

SENATE BILL 1073

G1, B1

EMERGENCY BILL

9lr3509

By: **Senator Pipkin**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: April 9, 2009

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Financing Act – Declaration by General Assembly that the Act Is**
3 **Operable and Viable**

4 FOR the purpose of declaring that the Public Financing Act is operable and continues
5 as a viable mechanism for public funding of gubernatorial elections in the State;
6 and generally relating to the Public Financing Act for the election of
7 gubernatorial candidates in the State.

8 BY repealing and reenacting, without amendments,
9 Article – Election Law
10 Section 15–101 through 15–111
11 Annotated Code of Maryland
12 (2003 Volume and 2008 Supplement)

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

15 **Article – Election Law**

16 15–101.

17 The General Assembly recognizes that our system of representative government
18 depends in part on guaranteeing that election campaigns are funded by and for the
19 people and on eliminating the corrupting and undemocratic effects of large private
20 contributions. Accordingly, the General Assembly finds and declares that an equitable
21 means of public campaign financing is necessary in these times in order for
22 representative democracy to continue to function effectively.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 15–102.

2 (a) In this title the following words have the meanings indicated.

3 (b) “Comptroller” means the Comptroller of the State.

4 (c) “Eligible gubernatorial ticket” means a gubernatorial ticket that qualifies
5 to receive a public contribution.

6 (d) “Eligible private contribution” means that part of a monetary or in-kind
7 contribution or series of contributions from an individual that does not exceed \$250.

8 (e) “Fund” means the “Fair Campaign Financing Fund”.

9 (f) “Gubernatorial ticket” means a Governor–Lieutenant Governor unit.

10 (g) “Public contribution” means money distributed from the Fund to a
11 gubernatorial ticket under this title.

12 (h) “Seed money” means cumulative eligible private contributions equaling
13 10% or more of the expenditure limit prescribed under § 15–105 of this title for an
14 election.

15 (i) (1) “Treasurer” has the meaning stated in § 1–101 of this article.

16 (2) “Treasurer” includes a subtreasurer.

17 15–103.

18 (a) There is a Fair Campaign Financing Fund.

19 (b) The Comptroller shall administer the Fund in accordance with this
20 section.

21 (c) For each taxable year, the Comptroller shall establish a tax add-on
22 system that allows contributions to the Fund:

23 (1) by an individual, other than a nonresident alien, filing a personal
24 State income tax return; and

25 (2) in an amount not to exceed \$500.

26 (d) In accordance with this title, the Comptroller shall:

27 (1) credit to the Fund all money collected under this title;

28 (2) subject to the usual investing procedures for State funds, invest
29 the money in the Fund; and

1 (3) make distributions from the Fund promptly on authorization by
2 the State Board.

3 (e) The Comptroller shall distribute public contributions:

4 (1) only on authorization of the State Board; and

5 (2) as to each eligible gubernatorial ticket, to the same campaign
6 account of a single campaign finance entity established under Title 13, Subtitle 2 of
7 this article.

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

10 15-104.

11 A gubernatorial ticket is qualified to receive a public contribution for an election
12 on the date specified by regulation adopted under this title if:

13 (1) the gubernatorial ticket has raised seed money;

14 (2) the seed money is refundable only if the gubernatorial ticket
15 withdraws as a gubernatorial ticket; and

16 (3) as certified by the gubernatorial ticket's treasurer on a form
17 prescribed by the State Board, the seed money was:

18 (i) raised in accordance with this title; and

19 (ii) received after March 1 of the year immediately preceding
20 the year of that election.

21 15-105.

22 (a) (1) A gubernatorial ticket that accepts a public contribution from the
23 Fund for an election may not spend, in that election, more than the product of 30
24 cents, adjusted annually beginning January 1, 1997, in accordance with the Consumer
25 Price Index, times the population of the State as determined under subsection (c) of
26 this section.

27 (2) Paragraph (1) of this subsection:

28 (i) applies separately to each primary and general election; and

29 (ii) does not apply to expenditures made on behalf of a
30 gubernatorial ticket by a State or local central committee.

1 (b) The State Board shall certify the expenditure limit for each election in
2 accordance with subsection (a)(1) of this section.

3 (c) The population of the State shall be determined by the State Board as of
4 January 1 of the year of the election in accordance with the more recent of:

5 (1) the most recent decennial census of the United States; or

6 (2) any population estimate prepared for the State by the Department
7 of Health and Mental Hygiene.

8 (d) The members of the gubernatorial ticket and, if associated with the
9 expenditure, the responsible officers of its campaign finance entity are jointly and
10 severally liable civilly and criminally for an expenditure made in violation of this
11 section.

12 15–106.

13 (a) (1) (i) In accordance with subsection (c) of this section, the State
14 Board shall authorize distribution on a continuing basis of one-half of the money in
15 the Fund to eligible gubernatorial tickets in the primary election.

16 (ii) Distributions shall begin not later than February 1 of the
17 year of the election.

18 (2) Promptly after the primary election, the State Board shall
19 authorize distribution of the remaining money in the Fund in accordance with
20 subsection (d) of this section.

21 (b) If the State Board determines that there is not, or may not be, sufficient
22 money in the Fund to provide a full public contribution to all eligible gubernatorial
23 tickets in a primary or general election, the State Board shall allocate the available
24 money so that each eligible gubernatorial ticket in that election receives a
25 proportionate share of the full public contribution to which the gubernatorial ticket
26 otherwise would be entitled.

27 (c) (1) The State Board shall authorize distribution of the money that is
28 designated for distribution in the primary election as provided in this subsection.

29 (2) An eligible gubernatorial ticket that is opposed in the primary
30 election shall receive \$1 in public contributions for each \$1 in eligible private
31 contributions it has received.

32 (3) An eligible gubernatorial ticket that is unopposed in the primary
33 election shall receive \$1 in public contributions for each \$3 in eligible private
34 contributions it has received.

1 (d) (1) The State Board shall authorize distribution for the general
2 election of all money remaining in the Fund, including money remaining from the part
3 designated for the primary election, as provided in this subsection.

4 (2) Each eligible gubernatorial ticket that is a nominee shall receive
5 an equal share of the Fund.

6 (3) An eligible gubernatorial ticket may not receive a public
7 contribution if it is unopposed on the general election ballot.

8 (4) An eligible gubernatorial ticket that did not receive a public
9 contribution in the primary election may receive a public contribution in the general
10 election only if the gubernatorial ticket:

11 (i) is a nominee in the general election; and

12 (ii) did not exceed the expenditure limit for the primary election.

13 (5) The State Board shall authorize distribution of public
14 contributions promptly after the certification of primary election results.

15 15–107.

16 (a) A public contribution may be spent only:

17 (1) in accordance with § 13–218 of this article;

18 (2) to further the gubernatorial ticket’s nomination or election;

19 (3) for expenses incurred not later than 30 days after the election for
20 which the public contribution was made; and

21 (4) for purposes that do not violate State law.

22 (b) (1) Any part of a public contribution that is not spent shall be repaid
23 to the Comptroller for redeposit in the Fund not later than 60 days after the election
24 for which the public contribution was made.

25 (2) In computing whether part of a public contribution is not spent, all
26 private contributions to the gubernatorial ticket shall be treated as spent before the
27 expenditure of any of the public contribution.

28 (c) The members of a gubernatorial ticket and the responsible officers of its
29 campaign finance entity are jointly and severally personally liable for repaying to the
30 Comptroller any part of a public contribution that is not spent or that was spent in
31 violation of subsection (a) of this section.

32 15–108.

1 Any balance in the Fund after a gubernatorial election shall remain in the Fund
2 for the purposes of this title.

3 15–109.

4 (a) (1) Subject to § 15–103 of this title, the State Board shall administer
5 this title.

6 (2) The State Board may request the assistance of the Comptroller to
7 administer this title.

8 (b) (1) The State Board shall adopt comprehensive regulations to
9 implement this title.

10 (2) The regulations shall include provisions relating to:

11 (i) the manner and deadline for a gubernatorial ticket to notify
12 the State Board of its intention to qualify for a public contribution;

13 (ii) the deadline for a gubernatorial ticket to submit a request
14 for a public contribution;

15 (iii) the dates when the State Board will authorize, and the
16 Comptroller will make, distributions of public contributions to gubernatorial tickets in
17 accordance with this title;

18 (iv) a proportionate distribution when there is not, or may not
19 be, sufficient money in the Fund;

20 (v) a formula for distributing a supplementary public
21 contribution to the other eligible gubernatorial tickets if additional money becomes
22 available because:

23 1. an eligible gubernatorial ticket fails to request a
24 public contribution;

25 2. an eligible gubernatorial ticket withdraws as a
26 gubernatorial ticket; or

27 3. an eligible gubernatorial ticket is disqualified;

28 (vi) the standards by which expenditures by campaign finance
29 entities with which an eligible gubernatorial ticket is affiliated are applied to the
30 expenditure limit prescribed in § 15–105 of this title;

31 (vii) thresholds for in-kind contributions that are not considered
32 contributions or expenditures for the purposes of this title;

- 1 (viii) distributions to:
 - 2 1. an unopposed gubernatorial ticket;
 - 3 2. a gubernatorial ticket composed of members from
4 other than the two principal political parties; and
 - 5 3. a write-in gubernatorial ticket; and
- 6 (ix) the purposes for which a public contribution may not be
7 used.
8 15-110.

9 A person who violates this title is guilty of a misdemeanor and on conviction is
10 subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both for
11 each violation.

12 15-111.

13 This title is the Public Financing Act.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
15 finds that the Public Financing Act is operable and continues as a viable mechanism
16 for public funding of gubernatorial elections in the State.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
18 measure, is necessary for the immediate preservation of the public health or safety,
19 has been passed by a yea and nay vote supported by three-fifths of all the members
20 elected to each of the two Houses of the General Assembly, and shall take effect from
21 the date it is enacted.