2014

**Testimony on Bill 16-14 –  
Elections - Public Campaign Financing**

**Position: Favorable**

Common Cause Maryland supports Bill 16-14, which would create a robust program for public funding for candidates for the county council or county executive.

Bill 16-14 is shaped by the most recent models for public funding. Under the program established in this bill, a candidate would have to prove he or she is a viable by aggressively raising money from small donors in the county. The candidate would then be able to match individual donations of less than \$150 at a graduated rate, with a greater match for smaller donations.

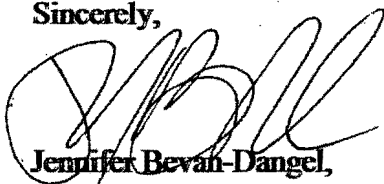
Public funding is a popular tool for improving our elections. In a 2009 Gonzales poll, 70% of Marylanders favored using public money to pay for political campaigns. And public funding is working in the states that have adopted it. According to analysis of the Connecticut program:

- 77% of state legislators who were elected in 2012 ran on public funding;
- Latino representation in the state legislature increased 33% after the program was implemented;
- Policies adopted after public financing was implemented were more aligned with the public's preferences.<sup>1</sup>

Special interest funding is increasingly determining the outcome of elections. Public funding gives candidates another choice: focus on constituents through the campaign and keep the focus on constituents through the legislative process. Public funding cannot fight the escalating cost of elections; only the Supreme Court can reverse that disturbing trend. But public funding can shift the focus of campaigns away from special interests and back to everyday constituents.

Public funding strengthens our democracy by getting special interests out of elections and voters back in. We urge a favorable report on Bill 16-14.

Sincerely,



Jennifer Bevan-Dangel,  
Executive Director

<sup>1</sup> <http://www.demos.org/publication/fresh-start-impact-public-campaign-financing-connecticut>

*Common Cause Maryland is a nonpartisan, grassroots organization dedicated to restoring the core values of American democracy, reinventing an open, honest and accountable government that works in the public interest, and empowering ordinary people to make their voices heard.*



**Testimony for the County Council for Montgomery County, Maryland  
March 4, 2014**

**Bill Number 16-14: Elections—Public Campaign Financing**

**SUPPORT**

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OFFICERS AND  
DIRECTORS  
ALLI HARPER  
PRESIDENT

SUSAN GOERING  
EXECUTIVE DIRECTOR

C. CHRISTOPHER BROWN  
GENERAL COUNSEL

The ACLU of Maryland supports Bill 16-14, which establishes a system of public financing for candidates for County Executive and County Council of Montgomery County. Public campaign financing enhances the accountability of public officials to general voters, so they are thereby less obliged to the interests of high-dollar contributors. Public campaign financing allows candidates and officials to invest their time and energies into investigating and remedying the concerns of the electorate, not seeking campaign contributions.

The election of public officials is an essential aspect of a free society and the integrity of the electoral process is of critical concern. However, the ACLU of Maryland is also concerned that election campaign reforms are sometimes achieved by means that sacrifice other civil liberties values, especially freedom of expression and rights of association.

Although free speech principles call for scrutiny of limitations on expenditures and contributions, the current system of private campaign financing disadvantages certain groups and individuals trying to communicate their views. Such imbalances tend to frustrate the goal of full political participation by all citizens and raise concerns about the greater influence that some individuals and groups have on political processes. The appropriate civil liberties response is to expand, not limit, the resources available for political advocacy.

Public financing of campaign activity is a promising way to facilitate the opportunity for political participation by everyday citizens. Such approaches, which are less drastic alternatives than government restriction of political expenditures and contributions, also minimize the danger of heavy handed and repressive governmental regulation of political speech and association.

The escalating cost of campaigns for public office restricts the breadth of political expression in America. More and more, money, not political support, determines who runs for office. Many candidates fail because they cannot garner the requisite financial support to run a viable campaign, which deprives the public of the full range of public debate. Public financing remedies this problem and would advance a number of positive free speech values. It would facilitate candidacy and significantly broaden the spectrum of campaign debate. Public financing can also reduce the dependency of candidates upon private contributions regardless of the extent to which such contributions may be permitted.

For the foregoing reasons, the ACLU of Maryland supports Bill Number 16-14.

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**Prepared Statement of  
William J. Roberts, Esq.  
Vice President, Montgomery County Young Democrats  
Before the Montgomery County Council Public Hearing on  
Bill 16-14, Public Campaign Financing  
March 4, 2014**

Thank you for allowing me to testify. I'm William Roberts, I live upcounty in the Rockville-Gaithersburg area and I'm the Vice President of the Montgomery County Young Democrats.

**Why The Young Democrats Support this Measure:**

The Young Democrats stand in strong support of this legislation, which would allow voluntary citizen funded elections for the County Council and County Executive. We want to thank each of the members of the County Council for standing together to universally support this legislation. We know all too well the power of special interests in our public discourse. Whether it comes to advocating for more affordable housing, or pushing efforts like increasing the minimum wage to support working families – our county has powerful special interests on the other side of issues that we and many of your other constituents care deeply about. And although these special interests won't get a vote in our upcoming elections, we all know that they have an outsized voice in our political process because of the amount of money they are able to pour into County elections.

We support this legislation because we know that ending excessive campaign spending will remove a barrier and allow more members of middle class families, young people, women, and minorities to run for office and contribute to campaigns. This proposal also levels the playing field so that elections and the policy making process are about bold ideas and not big checks. We believe in the power of small donor driven public financing to shift the playing field and put the ownership of our electoral process back in the hands of everyday constituents.

**The Problem:**

There exists near universal agreement on the problem. Across the country in elections from County Council to President of the United States, there is just too much money in our political process and it's drowning out the voices of everyday citizens. The

cost of running for office is steadily increasing and too many special interests attempt to and succeed at currying favor through giving massive campaign contributions. Meanwhile, an ever decreasing number of average citizens feel like their concerns actually matter to elected officials or that their voices actually count in the public discourse.

Locally, candidates are being forced to build up ever-growing war chests to compete in elections. Millions were spent in the last truly competitive County Executive race. You all know very well that it costs well over \$200,000 to run for the County Council, on average. Only a third of that funding came from small donors of \$250 or less. In the face of this money, many people are tuning out. They're fed up with politicians who they perceive cannot or will not hear them over the deafening sounds of a river of campaign cash.

Citizen funded elections can flip this paradigm on it's head. Reducing the primacy of wealthy donors and special interests, clean election systems allow constituents to own elections again. As a constituent, knowing that your small donation will be enhanced through a matching fund and will really matter to the candidate of your choice empowers you and changes your view of the process. As a candidate and an elected official, knowing that you can spend your time discussing issues and reaching out to more voters changes the way you can do your job.

### **Why Would This System Work in Montgomery County:**

Public Financing holds special benefits for diverse populations as well. Research conducted by Public Campaign - a national reform organization - shows that under the New York City Public Financing System, low dollar donors tend to be women and minorities from non-affluent communities. As a consequence, Public Funding systems across the country are enabling a more diverse citizenry - women, minorities, and young people - to become part of the political process as either candidates or donors.

Comparably, Montgomery County is now majority-minority and only growing more diverse. We are also residents of a county stuck in an economic duality where many people are prospering and flourishing and yet there are dramatic increases in the wage

gap, the income gap, and the wealth gap. Enacting a public financing system will enable all citizens, especially those at the margins, to participate fully in our electoral process and allow our elected officials to spend more time studying the issues and connecting with constituents in need instead of raising money.

Montgomery County is ready to lead our state on Public Financing, as we have on countless issues before. The Young Democrats are ready to stand up beside you and we urge you to pass Bill 16-14.



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**SIERRA  
CLUB**  
FOUNDED 1892

Testimony on Public Financing of Elections  
Bill 16-14  
Montgomery County, MD  
March 4, 2014

I am Ron Levin. I am speaking on behalf of the 5,000 members of the Sierra Club of Montgomery County. The Sierra Club endorses Bill 16-14.

Conventional wisdom holds that the states and cities are the laboratories of democracy, but no longer is public financing of elections an experiment. Fourteen states, including Maryland, provide public financing. All that experience was available to 16-14's drafters.

A poll of Maryland voters in 2009 found that 77% believe political contributions have a corrupting influence. In the last election cycle, two thirds of the donations to County Council campaigns came from donors who gave more than \$250. Some donations were for thousands of dollars. Maryland's citizens clearly want to reduce the influence of money on who gets elected in our state. Public financing counteracts public cynicism, cynicism that is toxic to our democracy.

Public financing results in better, more objective government decisions. It frees candidates to spend their time talking to voters instead of to big contributors. It will free lawmakers to

devote their attention to the full time work of legislating, not fund raising.

Critics of public funding claim that it will produce a flood of frivolous candidates. This bill, however, sets high hurdles to qualify for public funding.

Critics have said that public funding does not work because incumbents continue to be overwhelmingly re-elected. That criticism is built on a myth because public funding is not intended to be an incumbent removal scheme. At most, it can only take away one of incumbents' many advantages.

Opponents of public financing may complain that it would be a fiscal burden. But cost estimates range from only \$2 million to \$8 million an election cycle, depending on the number of candidates. That's not \$8 million a year, that's \$8 million per election cycle –\$2 million per year. Two million dollars is a little more than 1% of just the growth in revenue between this fiscal year and the next as forecast by the Department of Finance. Only a bit more than 1% of revenue growth.

We can afford 16-14. We can afford a measure that delivers healthy government, fosters objective decision-making and reduces public cynicism. Is there another measure that can do so much so cheaply?

The Sierra Club of Montgomery County urges you to pass Bill 16-14.

Thank you

Ron Levin  
North Bethesda, Md

**Progressive Neighbors**  
**Testimony on Bill 16-14 Elections—Public Campaign Financing**  
**Tuesday, March 11, 2014**

Thank you for the opportunity to testify this evening. My name is Brian Doherty, I'm from Bethesda, and I am a co-chair of the organization Progressive Neighbors.

Our group is a Montgomery County-wide organization active since 2006, primarily at the state and county level, in a wide variety of progressive causes on issues related to progressive taxation, education, affordable housing and tenant rights, labor, gender, health care, civil rights, immigrant issues, democracy, environment, and transportation.

We are a democratic grassroots group that accepts no outside funding. We endorse candidates and work on issue advocacy.

I am happy to report that our group strongly supports bill 16-14, a public financing option for Montgomery County Council and Executive candidates. We commend Councilmember Phil Andrews and his cosponsors for introducing this far-sighted legislation.

Action by the legislature in 2013 enables counties to provide a public financing option—a longtime progressive goal—beginning with the 2015-2018 election. Montgomery County has the opportunity to lead the way on a local level, as it did a few years ago on the trans fat issue, and as it did recently with its well-received move to raise the minimum wage. We're ready to lead again.

This legislation, by favoring small contributions within the reach of the average voter, will help to slow a profoundly disturbing trend in our County in which less than a third of donations in County Council campaigns come from those making \$250 or less. Under such circumstances, while all voters are equal, some are clearly more equal than others.

The structure of this bill is reasonable and appropriate. Once candidates meet a modest fundraising threshold, donations of \$150 or less are matched with public funds, with smaller donations receiving the higher match. With these changes in the law, candidates will still spend time raising funds—you can't get around that. But the biggest "bang for the buck" in fundraising will come from **smaller** donor, whose everyday concerns are more likely to be addressed in the electoral process. This will mean a new type of voter and, just as assuredly, a new type of candidate.

Again, thanks to Councilmember Andrews and others for putting this bill on the agenda. Let's make it law as promptly as practical, and let Montgomery County become a "laboratory for democracy" in Maryland.

*Brian Doherty, 4613 North Chelsea Lane, Bethesda 301-237-5282 [bridoherty@aol.com](mailto:bridoherty@aol.com)  
Web: [progressiveneighborsmd.nationbuilder.com](http://progressiveneighborsmd.nationbuilder.com) Twitter: [@progneighborsmd](https://twitter.com/progneighborsmd)*





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Testimony in support of Bill 16-14  
By Shelley Sherman  
March 4, 2014

Good Evening. My name is Shelley Sherman. I am representing over 1300 USAction members in Montgomery County. USAction is a national progressive organization that fights for working people to have a voice in democracy. We are proud of the leadership of our affiliate, Progressive Maryland, in this fight for clean elections. I am here tonight, because I have been a Montgomery County voter for over three years and care about my county.

In my role of finance director at USAction, I deal with money every day. We are a non-profit organization that relies on donations from average people. We have a lot of contributors, but no matter how many dollars come through USAction, it is only a tiny drop in the bucket compared to what the super wealthy and corporations spend in the political world. It's harder and harder in this country and this county for the average person to have a voice and representation. That's why we urge the Montgomery County Council to pass Bill 16-14. Public funding works because it shifts the focus of the campaign away from big dollar, wealthy donors and back to everyday people. Investing in clean elections is an investment in our democracy. These programs allow more diverse candidates to run for office, increase competitiveness in the process, and result in a more meaningful legislative debate that matters to real people.

Change starts at the local level. We need an America, a Maryland and a Montgomery County that works for all of us. And a Montgomery County that works for all of us starts when everyone and anyone can afford to run for public office so that government reflects who we are as a community.

Thank you for your time tonight.

Shelley Sherman  
7333 New Hampshire Avenue Apt 617 Takoma Park, Maryland 20912

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**TESTIMONY OF  
TOM MOORE  
CANDIDATE FOR THE MONTGOMERY COUNTY COUNCIL  
REGARDING BILL 16-14 – PUBLIC CAMPAIGN FINANCING  
BEFORE THE MONTGOMERY COUNTY COUNCIL  
MARCH 4, 2014**

Good evening. My name is Tom Moore. I live at 11 Forest Avenue in Rockville. I currently serve as a member of the Rockville City Council, but I appear before you tonight as a private citizen who is currently a candidate for the Montgomery County Council. I am therefore intimately aware of the impact this bill would have if it becomes law.

As a candidate, I spend a lot of time knocking on people's doors. Going door to door is something I enjoy, and I learn a lot about what's on the community's mind every time I go out. But I also spend a lot of time as a candidate calling for contributions – often calling businesses and people who live outside the district or the county.

Those making corporate contributions have little more than a financial interest in this county. Those making contributions who live outside the county have no direct stake in the outcome of our elections or in the life of Montgomery County. Yet our current campaign-finance system requires me to spend far too much time focusing on these folks.

Instead of talking to corporations, I want to be talking to the moms and the dads of Montgomery County, to the young people and the seniors. I want to hear from them about the county they want to live in, raise their kids in, retire in. I want to hear what I need to know to best govern our county.

It's their voices and their stories that should be driving the messages of our campaigns. A good bill that gives candidates and councilmembers the ability to spend more time focused on their neighbors will produce better governance for Montgomery County, and, in the end, will produce a better Montgomery County.

Keeping corrupting money out of politics is why I led the fight on the Rockville City Council to ensure that elected officials follow the highest standards when disclosing financial interests. It is why I led the Rockville

Mayor and Council to pass a tough ethics bill that went beyond the state of Maryland's newly tough standards.

It is also a major part of what I do from day to day. In my day job, I work for Progressive Majority, a national organization that works to recruit, train, and support progressive champions to run for local and state office in battleground states throughout America. Institutionally, we strongly support the public financing of campaigns, as do most groups interested in clean government, such as Common Cause and Progressive Maryland.

But we do hear words of warning from elsewhere in the country that poorly crafted public-financing laws create as many problems as they fix. I urge you to pay careful attention to the thresholds this bill provides. The balance they establish is the key to creating an effective system of public campaign financing. Set them right and they will enable new voices to be heard. Set them wrong and they can give artificially large megaphones to extremists on both ends of the spectrum, megaphones paid for with taxpayer dollars.

Montgomery County has been graced by a long history of dedicated public servants who have governed our county well and wisely. It is a tradition I hope to join. This bill reflects priorities that I have pursued throughout my career in public service.

This bill will allow candidates to connect with voters as we would want them to – talking to people's hearts rather than their checkbooks.

This bill will allow those with deep roots but shallow pockets to compete effectively.

This bill will allow those with the best ideas, and not the best Rolodexes, to guide Montgomery County into the future.

I urge that this Council pass Bill 16-14 and that the County Executive sign it.

Thank you.

Testimony of Marc Korman  
Bill 16-14  
March 4, 2014

Good evening. My name is Marc Korman. Although I hold several affiliations with organizations in the County, I wish to emphasize that I am testifying today in my individual capacity and speak only for myself.

I applaud the County Council for taking up Bill 16-14. For many years a delegate in my legislative district, Susan Lee, has fought to grant Montgomery County the authority to enact this type of legislation. The authority was granted in 2013 and the Council's quick action to implement a public financing system is to its credit.

You have heard, and will continue to hear, tonight many important points about the legislation before you. First, the system will reduce the impact of special interests on our elections. Second, it will ensure that serious candidates have the funds necessary to share their message and ideas with voters. Third, it will reign in some of the costs of electioneering. I agree with all of these important points, but wish to emphasize one particular issue.

I am optimistic that in a county like ours, public financing can become a cultural norm. What do I mean by “cultural norm?” For constitutional reasons and tortured interpretations of the Supreme Court, a public financing system cannot be made legally mandatory. But I hope it becomes mandatory as a matter of public relations and good government. An analogy that has been made is to the use of union printing by Democratic candidates, which is not required but is generally done by any candidate running with a D next to their name. I hope the cultural norm of public financing is not limited to Democrats, but embraced by all candidates in the future.

I also hope to see such a system expanded to our state elections as soon as possible.

Thank you for the opportunity to speak on this important bill. I am hopeful that a system of public financing will reduce the influence of special interests, ensure serious candidates are heard, and, perhaps, free up our elected leaders to spend more time on policy and less time on political fundraising. Thanks.

**Testimony by Evan Glass on Bill 16-14, Public Campaign Financing**

Good evening. My name is Evan Glass and I am a candidate for the Council from the 5<sup>th</sup> District.

I'm here to bluntly state: raising money for political campaigns stinks.

The amount of time I've spent on the phone asking family, friends, neighbors, colleagues and acquaintances for money to support my campaign is time I would rather be talking with voters about the hopes and dreams they have for our community.

But in this age of politics where the amount of money in a candidate's campaign account is more important than the ideas in a candidate's head, we have to acknowledge that the system is broken.

And let's face reality – this is how politics is played in most jurisdictions – especially a few miles down the road on both ends of Pennsylvania Avenue. I used to be a journalist covering national politics for CNN and I know all too well how much time our Congressmen, Senators and Presidents spend raising money. And all too often I covered a story that fell into the category of “follow the money” – where the actions of an elected official were tied to financial contributions he or she received.

Well, here in Montgomery County we are ready to set a new example. Now is the time to create public campaign financing for candidates seeking office here in Montgomery County.

By providing matching funds for donations below \$150, we are opening the doors of elected office to individuals from diverse socio-economic backgrounds.

And when the new system of matching funds is established, it will allow more individuals like me to run for office – non-establishment candidates who represent the full spectrum of their community. I grew up in a home with a single mother who worked two jobs. My modest upbringing provided me with a set of values and experiences that I want to bring to the County Council – values that promote social and economic justice for all of our residents.

By creating a system of matching funds for donations below \$150, we are allowing the voice of the people to prevail. Political action committees and corporations should not have the ability to drown out the collective voice of the voters.

And by maintaining a qualifying period that begins 365 days before the primary election, we are leveling the playing field for new candidates with new ideas by no longer allowing incumbents to spend years raising funds regardless of the office they seek.

The best way for government to function is by having open debates about important issues that affect our lives. Campaign finance reform is a way to encourage more residents from diverse backgrounds to enter the political arena and truly bring about the progressive reform that our communities need.

Let's elevate our public discourse and pass this legislation.

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**Testimony in favor of Bill 16-14  
Elections—Public Campaign Financing**

Dan Fumansky  
1524 Hanby Street  
Silver Spring, MD 20902

March 4, 2014

I want to thank Council Member Andrews for putting forth this proposal, which I know you have championed since your days leading Common Cause Maryland. And I want to thank to all of you on the County Council for cosponsoring this measure.

I make my living as a political strategist, lobbyist, and organizer for organizations focused on achieving social justice. I am very glad to be here in support of public financing of elections because I understand this to be a social justice issue. Public financing is a fundamental part of building a stronger democracy. It is about ensuring that the voices of those who have greater access to money do not drown out the voices of individual citizens. It is about allowing the interests and priorities of working- and middle-class constituents to be better considered.

Public finance of elections is also about increasing public confidence in government, and elected officials, increasing public participation in the political process, diversifying who runs for public office, and allowing incumbent legislators to focus their fundraising on their own constituents, not special interests, and to free up more of their time for lawmaking and policy.

Jurisdictions from Hawaii to Connecticut, and from Los Angeles to New York City, have successful public financing programs.

According to a report by the Center for American Politics and Citizenship, which polled thousands of legislators across the country, in general, the average state legislative candidate in a state without public financing spends 28 percent of their time fundraising. The average state legislative candidate in a public financing state spends just 11 percent of their time fundraising.

In Connecticut in 2012, 77 percent of successful candidates were publicly financed, and an analysis by the DEMOS has shown that public financing in that state has increased representation by both women and minorities, as well as voter participation in general.

Or take the example of New York City Council races (where there is a small dollar, matching program) vs. races for the New York Assembly, which does not have public financing. Data shows that small donors to City Council candidates come from a much broader array of city neighborhoods than do the city's small donors to State Assembly candidates. Small donor matching funds help bring

participants into the political process who are traditionally less likely to be active, and strengthens the connection between public officials and their constituents.

It was Theodore Roosevelt who said, in 1907, "The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties." This was one of the first public calls for public financing of campaigns in our country. Today, the challenges of building a perfect democracy are ongoing. That is why your leadership on this issue is so noteworthy, and so appreciated by your constituents in Montgomery County.

I hope Montgomery County will be the first of many local jurisdictions in Maryland to pass public financing, and that this move will spur the state to follow suit for state legislative elections.



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**Testimony presented to the Montgomery County Council  
in favor of Public Campaign Financing, Bill 16-14  
Submitted by Natali Fani-González, Candidate for State Delegate in District 18<sup>th</sup>  
NataliFaniGonzalez@gmail.com 301.442.8459**

**March 4, 2014**

Good evening President Rice and members of the County Council. My name is Natali Fani-Gonzalez and I'm from Kensington. I'm here before you to testify in favor of Bill 16-14, which establishes a Public Election Fund to provide public campaign financing for a candidate for a County elective office, among other regulations.

As most of you know, I'm a candidate for the House of Delegates in District 18th, hence your bill won't affect me. With that said, I think my situation can shed some light on why it is important to create a Public Election Fund.

This is about building an opportunity for people who have never run for office due to the fear of not having enough money to run a successful campaign.

I grew up in a low-income family, just like it happened to my closest friends. I share this because my childhood friends represent my closest network. They are the ones who without hesitation contribute and volunteer to my campaign. They do it because they share my values, and also do it because they feel so proud of seeing someone coming from their community run for office. It's a big deal not just for me, but also for them.

Due to their financial pressures, my average friend can only contribute up to \$50 towards my campaign. It's just my reality. That's the reality of candidates like me who come from low-income neighborhoods.

I know not everyone has the courage I have to run for office knowing very well that I will not raise as much money as other candidates. Yet, I doubt that other candidates could gather the enthusiasm that my campaign brings. These are folks who are not super-voters; some of my friends have only voted for President Obama. It's a community who feels disenfranchised; voting it's just not in their radar. Again, my network does not contribute with large amounts of money, however they do extremely well in canvassing efforts.

Having access to a Public Election Fund could drastically change my situation. I could focus more on voter-contact and less on how to pay for everything.

Nowadays when we ask why we have only 6 Latino elected officials throughout the state of Maryland, it's hard not to ponder on the financial constraints that exist within the Latino population in order to seek an elected position. It's not just about motivating Latinos to vote for a Presidential election as we have done very well in the past, but also to vote in large numbers in local elections. For that to happen, we need more candidates who reflect the population.

I strongly believe that having access to a Public Election Fund will produce more diverse candidates and more community members participating in our local elections. That is what is happening to me, with the exception that I don't have access to a Public Election Fund and, therefore, have to end up self-financing a significant portion of my campaign, which most people coming from low-income communities just cannot do.

I thank you for cosponsoring this measure and serving as a model elected body for the rest of the state. I hope this will give a needed push for the General Assembly to move forward with public financing of state legislative campaigns.

My name is Armin Behr. I live at 6310 Swords Way in Bethesda and have been a resident of Montgomery County for the past 49 years. I am a retired Federal employee.

Our national government is not working well. The reasons for this can be debated, but there is little doubt that one of the main reasons is the vast and continually increasing amounts of money spent on campaigns. Members of Congress are forced to spend a large proportion of their time raising funds, much of it from large donors who expect a return on their investments. Distinguished, long serving legislators have retired rather than face the fund raising necessary for re-election, not to mention the countless others with great potential who are deterred from even making a run.

For State offices, the costs of campaigning have also risen to an alarming level. County offices don't yet require huge campaign chests, but many candidates for county offices do receive substantial contributions from real estate, construction and other development-related businesses which stand to benefit from decisions of the County government. This makes it difficult for those candidates to compete who choose not to seek such contributions because they want to represent all of their constituents fairly.

There are only two ways to counteract the malicious effect of money on our electoral process. One is to regulate contributions in order to reduce spending. This has been attempted through federal and state legislation, but these laws have been largely struck down or rendered ineffective by Supreme Court decisions. As a result, campaign spending is growing at an accelerated rate.

The tool that is left is public financing. The existing program for presidential campaigns worked well for several election cycles by leveling the playing field and freeing the presidential candidates from having to spend their time raising money. In recent years, so much money has been available from private sources that candidates of both parties have decided they could do better by waiving public funding. However, public financing is working reasonably well in several states.

The legislation being considered by the Montgomery County Council would make it possible for candidates to campaign with small contributions supplemented by public funds, provided they do not accept any large contributions. This should go a long way toward placing and keeping power in the hands of the voters and reducing the power of special interests. The cost to taxpayers seems reasonable and by reducing corruption and spending which is not in the public interest, will likely more than be repaid.

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Testimony in Support of Bill 16-14, Elections - Public Campaign Financing  
Beth Allen

I am speaking today in support of Bill 16-14, which would provide public campaign financing for candidates for Montgomery County elective office. I live in Takoma Park, and have been a resident of Montgomery County for almost 12 years.

It's no secret that Americans are fed up with the influence of money in politics. Recent national polling indicates that more than 70% of voters think that the U.S. election system is biased in favor of the candidate with the most money and more than half of all voters believe that most politicians are corrupt.<sup>1</sup>

Think about that. Conventional wisdom is that elections are bought and politicians are corrupt. And, I must admit, my opinions are no different. As a result, while I am a faithful voter, I rarely make individual political contributions any more.

When I talk to people about campaign finance reform there's a lot of cynicism about whether bills like this one will make a difference. They think that special interests will find and exploit loopholes and that public money will go to waste. I disagree. I think that bills like this, especially at the local level, are critically important to restoring the health of our electoral system because they:

- Enable potential candidates with broad community support to run credible campaigns for office.
- Serve as a test bed for creating strong campaign structures within the public financing framework without relying on corporate contributions. Ideas pioneered and perfected at the local level will, over time, have a beneficial effect on state and federal campaigns.
- Allow elected officials to spend less time fundraising and courting a small group of wealthy donors and more time interacting with larger numbers of constituents.
- Most importantly, perhaps, public financing will change voter expectations for how campaigns are run. In some cases in Montgomery County, a single special interest has contributed more than half of a candidate's campaign funds. That's just not acceptable, and we cannot allow it to become the norm.

The same polling I mentioned earlier found that an overwhelming 92% of voters say it's important for elected leaders to reduce the influence of money in elections. I have been proud that my county has been leading the way in issues that are important to me - including, recently, raising the minimum wage. I urge you to take the lead in restoring faith in our democracy by passing this important public financing legislation. And I promise, that when public financing passes, I will happily put my money where my mouth is and make contributions to candidates who participate in the public financing system.

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<sup>1</sup> [http://mfour.com/wp-content/uploads/2013/12/representus.mediarelease.FINAL\\_.pdf](http://mfour.com/wp-content/uploads/2013/12/representus.mediarelease.FINAL_.pdf)

**Testimony in support of Bill 16-14**

To: Montgomery County Council

From: Alan Hyman

Date: March 4<sup>th</sup>, 2014

Position: Support

President Rice, Vice- President Leventhal, fellow Councilmembers. Simply put, I testify here today as a young person concerned with the future of his society, as well as the corrosive dissipation of the fundamentals of the republic in which we live. Our political culture is defined by a state of paradox; on the one hand we hear the constant complaints that they're not enough young people involved in our political debates and civic culture, that our system suffers from a lack of diversity, but on the other hand one cannot help but notice how the very system that complains is in many ways designed to discourage or sometimes even block those very voices they cry for.

The bill before us would unlock the voices of the silent, but passionate majority of underrepresented citizens waiting for an inclusive political system that welcomes them with open arms. According to a 2009 Gonzales poll, roughly 70 % of Marylanders support a public financing system for electing our elected officials. This bill would also allow you to spend more time thinking about the issues we

face as a county and as a people, and in return possibly bring better solutions to the table, as well as new ways of imagining what our County and our society could look like.

The future of our political system lies before us tonight with this bill. We can either collectively reaffirm that Montgomery County is a Progressive county that firmly believes that the role of the common person in his or her government is fundamental. Or we can completely fail to address what I believe is not only the greatest social project of our time, but the most pertinent to preserving our republic.

During the early years of our nation's founding Benjamin Franklin was asked what type of government our country would be governed by. He responded, "a Republic, madam, if you can keep it," Hopefully with the passage of this bill we can move one step closer to preserving it.

Thank you very much. I urge an affirmative vote on bill 16-14.

Testimony Concerning Bill 16-14  
Ralph Watkins, Silver Spring

Thank you for the opportunity to testify.

My name is Ralph Watkins and I am a resident of Silver Spring, Maryland.

Bill 16-14 is modeled after the Presidential Campaign Fund. At first, I was one who checked the box for that fund on my income tax returns, but as I continued to study campaign financing, however, I became convinced that the matching fund programs are an unnecessary detour on the road to effective reform. Fortunately, there is an alternative that would be far more effective.

The problem with adding taxpayer money to political campaigns is that we will get more of what we don't want - robocalls and bumper stickers and yard signs with no information on the issues. Further, many voters are left in the dark as candidates direct their literature mailings to their base. Throwing more money into this broken system will do nothing to improve the quality of information being provided to the voters.

Studies of similar programs in other cities and states reveal that they are ineffective in reducing the influence of money in politics as independent expenditures easily circumvent the limits placed on the candidates. Further, several of these programs have been tainted by misuse of the public contributions.

There is a proven alternative to this approach that would be far more effective in serving voters.

For more than a century, Oregon and Washington have mailed to every voter a Voter's Pamphlet that includes statements from all the candidates. In Oregon and Washington, voters said that it was their most important source of information. Because of this success, voters' guides with candidate statements have since been adopted in six more states as well as some counties and cities.

This successful model of publicly funded voter services could readily be expanded to include debates, videorecorded for broadcast and streaming through the Internet. This would provide voters a convenient way to compare candidates, in a format that would help to draw out more specific statements on the issues.

As I note in the appendix, even one think tank that has advocated public campaign funding has conceded that voters' guides are effective in reducing the influence of money in politics and have the added benefit of encouraging more citizens to vote.

Candidates would prefer, of course, to have access to taxpayer money to spend any way they choose. Voters, however, would much prefer a voters' pamphlet and debates. In this situation, you must choose whether you will serve the public interest or the politicians' interests.

## Chapter 10 – Loans

### 10.1 Generally

Loans are a permissible way for a campaign to receive funds. There is no limit on the amount of money that can be loaned to the campaign. However, unless the loan is executed properly and paid off in a timely manner, the loan will be converted into a contribution. This could have serious legal consequences for the political committee and the lender if the loan exceeds applicable contribution limits.

### 10.2 Receipt of Loans

#### 1. Non-Candidate committees

Non- Candidate committees may receive a loan only from a financial institution or an entity in the business of making loans. It may not receive a personal loan from an individual.

#### 2. Candidate Committees

##### A. Formal

A candidate committee may receive a loan from anyone only if the loan is:

- Personally guaranteed by the candidate; and
- Repaid by the end of the next election cycle immediately following the election cycle in which the loan was received.

##### B. Informal Candidate Loans

A candidate or the candidate's spouse may make an informal loan to the candidate's committee. To do so, the candidate (or the candidate's spouse) simply loans money to his or her own campaign and he or she does not file the loan consent form or charge interest. By making an informal loan, the repayment period (by the end of the next election cycle) is not applicable.

However, if the candidate does want to charge interest, the loan consent form must be filled out (and filed with the campaign finance report) and the loan must be repaid by the end of the next four-year-cycle.

*- § 13-230 of the Election Law Article*

### 10.3 Interest

Interest must be calculated and charged on all loans, based on the prime rate on the day that the loan is made.

- If the lender agrees not to be paid interest, the interest amount that should have been paid must be treated as an in-kind contribution from the lender.

#### **Interest Rate**

It is the responsibility of the candidate to document, using a commercially reasonable standard, the prime rate on the day the loan was made. For example: the Wall Street Journal publishes the prime rate every day in its "Money Rates" column. The definition of prime rate in the Journal is the rate on "corporate loans at large U.S. money center commercial banks."

- If the lender agrees to an interest rate that is less than the prime rate, the difference between interest at the agreed rate and interest at the prime rate must be treated as an in-kind contribution from the lender.

#### 10.4 Loan and Repayment Examples

##### Example 1

Entity Name	Bank of Maryland
Date Loan Accepted	10/26/2010
Loan Amount	\$1,000
Interest Rate Charge	8% per annum
Prime Interest	8% per annum
Balance	\$1,080
In-Kind Interest Amount	0
Repayment Terms	1 year

The loan, amount, source of funds and interest expense must be reported on the campaign finance report.

##### Example 2

##### Candidate Committee – General Loan

Entity Name	Bank of Maryland
Date Loan Accepted	10/26/2010
Loan Amount	\$10,000
Interest Rate Charge	4% per annum
Prime Interest	6% per annum
Interest Paid	\$400
Interest Rate (prime)	\$600
In-Kind Interest Amount	\$200
Repayment Terms	5 years

Assume the loan inception date is 10/20/10, thus incurred within the 2010 contribution cycle (1/1/07 through 12/31/10). If the loan is not from a financial institution, the loan must be repaid before the end of the next election cycle or the 2014 Election Cycle (1/1/011 through 12/31/2014) and must be personally guaranteed by the candidate. If the loan is not repaid by the end of the next election cycle, it becomes a contribution and would exceed the \$4,000 contribution limit.

Additionally, in this example the interest rate charged on the loan is 4%, whereas the prime rate is 6%. The 2% difference must be accounted for as an in-kind contribution of \$200.

*(See Section 11.10 of the Summary Guide for information on how to report loans on the campaign finance report.)*



# **Title 33 State Board of Elections**

## **Subtitle 13 Campaign Financing**

### **Chapter 14 Public Financing**

*Authority: Election Law Article, §§2-102(b)(4) and 13-505(b)(7), Annotated Code of Maryland*

#### **.01 Scope.**

*This chapter applies to the administration of public campaign financing for elective office of county government.*

#### **.02 Establishment.**

*A. In General. A county government may establish a system of public campaign financing system to fund candidates for elective office of county government.*

*B. Plan Submission. No later than 1 year prior to the enactment of the system of public campaign financing, the county government shall submit the plan for the public financing system to the State Board for approval.*

*C. Approval Required. The county government may not implement a system of public campaign financing without the approval of the State Board.*

*D. Plan Review. Within 30 days of receipt of a plan, the State Board shall:*

*(1) Review the plan for conformity with State law and policy; and*

*(2) Notify the county government, in writing, that the plan is approved and conformed with State law and policy, or, if not approved, the reasons the plan does not conform.*

*E. Amended Plan Submission. If the State Board does not approve the plan, the county government may submit an amended plan for a public financing system at least 6 months prior to the date the system would be in effect for the next election.*

#### **.03 In General.**

*A. Establishment. A candidate for local office seeking public campaign financing shall establish an authorized candidate campaign committee with the State Board for the exclusive purpose of accepting public funds for election to a county office.*

*B. Qualification. Prior to engaging in campaign finance activity relating to public financing, including receiving non-public contributions in order to qualify for public funds, the candidate shall:*

*(1) File with the State Board a Statement of Organization establishing an authorized candidate campaign committee for the exclusive use or purpose of accepting public funds;*

*(2) File with the State Board a notice of intent to qualify for public funds at the time of filing the Statement of Organization; and*

*(3) Cease all campaign finance activity using any other authorized candidate campaign committee affiliated with the candidate from the date that the candidate files the notice of intent to the date the candidate files the final report for the candidate's public funding campaign committee.*

*C. Prohibitions. A candidate who accepts public funds may not:*

*(1) Use any other authorized candidate campaign committee except for one established in §A of this regulation; or*

*(2) Be a member of a slate committee.*

*D. Reports. All campaign finance reports of the authorized candidate campaign committee established in §A of this regulation shall be filed at the State Board in the manner and method set forth in COMAR 33.13.03.02.*

*E. Expenditure Limit. An authorized candidate campaign committee of a candidate who accepts public funds may not expend, in the applicable election, any amount in excess of that permitted by law.*

*F. Affiliation. A candidate who accepts public funds may affiliate with any other candidate, including non-publicly financed candidates, on campaign material if:*

*(1) The authorized candidate campaign committee established in §A of this regulation makes a direct disbursement to the payee for its share of the costs of the campaign material; and*

*(2) The campaign material displays the authority line of the authorized candidate campaign committee established in §A of this regulation.*

*G. Inactive Committees. All authorized candidate campaign committees affiliated with the candidate, including any authorized candidate committees that have not filed a final report but are inactive during the election, shall continue to file campaign finance reports required by Election Law Article, §§13-304 and 13-309, Annotated Code of Maryland.*

#### ***.04 Agency Responsibilities.***

*The State Board shall:*

*A. Prescribe all forms regarding campaign finance reporting;*

*B. Determine whether a candidate has qualified for public financing;*

*C. Determine whether a candidate has raised sufficient seed money to qualify to receive public funds, if seed money is required under the county's public financing system; and*

*D. Promptly after the gubernatorial general election, audit all campaign finance reports and other documents submitted by a publicly funded candidate.*

LINDA H. LAMONE  
STATE ADMINISTRATOR

# DONOR DIVERSITY THROUGH PUBLIC MATCHING FUNDS

Elisabeth Genn   Michael J. Malbin  
Sundeep Iyer   Brendan Glavin

BRENNAN  
CENTER  
FOR JUSTICE

*at New York University School of Law*



## ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at New York University School of Law is a non-partisan public policy and law institute that focuses on the fundamental issues of democracy and justice. Our work ranges from voting rights to campaign finance reform, from racial justice in criminal law to Constitutional protection in the fight against terrorism. A singular institution — part think tank, part public interest law firm, part advocacy group — the Brennan Center combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector.

## ABOUT THE CAMPAIGN FINANCE INSTITUTE

The Campaign Finance Institute has been the nation's pre-eminent non-partisan research institute on campaign finance since it was founded in 1999. Statements of the Campaign Finance Institute, its Task Forces and scholars do not necessarily reflect the views of CFI's Trustees or financial supporters. Additional information about the Institute may be found on its website, [www.CampaignFinanceInstitute.org](http://www.CampaignFinanceInstitute.org).

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**Michael J. Malbin** is co-founder and Executive Director of the Campaign Finance Institute, as well as a Professor of Political Science at the State University of New York at Albany. One of the country's leading scholars in this field, Dr. Malbin has been writing extensively about money and politics for more than three decades. Co-authored books include *Life After Reform: When the Bipartisan Campaign Reform Act Meets Politics* (2003); *The Election after Reform: Money, Politics and the Bipartisan Campaign Reform Act* (2006) and *Vital Statistics on Congress* (2012 edition forthcoming). With others at CFI, he has been doing extensive work for several years on the role of small donors in federal, state and local elections. Recent co-authored publications on that subject include *Reform in an Age of Networked Campaigns: How to Foster Citizen Participation through Small Donors and Volunteers* (2010); *Changing the Game by Expanding the Playing Field – Public Financing of Elections after Citizens United and Arizona Free Enterprise: An Analysis of Six Midwestern States Based on the Elections of 2006-2010* (2011), and *Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States* (Election Law Journal, 2012).

**Brendan Glavin** is the Data and Systems Manager at the Campaign Finance Institute. With CFI since 2001, he coordinates, develops and maintains CFI's federal and state databases on candidates, political parties, contributors, and the ever-changing variety of non-party organizations. He also provides all technical support for CFI's business systems and website. Previously, he coordinated technology for the Character Education Partnership and was Assistant to the Field Director at the Concord Coalition. He is co-author of *Changing the Game by Expanding the Playing Field – Public Financing of Elections after Citizens United and Arizona Free Enterprise: An Analysis of Six Midwestern States Based on the Elections of 2006-2010* (2011), and *Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States* (Election Law Journal, 2012).

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## EXECUTIVE SUMMARY

New York State is considering a system of public campaign financing for state elections similar to New York City's small donor matching fund program. The city's system matches at a six-to-one ratio the first \$175 a city resident contributes to a candidate participating in the voluntary program. In endorsing a reform for the state that mirrors the city system, New York Governor Andrew M. Cuomo claimed that a multiple-match public financing system would bring greater equality to state elections.

Candidates who have participated in both New York City and New York State elections agree. They have told us that by pumping up the value of small contributions, the New York City system gives them an incentive to reach out to their own constituents rather than focusing all their attention on wealthy out-of-district donors, leading them to attract more diverse donors into the political process. This is markedly different, they explained, from how they and other candidates conduct campaigns at the state level.

These claims, if true, suggest that the city's public financing system has contributed to a fundamental change in the relationship between candidates and their donors in New York City. In this new joint study, we analyze data on donations to candidates in New York City in the most recent sets of elections at the city and state levels to see whether the data are consistent with these claims — in other words, whether greater participation by small donors in city elections translates into more diverse participation.

The results for the elections we analyzed are remarkable. Small donors to 2009 City Council candidates came from a much broader array of city neighborhoods than did the city's small donors to 2010 State Assembly candidates.

- Almost 90 percent of the city's census block groups were home to someone — and often, many people — who gave \$175 or less to a City Council candidate in 2009. By contrast, the small donors in the 2010 State Assembly elections came from only 30 percent of the city's census block groups.
- The neighborhoods in which City Council small donors reside are more representative of New York City as a whole. They have lower incomes, higher poverty rates, and higher concentrations of minority residents than the neighborhoods where State Assembly small donors reside. All of these differences are statistically significant ( $p < .01$ ).
- Small donor participation in some of the city's poor black, Asian, and Latino neighborhoods was far more robust in City Council contests. *Twenty-four times more small donors from the poor and predominately black Bedford-Stuyvesant neighborhood and the surrounding communities gave money to candidates for the City Council than for the State Assembly. For Chinatown the advantage was 23 to 1. In the heavily Latino neighborhoods of Upper Manhattan and the Bronx, it was 12 to 1.*<sup>1</sup> The data support the claim that small donor matching funds help bring participants into the political process who traditionally are less likely to be active.

- The poor neighborhoods of color we analyzed were also financially more important to City Council candidates than to State Assembly candidates. In financial terms, the donors from Bedford-Stuyvesant and surrounding neighborhoods were more than 11 times as important for City Council candidates as they were than for candidates running for State Assembly. For Chinatown, the figure was 7 to 1. Contributors from Upper Manhattan and the Bronx were more than three times as important in City Council elections.

We do not discount the relevance of other factors, such as term limits for City Council and city residents' greater engagement in city elections, that may lead to greater diversity of participation in the City Council context. But available evidence — documented in the Methodology and Limitations section of this report — suggests that New York City's public financing system plays a significant role in bringing about the striking results we found.

Ultimately, our data are consistent with the claims made by candidates who have run in both city and state elections. The city's public financing system gives candidates an incentive to reach out to a broader and more diverse array of constituents to fund their campaigns. In so doing, the city's public financing system appears to have achieved one of its key goals — strengthening the connections between public officials and their constituents.



In March the Government Operations Committee requested analysis of how the proposed public funding program would work in a real election. To answer this question, Common Cause Maryland analyzed the campaign fundraising during the primary for the 2014 election. This analysis provides a snapshot at how public funding could impact campaign fundraising and answers key questions regarding the bill.

**Key Findings:**

- 1) In total, the program would have cost the county only \$2.5 million in this election cycle. That includes all council and executive candidates. While this number is lower than we would anticipate if candidates were trying to maximize their public funding match, it shows that the higher-end estimates that have been discussed are most likely not an accurate cost.
- 2) The qualifying thresholds seem to be set at the correct level:
  - a. Four at-large candidates would have qualified, with a fifth coming within ten donations. Those candidates were clearly separated from the eight candidates who would not have qualified, who either did not file reports or raised fewer than 90 individual donations.
  - b. Only five of eighteen district candidates would have met the qualifying threshold. Another three candidates were close (within 20 donations). The remaining ten candidates received under 100 individual donations.
  - c. Three of the four executive candidates would have qualified. This might be one threshold that could be increased, potentially doubling it to 1,000. That would have eliminated one candidate from the program. However, all three candidates were competitive and arguably ran strong campaigns, so this might have been a less typical field than normal.
- 3) The match levels also appear to be set at the right level to create viable candidates. It is our recommendation that the Council give the program a full election cycle with candidates actively trying to qualify for and use the program before adjusting the match levels.
  - a. 3 of 4 at-large candidates could have raised more funds through public funding.
  - b. Only 2 of the district candidates would have raised more funds through public funding.
  - c. Only 1 of the executive candidates would have raised more funds through the program.

**Methodology:**

Research assistants pulled all campaign donations from January 1, 2011 through the latest reports due August 28, 2014. They got rid of non-individuals and any donations from individuals not listing an address in Montgomery County or Washington, DC (these were left in just in case the individuals were Montgomery County residents). All donations from an individual were aggregated and anything over \$150 was re-entered as \$150. Researchers then ran the match numbers for all donations and pulled the totals for both the number of qualified donors and the public match.

Candidate	Party	Race	Amount Raised	Qualifying Contributions	Potential Public Funding Match	Notes
Daly, Beth	D	At large	\$220,902	508	\$172,115	
Elrich, Marc	D	At large	\$140,221	601	\$203,427	
Floreen, Nancy	D	At large	\$48,069	89	\$0	not qualify
Leventhal, George	D	At large	\$134,136	241		did not qualify; would have been \$87,180
Malloy, Vivian	D	At large	\$51,865	263	\$76,085	not qualify
Riemer, Hans	D	At large	\$66,399	489	\$168,883	
Dyer, Robert	R	At large				NO RECORDS
Fiotes, Chris P. Jr.	R	At large				NO RECORDS
Owen-Williams, Adol T. II	R	At large				NO RECORDS
Skolnick, Shelly	R	At large				NO RECORDS: Only Self-Loan
Willard, Tim	Green	At large	\$2,780	11	\$0	not qualify
<b>Total at-large races:</b>	250 needed			4	<b>\$620,510</b>	

Berliner, Roger	D	District 1	\$263,776	408	\$163,365	
Trachtenberg, Duchy	D	District 1	\$151,305	68	\$0	not qualify
Kirkland, Jim	R	District 1				NO RECORDS
Bolourian, Neda	D	District 2	\$3,551	21	\$0	not qualify
Rice, Craig L.	D	District 2	\$95,743	106	\$0	not qualify
Fiotes, Chris P. Jr.	R	District 2				NO RECORDS
Jurgena, Dick	R	District 2	\$3,436	15	\$0	not qualify
Kassim, Guled	D	District 3	\$24,560	39	\$0	not qualify
Katz, Sidney	D	District 3	\$134,389	175	\$68,149	
Moore, Tom	D	District 3	\$48,854	175	\$61,235	
Spiegel, Ryan	D	District 3	\$64,258	88	\$0	not qualify
Navarro, Nancy	D	District 4	\$35,176	134	\$42,335	
O'Malley, John	R	District 4				NO RECORDS
Barclay, Christopher	D	District 5	\$24,968	85	\$0	not qualify
Glass, Evan	D	District 5	\$55,494	104	\$0	not qualify
Hucker, Tom	D	District 5	\$339,053	565	\$168,413	
North, Terrill	D	District 5	\$41,419	114	\$0	not qualify
Thames, Jeffrey	D	District 5	\$5,684	8	\$0	not qualify
<b>Total District races:</b>	125 needed			5	<b>\$503,497</b>	

Andrews, Phil	D	Executive	\$289,052	1267	\$449,898	
Duncan, Douglas	D	Executive	\$802,775	917	\$344,147	
Leggett, Ike	D	Executive	\$1,084,875	1623	\$626,502	
Shalleck, Jim	R	Executive	\$9,416	30	\$0	not qualify
<b>Total Executive races:</b>	500 needed			<b>3</b>	<b>\$1,420,547</b>	
<b>Total Cost of Public Funding in Primary</b>					<b>\$2,544,554</b>	

**Notes:**

"Qualifying contributions" includes all donations from an individual with an address listed in Montgomery County or DC. Gifts of over 150 were included to qualify but only the \$150 was used to calculate the match.

"Cost to county" was calculated based on the match for each qualifying donation (up to the first \$150)

Value	Matching Funds	Cost to County	Check
150	600	450	450
125	550	425	425
110	520	410	410
100	500	400	400
95	480	385	385
85	440	355	355
75	400	325	325
70	380	310	310
60	340	280	280
50	300	250	250
40	240	200	200
35	210	175	175
30	180	150	150
25	150	125	125
20	120	100	100
18	108	90	90
15	90	75	75
10	60	50	50