


MEMORANDUM

October 31, 2017

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Worksession:** Expedited Bill 31-17, Elections – Public Campaign Financing – Contributions - Amendments

Expedited Bill 31-17, Elections – Public Campaign Financing – Contributions - Amendments, sponsored by Lead Sponsors Councilmembers Navarro, Katz and Council Vice President Riemer, was introduced on October 3, 2017. A public hearing was held on October 17.

Bill 31-17 would increase the amount of money an applicant candidate who is not married can donate or loan the candidate's campaign to match the amount permitted for a candidate who is married.

Background

Bill 16-14, Elections – Public Campaign Financing, was enacted on September 30, 2014 and signed into law on October 6, 2014. Bill 16-14 established the first public campaign finance system for County elections in Maryland.¹ The law designates the Maryland State Board of Elections to certify candidates and generally administer the public campaign financing system. The Director of Finance is responsible for establishing a Public Election Fund and distributing the public contributions to certified candidates. The Council has appropriated approximately \$11 million to date for the Public Election Fund.

A candidate needs to obtain a specific number of small contributions from a County resident of between \$5 and \$150 to qualify for public funding. Each of these qualifying contributions must be received during the qualifying period.

A candidate for Executive must collect at least 500 qualifying contributions and an aggregate total of at least \$40,000 to qualify. A candidate for At-Large Councilmember must collect at least 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 will 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 is \$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. For example, a candidate for Executive who collects

¹ On July 3, 2017, the Howard County Council overrode the Executive's veto of a public campaign financing law that is like the Montgomery County law. The new law will take effect for the 2022 elections in Howard County.

3 qualifying contributions of \$50 will 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 is \$750,000 for the primary and \$750,000 for the general election. The maximum public contribution for each election for At-Large Councilmember is \$250,000 and the maximum public contribution for each election for District Councilmember is \$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 or contribution from the candidate and the candidate's spouse. Section 16-20 limits personal contributions or loans from the candidate or the candidate's spouse to no more than \$6000 from each. Thus, a candidate who is married may combine with the candidate's spouse to contribute or loan the campaign up to \$12,000 while an unmarried candidate is limited to a personal contribution or loan of up to \$6,000. Bill 31-17 would level the field by permitting any candidate, married or unmarried, to contribute a maximum of \$12,000 to the candidate's campaign.

Public Hearing

The lone speaker, Sharon L. Cohen, opposed the Bill. See ©5-6. Ms. Cohen argued that it was unfair to change the system in the middle of the campaign and that Bill 31-17 would be unfair to those candidates who chose not to use public funding.

Discussion

The 2018 primary election for Executive and Council is scheduled for June 26, 2018. A candidate must file a notice of intent to use public funding for this election on or before April 15, 2018. This is the first election where a candidate can use the Public Campaign Financing Law. Fundamental fairness to all candidates is always important in an election. Bill 31-17 would make a change in the law after many of the campaigns for Executive and Council have begun, but almost 8 months before the primary election.

It is important to note that Bill 31-17 would not change the amount of qualifying contributions required to receive public contributions, the amount of the individual contributions that can be solicited and received, or the amount of public funding that is available to certified candidates. Bill 31-17 would only change the amount of money an unmarried candidate can self-fund the candidate's campaign. While an across the board increase or decrease in the amount of self-funding allowed for all candidates might be inappropriate now, Bill 31-17 only levels the playing field between a married candidate and an unmarried candidate. The Public Campaign Financing Law was not enacted to favor a candidate who is married over a candidate who is not. In recognition that some married candidates may have already self-funded their campaign with more than \$6,000, the most appropriate method of remedying this inequality is to permit all candidates seeking public funding to self-fund their campaign up to \$12,000. **Council staff recommendation:** approve the Bill as introduced.

This packet contains:

Expedited Bill 31-17

Legislative Request Report

Testimony of Sharon L. Cohen

Circle #

1

4

5

Expedited Bill No. 31-17
Concerning: Elections – Public Campaign
Financing – Contributions –
Amendments
Revised: September 19, 2017 Draft No. 1
Introduced: October 3, 2017
Expires: April 3, 2019
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Navarro, Katz and Council Vice President Riemer

AN EXPEDITED ACT to:

- (1) increase the amount of money an applicant candidate who is not married can donate or loan the candidate's campaign to match the amount permitted for a candidate who is married; and
- (2) generally amend the public campaign financing law governing eligible contributions.

By amending

Montgomery County Code
Chapter 16, Elections
Section 16-20

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

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

Sec. 1. Section 16-20 is amended as follows:

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 eligible 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 an eligible contribution from an individual greater than \$150.

(c) An applicant candidate must not accept a loan from anyone other than the candidate or the candidate's spouse. An applicant candidate ~~[or]~~ and the candidate's spouse together must not contribute or lend a combined total of more than [\$6000 each] \$12,000 to the candidate's publicly funded campaign account.

~~[(c)]~~ (d) Consumer Price Index adjustment. The Chief Administrative Officer must adjust the contribution limit established in Subsection (b), effective July 1, 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 years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of 10 dollars, and must publish the amount of this adjustment not later than March 1 of each fourth year.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate

28 protection of the public interest. This Act takes effect on the date on which it becomes
29 law.

30 *Approved:*

31

Roger Berliner, President, County Council

Date

32 *Approved:*

33

Isiah Leggett, County Executive

Date

34 *This is a correct copy of Council action.*

35

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 31-17

Elections – Public Campaign Financing – Contributions – Amendments

DESCRIPTION:	Section 16-20 limits personal contributions or loans from the candidate or the candidate's spouse to no more than \$6000 from each. The result is that a candidate who is married may combine with the candidate's spouse to contribute or loan the campaign up to \$12,000 while an unmarried candidate is limited to a personal contribution or loan of up to \$6,000. Bill 31-17 would level the field by permitting any candidate, married or unmarried, to contribute a maximum of \$12,000 to the candidate's campaign.
PROBLEM:	The law permits a married candidate to contribute \$12,000 to the candidate's campaign while only permitting an unmarried candidate to contribute \$6,000.
GOALS AND OBJECTIVES:	A level playing field between married and unmarried candidates.
COORDINATION:	Finance, County Attorney
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	N/A
EXPERIENCE ELSEWHERE:	N/A
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	Not applicable.
PENALTIES:	Class A Violation

Testimony from Sharon L. Cohen
Resident of Potomac, MD
Before The Montgomery County Council on
Expedited Bill 31-17 – Public Campaign Finance Amendment
October 17, 2017

Good afternoon my name is Sharon Cohen. By way of background, I serve on the Executive Board of the Montgomery County Republican Central Committee and also serve as the Vice-Chair of the Council's Committee to Recommend Funding for the Public Election Fund (PEF). I have a broad understanding of the new PEF program. But today I testify solely on my own behalf, and I am speaking in opposition to Expedited bill 31-17.

I will be brief and to the point. Making law changes now in the final quarter of the election cycle is unfair and downright inappropriate as many of you seek to qualify for PEF funding for your own candidacies.

Rather than "leveling the field" as some among you claim, in fact what you did with expedited bill 25-17 (the first round of PEF law changes moved this past summer) and now with proposed expedited bill 31-17 is to **CHANGE THE RULES OF THE GAME IN THE MIDDLE OF PLAY!**

Many candidates for county office have already filed for office. Some choose to be PEF candidates, others not. Those decisions to seek or NOT seek PEF funding were based among other things on the PEF law at the time those decisions were made. Further, prospective candidate may have chosen to NOT run at all again based on the PEF law at the time.

The PEF law changes in this expedited bill and the prior measure give PEF candidates a leg up by making it easier for PEF candidates to secure public funding! That is a disadvantage to non-PEF candidates who have already filed and collected campaign contributions.

The candidacy-filing deadline is about 4 months away! That leaves virtually no time for a non-PEF candidate that's already filed and collected contributions to switch over to become a PEF candidate now that the rules of the game have changed and it's easier to qualify. The same goes for

prospective candidates who may have held off – decided not to run -- because the PEF law at the time had a higher bar to qualify.

In July I asked the Council when I testified against the first round of PEF law changes, what would happen if the Council identified additional problems or challenges with the PEF law? I asked how many more expedited bills will the Council attempt to move between now and the June 2018 Primary or between the Primary and General Election? Now a mere three months later, the Council is indeed back to make more changes to the PEF law. Where does this end? This is a make it up as you go farce.