

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 1132 (Delegates McIntosh and Hurson)

Commerce and Government Matters

Clean Campaign Public Financing Act for Candidates for the General Assembly

This bill proposes a constitutional amendment to establish the Clean Campaign Public Financing Fund for Candidates for the General Assembly to be administered by the State Board of Elections with the assistance of the Comptroller's Office. Currently, there is a system for public financing of campaigns for candidates for Governor and Lieutenant Governor.

If approved by the General Assembly, this constitutional amendment will be submitted to voters at the 1998 general election.

Fiscal Summary

State Effect: Should voters approve the amendment, general fund revenues would decrease by an indeterminate amount, and expenditures would increase by \$109,000 in FY 2000 to write regulations and change tax forms. Indeterminate effect on future expenditures.

Local Effect: None. If the amendment is approved by voters, there would be a minimal decrease in revenues and no effect on expenditures.

Small Business Effect: None.

Fiscal Analysis

Bill Summary: If voters approve the amendment, the Clean Campaign Fund would be funded primarily through: (1) a tax add-on (check-off) system established by the Comptroller's Office; (2) State general fund revenues; (3) voluntary tax-deductible charitable contributions made directly to the fund; (4) unspent money that is returned to the fund by eligible candidates; and (5) fines collected by the State Board of Elections. In addition, the

Comptroller's Office would establish for each taxable year, a tax add-on system that allows donations to the Clean Campaign Public Financing Fund for candidates for the General Assembly, not to exceed \$100 per tax return.

In order to qualify for funding through the Clean Campaign Fund, a candidate would have to: (1) abide by a spending limit; (2) agree to a limit on private contributions of no more than \$100 per donor; and (3) collect a minimum number of qualifying contributions from voters in their district.

The spending limit would be \$35,000 for a candidate for the House of Delegates and \$80,000 for a candidate for the Senate, adjusted annually beginning January 1, 2000 by the consumer price index. These spending limits would be for candidates who apply for and accept public contributions from the fund.

Candidates would be allowed to raise a limited amount of seed money to help the candidate obtain the qualifying contribution amount. Seed money is privately raised funds in amounts of no more than \$100 per donor received no sooner than one year, and no later than two months, before the primary. Candidates would be allowed to accept total seed money of no more than \$2,000 for House races and \$5,000 for Senate races to be eligible for Clean Campaign Fund money. Seed money could not be spent after a candidate qualifies for public funds. These contributions would only be refundable if the candidate withdraws, and the candidate's treasurer certifies that the funds were raised in accordance with these provisions.

A candidate would be required to collect a minimum number of qualifying contributions (up to \$100) from voters in their district. For House candidates, the number would be at least one-third of 1% of the population in the legislative district. For Senate candidates, the number would be at least two-thirds of 1% of the population in the legislative district. These qualifying contributions would be deposited into the Clean Campaign Fund. The funds would be disbursed by the State Board of Elections to eligible candidates in an amount equal to 75% of the expenditure limit specified for that office.

An eligible candidate would be able to raise the remaining 25% of the expenditure limit in private contributions of no more than \$100 per donor from individuals, political committees, or political parties. Candidates could spend 60% of their total funds in the primary, and 40% in the general election. Candidates without an opponent in a primary or general election would receive a maximum of 50% of the Clean Campaign Fund disbursement available for that election.

A State or local partisan central committee could not: (1) make an expenditure on behalf of an eligible candidate in a primary election; (2) expend an amount that exceeds 5% of the expenditure limit applicable to an eligible candidate. Candidates who receive public funding could not make a contribution to their own campaign in excess of \$100. If a candidate or

treasurer contributes more than \$100 to the campaign, civil and criminal penalties would apply.

The Clean Campaign Fund would be administered by the State Board of Elections, with the assistance of the Comptroller's Office. The State Board would be required to adopt comprehensive regulations regarding: (1) filing dates and deadlines; (2) distribution of funds; (3) standards for expenditures by political committees and slates; and (4) thresholds for in kind contributions. The State Board would also be required to develop regulations relating to distributions to: (1) unopposed candidates; (2) candidates who are not members of the two principal political parties; and (3) write-in candidates.

The Comptroller would be required to submit a statement of the fund's balance to the State Board on May 15th of each year. The Comptroller would be required to: (1) credit to the fund all money collected; (2) make disbursements from the fund promptly upon authorization from the State Board of Elections; and (3) administer the fund and invest the money in the fund, subject to the usual investing procedures for State funds. The State Board of Elections would be required to begin to distribute to eligible candidates one-half of the money in the fund no later than February 1 of the year of the primary election. The board would be required to disburse money in the fund promptly after the certification of primary results, including money remaining from the portion designated for the primary election to: (1) all eligible candidates in equal shares, except in the case of a candidate who is unopposed in the general election, in which case the candidate could not receive public funds; and (2) an eligible candidate who did not receive public contributions in the primary, but is a nominee in the general election, provided that the candidate did not spend more than the maximum expenditure limit in the primary.

If a candidate who is not certified to receive public funds raises and spends funds exceeding the spending limits for an opposing qualified Clean Campaign Fund candidate, the State Board would distribute to the eligible candidate an additional amount that is equivalent to the excess contribution amount reported by the non-certified candidate. This additional amount could not exceed two times the amount of the distribution that the eligible candidate is entitled to receive. A candidate who is not affiliated with a political party is entitled to a distribution of funds equal to that of candidates in an uncontested primary election and in a contested general election.

Public contributions could only be spent with the authority of the candidate or candidate's treasurer for reasonable expenses which incurred no later than 30 days after the election for which the expenses were made. Public funds could not be used for purposes which are in violation of State law or for the personal use of a candidate. Any unspent portion of a public contribution would have to be repaid to the Comptroller for redeposit into the fund, within 60 days after the election for which the contribution was granted. All private contributions

would be presumed as spent prior to any expenditure of public contribution. A candidate and candidate's treasurer would be jointly responsible for repaying unspent public contributions, or any amount spent in violation of these provisions. Any candidate or candidate's treasurer convicted of violating these provisions would be fined up to \$5,000, or imprisoned up to one year, or both. A Clean Campaign Fund candidate could be designated as such on the ballot for elections.

State Revenues: If the constitutional amendment is approved by voters, general fund revenues would decrease by an indeterminate amount. There are currently two tax check-offs: the Chesapeake Bay and Endangered Species Fund and the Fair Campaign Financing Fund (for Governor and Lieutenant Governor). For fiscal 1996 and 1997, the first two tax years of the Fair Campaign Financing Fund check-off, the total amount contributed by taxpayers to both check-off funds was approximately the same as before the introduction of the new check-off (\$1 million). This would imply that the introduction of a new check-off would not result in additional check-off contributions by taxpayers, but would reallocate funds among check-offs. The Chesapeake Bay and Endangered Species Fund and the Fair Campaign Financing Fund check-off contributions would thus likely decline to offset the check-off contributions to the Clean Campaign Public Financing Fund. To the extent that the offset is not equal, or the total amount of contributions changes, there would be an increase or decrease in special funds that cannot be reliably estimated at this time.

On tax year 1996 returns taxpayers contributed \$85,252 to the Fair Campaign Financing Fund, with \$78,889 of this total through contributions of \$100 or less. If these taxpayers contributed an equal amount to the Clean Campaign Public Financing Fund, the fund would receive \$78,889, which would be offset by a decline in contributions to the other two check-off funds. Income tax revenues would decline by approximately \$3,800 due to the subtraction modification. Income tax revenues would decline further for contributions to eligible candidates for seed money, direct contributions to the fund, and eligible private contributions to candidates to meet the qualifications for public financing. This amount cannot be reliably estimated at this time.

State Expenditures: If the constitutional amendment is approved at the November 1998 general election, general fund expenditures would increase by \$109,000 in fiscal 2000. This estimate reflects the need for the State Board of Elections to hire a contractual attorney for one year (\$44,000) to write the required regulations. The cost for adding the additional check-off to the personal income tax return would be \$65,000 for fiscal year 2000, including data processing charges and necessary changes to tax forms.

Based on the amount of revenue which other check-off funds have generated, an appropriation of general funds may be necessary to cover the costs of public financing of candidates for the General Assembly as proposed by this bill. The bill provides that general fund revenues could be used to finance the Clean Campaign Fund.

The Maryland Constitution requires that proposed amendments to the constitution be publicized in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding a general election. The costs associated with these requirements are borne by the State. The budget of the State Board of Elections contains funding for publishing constitutional amendments for the 1998 general election.

Local Effect: If approved by voters, local income tax revenues would decrease in proportion to the decrease in State income tax revenues. Any decrease in revenue would depend upon the percentage used in each subdivision to calculate the local income tax based on State income taxes.

If approved by the General Assembly, this constitutional amendment will be submitted to voters at the 1998 general election. It should not require additional costs for the county election boards to administer the election.

Information Source(s): Comptroller's Office, State Board of Elections, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 1998

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