
By: Delegates Hurson, Bobo, Franchot, Dembrow, Clagett, Turner, Hecht, Rosenberg, McIntosh, Barve, Pendergrass, Grosfeld, Kagan, Getty, and Rudolph

Introduced and read first time: February 2, 1996

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 Election Law - Fair Campaign Financing Act - General Assembly Candidates

3 FOR the purpose of expanding the Fair Campaign Financing Act to include candidates
4 for election to the General Assembly; specifying certain expenditure and
5 contribution limitations for candidates for the General Assembly who elect to be
6 governed by the Act; providing a funding source to provide for the public financing
7 of the election of eligible candidates for the General Assembly; providing for a State
8 personal income tax deduction for certain individual contributions to certain eligible
9 candidates under the Act; specifying that eligible candidates for the General
10 Assembly who participate in the Act shall be identified as such on the election
11 ballot; limiting the amount of transfers from certain political committees that may
12 be accepted by eligible candidates for the General Assembly who are subject to the
13 Act; regulating certain independent expenditures made on behalf of certain eligible
14 candidates under the Fair Campaign Financing Act; allowing certain eligible
15 candidates for the General Assembly to exceed certain spending limitations
16 imposed under the Act under certain circumstances; repealing certain exemptions
17 from the sales and use tax; requiring the Comptroller to distribute certain sales and
18 use tax revenues in a certain manner for certain purposes; making provisions of this
19 Act severable; and generally relating to the expansion of the Fair Campaign
20 Financing Act to include candidates for election to the General Assembly of
21 Maryland.

22 BY repealing and reenacting, with amendments,
23 Article 33 - Election Code
24 Section 26-9.2, 31-2, 31-3, 31-4, 31-5, and 31-10
25 Annotated Code of Maryland
26 (1993 Replacement Volume and 1995 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article 33 - Election Code
29 Section 31-1, 31-6, 31-7, 31-8, and 31-9
30 Annotated Code of Maryland
31 (1993 Replacement Volume and 1995 Supplement)

32 BY adding to

2

1 Article 33 - Election Code
2 Section 31-10 and 31-11
3 Annotated Code of Maryland
4 (1993 Replacement Volume and 1995 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Tax - General
7 Section 2-1303 and 11-215
8 Annotated Code of Maryland
9 (1988 Volume and 1995 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article 33 - Election Code**

13 26-9.2.

14 (a) Provided that a person complies with the requirement set forth in subsection
15 (b) of this section, this subtitle may not be construed to prohibit a person from expressing
16 personal views on any subject or from spending personal funds to purchase any campaign
17 advertisement or campaign material.

18 (b) In any campaign advertisement or campaign material purchased by an
19 independent expenditure or an expenditure that has not been authorized by a candidate,
20 the following language shall be included:

21 "This message has been authorized and paid for by (name of committee or any
22 affiliated organization of the committee), (name and title of treasurer or president). This
23 message has not been authorized or approved by any candidate."

24 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
25 PERSON WHO MAKES AN INDEPENDENT EXPENDITURE UNDER THIS SECTION ON
26 BEHALF OF AN ELIGIBLE CANDIDATE UNDER THE FAIR CAMPAIGN FINANCING ACT,
27 SUBTITLE 31 OF THIS ARTICLE, SHALL FILE A REPORT OF THE EXPENDITURE WITH
28 THE STATE ADMINISTRATIVE BOARD OF ELECTION LAWS WITHIN 5 BUSINESS DAYS
29 OF THE EXPENDITURE.

30 (2) A PERSON WHO MAKES AN INDEPENDENT EXPENDITURE
31 DESCRIBED IN SUBSECTION (A) OF THIS SECTION ON BEHALF OF AN ELIGIBLE
32 CANDIDATE DURING THE PERIOD THAT IS WITHIN 7 DAYS OF A PRIMARY OR
33 GENERAL ELECTION SHALL FILE A REPORT OF THE EXPENDITURE WITH THE STATE
34 ADMINISTRATIVE BOARD OF ELECTION LAWS WITHIN 24 HOURS OF THE
35 EXPENDITURE.

36 31-1.

37 The General Assembly of Maryland, recognizing that our system of representative
38 government depends in part on guaranteeing that election campaigns are funded by the
39 people and for the people and on eliminating the corrupting and undemocratic effects of
40 large private contributions, finds and declares that an equitable means of public campaign

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1 financing is necessary in these times for the continued effective functioning of
2 representative democracy.

3 31-2.

4 (a) In this subtitle the following terms have the meanings indicated unless
5 otherwise provided.

6 (b) "Candidate" means:

7 (1) [a] A Governor-Lieutenant Governor unit;

8 (2) A CANDIDATE FOR THE HOUSE OF DELEGATES OF MARYLAND; OR

9 (3) A CANDIDATE FOR THE SENATE OF MARYLAND.

10 (c) "Comptroller" means the State Comptroller of the treasury.

11 (d) "Eligible candidate" means a candidate who has qualified to receive a public
12 contribution.

13 (e) "Eligible private contribution" means that portion of a monetary or in kind
14 campaign contribution, or series of contributions, from an individual that does not
15 exceed:

16 (1) \$250, FOR A GOVERNOR-LIEUTENANT GOVERNOR UNIT; OR

17 (2) \$100, FOR A CANDIDATE FOR THE HOUSE OF DELEGATES OR THE
18 SENATE OF MARYLAND, PROVIDED THE CONTRIBUTION IS RECEIVED FROM AN
19 INDIVIDUAL IN THE LEGISLATIVE DISTRICT OF THE CANDIDATE ON OR AFTER
20 SEPTEMBER 1 OF THE YEAR IMMEDIATELY PRIOR TO THE YEAR OF THE ELECTION.

21 (f) "Fund" means the "Fair Campaign Financing Fund".

22 (g) "Public contribution" means a sum disbursed from the Fair Campaign
23 Financing Fund to [a] AN ELIGIBLE candidate according to the provisions of this
24 subtitle.

25 (h) "Seed money" means a sum of lawfully raised eligible private contributions
26 that is 10 percent of the maximum campaign expenditure limit provided under § 31-3 for
27 an election.

28 (i) "State Administrator" means the State Administrator of Election Laws.

29 (j) "State Board" means the State Administrative Board of Election Laws.

30 (k) "Treasurer" includes a campaign subtreasurer.

31 31-3.

32 (a) (1) A candidate who applies for and accepts a public contribution from the
33 Fair Campaign Financing Fund may not expend[, in the applicable election,] an amount
34 in excess of the FOLLOWING AMOUNTS, ADJUSTED ANNUALLY BEGINNING JANUARY
35 1, 1997, IN ACCORDANCE WITH THE CONSUMER PRICE INDEX IN THE PRECEDING
36 CALENDAR YEAR, USING AS THE CONSUMER PRICE INDEX THE AVERAGE OF THE

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1 CONSUMER PRICE INDICES (ALL URBAN CONSUMERS, ALL ITEM INDEX) PUBLISHED
2 BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE BALTIMORE MSA AND
3 THE WASHINGTON, D.C. MSA:

4 (I) FOR A GOVERNOR-LIEUTENANT GOVERNOR UNIT, IN A
5 PRIMARY OR GENERAL ELECTION, THE product of 30 cents multiplied by the
6 population of the State [adjusted annually beginning January 1, 1997, in accordance with
7 the Consumer Price Index];

8 (II) FOR A CANDIDATE FOR THE SENATE OF MARYLAND, DURING
9 A 4-YEAR ELECTION CYCLE, THE PRODUCT OF \$1.50 MULTIPLIED BY THE
10 POPULATION OF THE CANDIDATE'S LEGISLATIVE DISTRICT; AND

11 (III) FOR A CANDIDATE FOR THE HOUSE OF DELEGATES OF
12 MARYLAND, DURING A 4-YEAR ELECTION CYCLE, THE PRODUCT OF 75 CENTS
13 MULTIPLIED BY THE POPULATION OF THE CANDIDATE'S LEGISLATIVE DISTRICT OR
14 SUBDISTRICT.

15 (2) Expenditures made on behalf of the candidate by State or local partisan
16 central committees are not subject to the terms of paragraph (1) of this subsection.

17 (b) For purposes of this section, the population of the State OR OF THE
18 LEGISLATIVE DISTRICT OR SUBDISTRICT shall be determined on January 1 of the year
19 in which the election is to be held in accordance with the most recent decennial United
20 States census, or a more recent population estimate prepared for the State by the State
21 Department of Health and Mental Hygiene if this is available.

22 (c) The candidate, and any chairman or treasurer associated with the
23 expenditure, are jointly and severally liable civilly and criminally for any expenditure
24 made in violation of this section.

25 31-4.

26 (a) (1) There is established the "Fair Campaign Financing Fund" which shall be
27 administered by the Comptroller in accordance with the provisions of § 31-9 of this
28 subtitle.

29 (2) The Comptroller shall credit to the Fund all money:

30 (I) [collected] COLLECTED pursuant to [these provisions] §31-9 OF
31 THIS SUBTITLE; AND

32 (II) OTHERWISE ALLOCATED TO THE FUND FROM THE GENERAL
33 REVENUES OF THE STATE UNDER § 31-10 OF THIS SUBTITLE.

34 (b) Subject to the other requirements of this subtitle, the State Board shall:

35 (1) [begin] BEGIN to distribute one-half of the money in the Fund THAT IS
36 ALLOCATED FOR GOVERNOR-LIEUTENANT GOVERNOR UNITS UNDER § 31-9 OF THIS
37 SUBTITLE not later than February 1 of the year of the election to eligible candidates in
38 the primary election on a continuing basis and the remaining money in the Fund promptly
39 after the primary election to eligible candidates in the general election; AND

1 (2) BEGIN TO DISTRIBUTE THE MONEY PROVIDED UNDER § 31-10 OF
2 THIS SUBTITLE FOR ELIGIBLE CANDIDATES FOR THE HOUSE OF DELEGATES OR
3 SENATE OF MARYLAND ON THE DAY FOLLOWING THE DEADLINE FOR FILING A
4 CERTIFICATE OF CANDIDACY UNDER SUBTITLE 4A OF THIS ARTICLE AND ON A
5 CONTINUING BASIS THEREAFTER.

6 (c) [No later than January 1, 1996, the] THE State Administrator shall
7 promulgate comprehensive regulations to carry out the purposes and requirements of this
8 subtitle. The regulations shall include provisions regarding:

9 (1) The manner and date by which candidates shall notify the State Board
10 that they intend to qualify for public contributions INCLUDING THE DATE, SET NO
11 MORE THAN 2 WEEKS AFTER NOTICE TO THE STATE BOARD UNDER THIS
12 PARAGRAPH, BY WHICH A CANDIDATE MUST REVOKE A PRIOR DECISION TO
13 ACCEPT PUBLIC CONTRIBUTIONS;

14 (2) The deadline for candidates to submit requests for public contributions;

15 (3) The dates upon which the State Board is to order, and the Comptroller
16 is to make, disbursements of public contributions to candidates in accordance with this
17 subtitle;

18 (4) Pro rata distributions if there is not, or may not be, sufficient money
19 FOR GOVERNOR-LIEUTENANT GOVERNOR UNITS in the Fund UNDER § 31-9 OF THIS
20 SUBTITLE;

21 (5) A formula for distributing supplementary public contributions to the
22 other [eligible candidates] GOVERNOR-LIEUTENANT GOVERNOR UNITS if, because an
23 eligible candidate fails to request a public contribution, withdraws as a candidate,
24 becomes disqualified, or dies, additional funds become available UNDER § 31-9 OF THIS
25 SUBTITLE;

26 (6) The standards by which expenditures by political committees and slates
27 with which an eligible candidate is affiliated are applied to the expenditure limit of the
28 candidate as specified in § 31-3 of this subtitle;

29 (7) The specification of thresholds for in-kind contributions that will not be
30 deemed contributions or expenditures for the purposes of this subtitle;

31 (8) Distributions to:

32 (i) Unopposed candidates;

33 (ii) Candidates who are not members of the 2 principal political
34 parties; and

35 (iii) Write-in candidates; and

36 (9) The purposes for which public contributions may not be used.

37 (d) If the State Board determines that there is not, or may not be, sufficient
38 money in the Fund to provide a full public contribution to all [eligible candidates]
39 GOVERNOR-LIEUTENANT GOVERNOR UNITS in either the primary or general election,

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1 the State Board then shall allocate the available money so that all [eligible candidates]
2 GOVERNOR-LIEUTENANT GOVERNOR UNITS in that election will receive a pro rata
3 share of the full public contribution to which they would otherwise be entitled.

4 (e) (1) The State Board may request the assistance of the Comptroller in the
5 administration of this subtitle.

6 (2) The Comptroller shall submit a statement of the Fund's balance to the
7 State Board at the State Board's request and on May 15 of each year.

8 (f) (1) The Comptroller shall disburse public contributions to a single campaign
9 depository of an eligible candidate, as provided in § 26-5(b) of this article.

10 (2) The State Board has the sole right and responsibility for ordering a
11 disbursement from the Fund.

12 31-5.

13 (a) On the date specified by regulation pursuant to § 31-4(c) of this article, a
14 candidate is entitled to a public contribution if:

15 (1) The required seed money has been raised;

16 (2) The seed money is refundable only in the event of the withdrawal of the
17 candidate's name from the ballot; and

18 (3) As certified by the candidate's treasurer, on forms prescribed by the
19 State Board, the seed money was raised in accordance with the provisions of this subtitle
20 and received:

21 (I) AS TO A GOVERNOR-LIEUTENANT GOVERNOR UNIT,
22 subsequent to March 1 of the year immediately preceding the year of the election; AND

23 (II) AS TO CANDIDATES FOR ELECTION TO THE HOUSE OF
24 DELEGATES OR SENATE OF MARYLAND, SUBSEQUENT TO SEPTEMBER 1 OF THE
25 YEAR IMMEDIATELY PRECEDING THE YEAR OF THE ELECTION.

26 (b) (1) The State Board shall order disbursement of funds[, designated for
27 disbursement in the primary,] as provided in this subsection.

28 (2) [Candidates] GOVERNOR-LIEUTENANT GOVERNOR UNIT
29 CANDIDATES who are opposed in the primary OR CANDIDATES FOR ELECTION TO THE
30 HOUSE OF DELEGATES OR SENATE OF MARYLAND shall receive \$1 in public
31 contributions for every \$1 in eligible private contributions IN ACCORDANCE WITH THE
32 REQUIREMENTS OF §§ 31-9 AND 31-10 OF THIS SUBTITLE.

33 (3) [Candidates] GOVERNOR-LIEUTENANT GOVERNOR UNIT
34 CANDIDATES who are unopposed in the primary shall receive \$1 in public contributions
35 for every \$3 in eligible private contributions.

36 (c) (1) The State Board shall order disbursement in the general election of all
37 money remaining in the Fund FOR GOVERNOR-LIEUTENANT GOVERNOR UNIT
38 CANDIDATES, including money remaining from the portion designated for the primary,
39 as provided in this subsection.

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1 (2) All eligible GOVERNOR-LIEUTENANT GOVERNOR UNIT candidates
2 who are nominees shall receive equal shares of the Fund.

3 (3) If a GOVERNOR-LIEUTENANT GOVERNOR UNIT candidate is
4 unopposed on the general election ballot, the candidate shall receive no public
5 contributions.

6 (4) An eligible candidate who did not receive public contributions in the
7 primary, but is a nominee in the general election, may only receive public contributions in
8 the general election if the candidate did not spend more than the maximum expenditure
9 limit in the primary.

10 (5) The State Board shall disburse public contributions promptly after the
11 certification of primary results.

12 31-6.

13 (a) A public contribution may be expended only:

14 (1) With the authority of the candidate or his treasurer;

15 (2) To further the candidate's nomination or election;

16 (3) For expenses incurred not later than 30 days after the election for which
17 these were made; and

18 (4) For purposes that are not violative of State law.

19 (b) Any unspent portion of a public contribution shall be repaid to the
20 Comptroller for redeposit in the Fund not later than 60 days following the election for
21 which the public contribution was granted. When computing whether there is an unspent
22 part of a public contribution, all private contributions to the candidate shall be presumed
23 as spent prior to any expenditure of the public contribution.

24 (c) A candidate and his treasurer are jointly and severally personally liable for
25 repaying to the Comptroller any part of a public contribution which was unspent or which
26 is spent in violation of subsection (a) of this section.

27 31-7.

28 On conviction of each violation of this subtitle, the violator shall be fined not more
29 than \$5,000 or imprisoned for not more than one year, or both.

30 31-8.

31 Any money remaining in the Fund after disbursements to candidates in a
32 gubernatorial election shall be credited to the Fund for the purposes provided in this
33 subtitle.

34 31-9.

35 (a) (1) For the taxable year beginning January 1, 1995 and each taxable year
36 thereafter, for every individual other than a nonresident alien filing a personal State
37 income tax return, the Comptroller shall establish a tax add-on system that allows
38 contributions to the Fair Campaign Financing Fund not to exceed \$500 per tax filer.

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1 (2) In accordance with the provisions of this subtitle, the Comptroller shall:

2 (i) Credit money to the Fund from the general revenues of the State;
3 and

4 (ii) Make disbursements from the Fund promptly upon receipt of an
5 authorized request from the State Administrative Board of Election Laws.

6 (b) The Comptroller shall administer the Fund and invest the money in the Fund,
7 subject to the usual investing procedures for State funds.

8 31-10.

9 (A) FOR THE GENERAL ELECTION IN 1998 AND EACH ELECTION CYCLE
10 THEREAFTER, MONEY TO PROVIDE FOR THE PUBLIC FINANCING OF THE ELECTION
11 CAMPAIGN OF EACH ELIGIBLE CANDIDATE FOR ELECTION TO THE HOUSE OF
12 DELEGATES OR SENATE OF MARYLAND SHALL BE APPROPRIATED FROM THE SALES
13 AND USE TAX REVENUE DERIVED FROM THE SALE OF DIRECT MAIL ADVERTISING
14 LITERATURE, MAIL ORDER CATALOGUES, AND COMPUTERIZED MAILING LISTS
15 UNDER § 2-1303(1) OF THE TAX - GENERAL ARTICLE OF THE CODE.

16 (B) THE COMPTROLLER SHALL INVEST THE MONEY APPROPRIATED TO THE
17 FUND UNDER SUBSECTION (A) OF THIS SECTION, SUBJECT TO THE USUAL INVESTING
18 PROCEDURES FOR STATE FUNDS.

19 (C) IF, FOR ANY ELECTION, THERE IS INSUFFICIENT MONEY IN THE FUND TO
20 PROVIDE FOR THE PUBLIC FINANCING OF THE ELECTION CAMPAIGN OF EACH
21 ELIGIBLE CANDIDATE FOR ELECTION TO THE HOUSE OF DELEGATES OR SENATE OF
22 MARYLAND, MONEY FROM THE GENERAL REVENUES OF THE STATE SHALL BE
23 APPROPRIATED TO COVER THE DEFICIENCY.

24 31-11.

25 (A) AN INDIVIDUAL WHO MAKES AN ELIGIBLE PRIVATE CONTRIBUTION
26 UNDER THIS SUBTITLE TO THE CAMPAIGN OF AN ELIGIBLE CANDIDATE MAY
27 DEDUCT THE AMOUNT OF THE CONTRIBUTION ON THE INDIVIDUAL'S PERSONAL
28 STATE INCOME TAX RETURN.

29 (B) EXCEPT FOR A SLATE AND ITS CANDIDATE MEMBERS, AND PROVIDED
30 ALL OF THE SLATE MEMBERS ARE ELIGIBLE CANDIDATES FOR THE HOUSE OF
31 DELEGATES OR SENATE OF MARYLAND, AN ELIGIBLE CANDIDATE FOR THE HOUSE
32 OF DELEGATES OR SENATE OF MARYLAND MAY NOT ACCEPT, IN THE AGGREGATE,
33 TRANSFERS FROM A POLITICAL COMMITTEE THAT EXCEED 20 PERCENT OF THE
34 EXPENDITURE LIMIT APPLICABLE TO THE CANDIDATE UNDER § 31-3 OF THIS
35 SUBTITLE.

36 (C) IF AN INDEPENDENT EXPENDITURE IS MADE UNDER § 26-9.2 OF THIS
37 ARTICLE ON BEHALF OF AN ELIGIBLE CANDIDATE AND THE CHALLENGER ALSO IS
38 AN ELIGIBLE CANDIDATE, THE CHALLENGER MAY EXCEED THE SPENDING
39 LIMITATIONS SPECIFIED UNDER THIS SUBTITLE TO THE EXTENT OF THE AMOUNT
40 OF THE INDEPENDENT EXPENDITURE.

9

1 (D) AN ELIGIBLE CANDIDATE SHALL BE IDENTIFIED ON THE BALLOT AS
2 ACCEPTING THE SPENDING LIMITS SPECIFIED IN THE FAIR CAMPAIGN FINANCING
3 ACT.

4 [31-10.] 31-12.

5 This subtitle may be cited as the Fair Campaign Financing Act.

6 **Article - Tax - General**

7 2-1303.

8 After making the distributions required under §§ 2-1301 and 2-1302 of this subtitle,
9 the Comptroller shall [pay]:

10 (1) DISTRIBUTE THE REVENUE DERIVED FROM THE SALE OF DIRECT
11 MAIL ADVERTISING LITERATURE AND MAIL ORDER CATALOGUES THAT WILL BE
12 DISTRIBUTED OUTSIDE THE STATE, AND A SALE OF COMPUTERIZED MAILING LISTS
13 TO THE EXTENT USED FOR THE PURPOSE OF PROVIDING ADDRESSES TO WHICH
14 DIRECT MAIL ADVERTISING LITERATURE AND MAIL ORDER CATALOGUES WILL BE
15 DISTRIBUTED OUTSIDE THE STATE; AND

16 (2) PAY the remaining sales and use tax revenue into the General Fund of
17 the State.

18 11-215.

19 (a) The sales and use tax does not apply to a sale of photographic material for use
20 in the production of an item that is used in:

21 (1) composition or printing; or

22 (2) production of another item used in printing.

23 (b) (1) The sales and use tax does not apply to a sale of art works,electros,
24 electrotypes, hand or machine compositions, lithographic plates or negatives, mats,
25 photoengravings, stereotypes, or typographies:

26 (i) to a person engaged in the printing of tangible personal property
27 for sale; and

28 (ii) for direct use by the person to produce that propertyfor sale.

29 (2) A vendor who sells any item under paragraph (1) of this subsection is
30 not entitled to any exclusion under § 11-101(e)(3)(ii) or (k)(3)(ii) ofthis title for material
31 that the vendor buys to produce that item.

32 (c) (1) The sales and use tax does not apply to the printing and sale of
33 newspapers that are distributed by the publisher at no charge.

34 (2) A publication is not a newspaper unless it is published anddistributed at
35 least once per month and it meets other criteria as defined by the Comptroller.

36 (d) The sales and use tax does not apply to[:

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1 (1) a sale of direct mail advertising literature and mail order catalogues that
2 will be distributed outside the State, and a sale of computerized mailing lists to the extent
3 used for the purpose of providing addresses to which direct mail advertising literature and
4 mail order catalogues will be distributed outside the State; or

5 (2)] a sale of government documents, publications, records, or copies by the
6 federal or State or a local government or an instrumentality of the federal or State or a
7 local government.

8 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act
9 or the application thereof to any person or circumstance is held invalid for any reason in
10 a court of competent jurisdiction, the invalidity does not affect other provisions or any
11 other application of this Act which can be given effect without the invalid provision or
12 application, and for this purpose the provisions of this Act are declared severable.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1996.