

HOUSE BILL 485

G1, Q3

5lr0128
CF SB 593

By: **The Speaker (By Request – Administration) and Delegates Adams, Afzali, Anderton, Arentz, Aumann, Buckel, Carozza, Cassilly, Cluster, Ebersole, Fennell, Flanagan, Folden, Ghrist, Hornberger, Impallaria, Jacobs, Kipke, Kittleman, Krebs, Long, Mautz, McComas, McConkey, McDonough, McKay, McMillan, Metzgar, Miele, Otto, Reilly, Rey, Saab, Shoemaker, Szeliga, Vogt, A. Washington, West, and B. Wilson**

Introduced and read first time: February 9, 2015

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2015

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Fair Campaign Financing Fund – Income Tax Checkoff**

3 FOR the purpose of requiring the Comptroller to establish a checkoff on the individual
4 income tax return through which certain individuals may make a contribution ~~up to~~
5 ~~a certain amount~~ to the Fair Campaign Financing Fund; requiring the Comptroller
6 to credit certain funds to the Fair Campaign Financing Fund; providing that certain
7 ~~fees and penalties be deposited in~~ fees, fines, and penalties that are assessed under
8 the Election Law Article be distributed to the Fair Campaign Financing Fund;
9 authorizing voluntary contributions to be made to the Fair Campaign Financing
10 Fund through the Web site of the State Board of Elections; requiring that certain
11 anonymous contributions and certain surplus campaign funds be distributed to the
12 Fair Campaign Financing Fund; authorizing the use of a certain amount of money
13 in the Fair Campaign Financing Fund to pay certain costs of administering public
14 campaign financing; requiring the Comptroller to take certain actions to administer
15 the checkoff; providing for the application of certain provisions of this Act; and
16 generally relating to the Fair Campaign Financing Fund.

17 BY repealing and reenacting, with amendments,
18 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~15-103~~ 5-403, 13-235(f), 13-239, 13-247, 13-306(i), 13-307(i), 13-309.1(i),
 2 13-340, 13-409, 13-604(d)(3), 13-604.1(s), 14-107(c), and 15-103
 3 Annotated Code of Maryland
 4 (2010 Replacement Volume and 2014 Supplement)

5 BY repealing and reenacting, without amendments,

6 Article – Election Law

7 Section 13-235(a) and (b), 13-309.1(g), 13-604(a)(1), and 13-604.1(b)

8 Annotated Code of Maryland

9 (2010 Replacement Volume and 2014 Supplement)

10 BY adding to

11 Article – Election Law

12 Section 13-604(g) and 16-1003

13 Annotated Code of Maryland

14 (2010 Replacement Volume and 2014 Supplement)

15 BY adding to

16 Article – Tax – General

17 Section 2-113.1

18 Annotated Code of Maryland

19 (2010 Replacement Volume and 2014 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

21 That the Laws of Maryland read as follows:

22 **Article – Election Law**

23 5-403.

24 [(a)] Filing fees paid by candidates under § 5-401 of this subtitle shall be
 25 distributed [as specified in this section.

26 (b) Filing fees received by a local board shall be transferred to the governing body
 27 of the county.

28 (c) Filing fees received by the State Board shall be divided and distributed:

29 (1) with respect to candidates for statewide office:

30 (i) \$60 to the Baltimore City Board of Elections; and

31 (ii) \$10 each to each other local board;

32 (2) with respect to candidates for any other public or party office in a
 33 multicounty district, in equal amounts to the local board of each county that contains part
 34 of the district to which the candidacy relates; and

1 (3) with respect to a candidate for a public or party office in a district wholly
2 contained within one county, to the local board of that county] TO THE FAIR CAMPAIGN
3 FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

4 13-235.

5 (a) This section applies to the following officials:

6 (1) the Governor;

7 (2) the Lieutenant Governor;

8 (3) the Attorney General;

9 (4) the Comptroller; and

10 (5) a member of the General Assembly.

11 (b) Except as provided in subsection (c), (d), or (e) of this section, during a regular
12 session of the General Assembly an official described in subsection (a) of this section, or a
13 person acting on behalf of the official, may not, as to a candidate for federal, State, or local
14 office, or a campaign finance entity of the candidate or any other campaign finance entity
15 organized under this title and operated in coordination with a candidate:

16 (1) receive a contribution;

17 (2) conduct a fund-raising event;

18 (3) solicit or sell a ticket to a fund-raising event; or

19 (4) deposit or use any contribution of money that was not deposited prior
20 to the session.

21 (f) (1) As to a violation of this section, the campaign finance entity of the
22 official in violation is liable for a civil penalty as provided in this subsection.

23 (2) The State Board, represented by the State Prosecutor, may institute a
24 civil action in the circuit court for any county seeking the civil penalty provided in this
25 subsection.

26 (3) A campaign finance entity that receives a contribution as a result of the
27 violation shall:

28 (i) refund the contribution to the contributor; and

1 (ii) pay a civil penalty that equals the sum of \$1,000 plus the amount
2 of the contribution.

3 **(4) A CIVIL PENALTY IMPOSED UNDER THIS SUBSECTION SHALL BE**
4 **DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §**
5 **15-103 OF THIS ARTICLE.**

6 13-239.

7 Except as provided in § 13-240 of this subtitle, if a campaign finance entity receives
8 a contribution from an anonymous source, the campaign finance entity:

9 (1) may not use the contribution for any purpose; and

10 (2) shall remit the contribution to the [State Treasurer] FAIR CAMPAIGN
11 **FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.**

12 13-247.

13 After all campaign expenditures have been made and before filing a final campaign
14 finance report under Subtitle 3 of this title, any remaining balance in the account of a
15 campaign finance entity shall be returned pro rata to the contributors or paid to:

16 (1) if the campaign finance entity is a personal treasurer or a political
17 committee formed to support a candidate or act for a political party:

18 (i) the State central committee of the political party:

19 1. of which the candidate is a member; or

20 2. for which the political committee is acting;

21 (ii) the local central committee of the political party:

22 1. of which the candidate is a member in a county in which
23 the candidate resides or which the candidate seeks to represent; or

24 2. for which the political committee is acting;

25 (iii) the board of education of a county in which the candidate resides
26 or which the candidate seeks to represent;

27 (2) a nonprofit organization that provides services or funds for the benefit
28 of pupils or teachers;

1 (3) a charitable organization registered or exempt from registration under
2 the Maryland Charitable Solicitations Act; [or]

3 (4) THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §
4 15-103 OF THIS ARTICLE; OR

5 ~~[(4)]~~ (5) a public or private institution of higher education in the State if:

6 (i) that institution possesses a certificate of approval from the
7 Maryland Higher Education Commission; and

8 (ii) the payment is designated for use by the institution solely to
9 award scholarships, grants, or loans to students attending the institution.

10 13-306.

11 (i) (1) A person who fails to provide on an independent expenditure report all
12 of the information required by this section shall file an amended report as provided in §
13 13-327(b) of this subtitle.

14 (2) (i) Except as provided in subparagraph (ii) of this paragraph, in
15 addition to any other sanction provided by law, the State Board may assess a civil penalty
16 for failure to file properly an independent expenditure report or an amended independent
17 expenditure report in an amount not exceeding the greater of:

18 1. \$1,000 for each day or part of a day that an independent
19 expenditure report or amended independent expenditure report is overdue; or

20 2. 10% of the amount of the donations or independent
21 expenditures that were not reported in a timely manner.

22 (ii) If the failure to file properly an independent expenditure report
23 or an amended independent expenditure report occurs more than 28 days before the day of
24 a primary or general election, the State Board may assess a civil penalty in an amount not
25 exceeding the greater of:

26 1. \$100 for each day or part of a day that an independent
27 expenditure report or amended independent expenditure report is overdue; or

28 2. 10% of the amount of the donations or disbursements for
29 independent expenditures that were not reported in a timely manner.

30 (3) A civil penalty under paragraph (2) of this subsection shall be:

31 (i) assessed in the manner specified in § 13-604.1 of this title; and

1 (ii) distributed to the [General Fund of the State] FAIR CAMPAIGN
2 FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

3 (4) A person who fails to file properly an independent expenditure report
4 or amended independent expenditure report under this section may seek relief from a
5 penalty under paragraph (2) of this subsection for just cause as provided in § 13-337 of this
6 subtitle.

7 13-307.

8 (i) (1) A person who fails to provide on an electioneering communication
9 report all of the information required by this section shall file an amended report as
10 provided in § 13-327(b) of this subtitle.

11 (2) (i) Except as provided in subparagraph (ii) of this paragraph, in
12 addition to any other sanction provided by law, the State Board may assess a civil penalty
13 for failure to file properly an electioneering communication report or an amended
14 electioneering communication report in an amount not exceeding the greater of:

15 1. \$1,000 for each day or part of a day that an electioneering
16 communication report or amended electioneering communication report is overdue; or

17 2. 10% of the amount of the donations or disbursements for
18 electioneering communications that were not reported in a timely manner.

19 (ii) If the failure to file properly an electioneering communication
20 report or an amended electioneering communication report occurs more than 28 days before
21 the day of a primary or general election, the State Board may assess a civil penalty in an
22 amount not exceeding the greater of:

23 1. \$100 for each day or part of a day that an electioneering
24 communication report or amended electioneering communication report is overdue; or

25 2. 10% of the amount of the donations or disbursements for
26 electioneering communications that were not reported in a timely manner.

27 (3) A penalty under paragraph (2) of this subsection shall be:

28 (i) assessed in the manner specified in § 13-604.1 of this title; and

29 (ii) distributed to the [General Fund of the State] FAIR CAMPAIGN
30 FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

31 (4) A person who fails to file properly an electioneering communication
32 report or amended electioneering communication report under this section may seek relief
33 from a penalty under paragraph (2) of this subsection for just cause as provided in §
34 13-337 of this subtitle.

1 13-309.1.

2 (g) In addition to any other sanction provided by law, the State Board may assess
3 a penalty for failure to file properly a disclosure report or an amended disclosure report
4 required under this section in an amount not exceeding the greater of:

5 (1) \$1,000 for each day or part of a day that a disclosure report or an
6 amended campaign finance report is overdue; or

7 (2) 10% of the amount of the contributions or expenditures that were not
8 reported in a timely manner.

9 (i) A penalty under subsection (g) of this section shall be:

10 (1) assessed in the manner specified in § 13-604.1 of this title; and

11 (2) distributed to the [General Fund of the State] FAIR CAMPAIGN
12 FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

13 13-340.

14 Fees for late filing of campaign finance reports, affidavits, or amended campaign
15 finance reports imposed under § 13-331 of this subtitle shall be [paid to the State Board
16 and be applied to pay the expenses of collection and of any audits of campaign finance
17 reports performed by or at the direction of the State Administrator] DISTRIBUTED TO THE
18 FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS
19 ARTICLE.

20 13-409.

21 (a) There is a \$10 late filing fee for each day or part of a day, excluding a Saturday,
22 Sunday, or holiday, that a campaign finance report required by § 13-408 of this subtitle is
23 overdue.

24 (b) The maximum fee payable is \$250.

25 (c) A late fee assessed under this section shall be:

26 (1) paid from the personal funds of the incumbent; AND

27 (2) DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND
28 ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

29 13-604.

1 (a) (1) A person who violates a provision of this title without knowing that the
2 act is illegal shall pay a civil penalty in accordance with subsections (b) through (g) of this
3 section.

4 (d) (3) The District Court shall [remit to the State Board] **DISTRIBUTE** all late
5 fees collected **TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §**
6 **15-103 OF THIS ARTICLE.**

7 **(G) A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE**
8 **DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER §**
9 **15-103 OF THIS ARTICLE.**

10 13-604.1.

11 (b) The State Board may impose a civil penalty in accordance with this section for
12 the following violations:

13 (1) making a disbursement in a manner not authorized in § 13-218(b)(2),
14 (c), and (d) of this title;

15 (2) failure to maintain a campaign bank account as required in § 13-220(a)
16 of this title;

17 (3) making a disbursement by a method not authorized in § 13-220(d) of
18 this title;

19 (4) failure to maintain detailed and accurate account books and records as
20 required in § 13-221 of this title;

21 (5) failure to report all contributions received and expenditures made as
22 required in § 13-304(b) of this title;

23 (6) failure to include an authority line on campaign material as required in
24 § 13-401 of this title; or

25 (7) failure to retain a copy of campaign material as required in § 13-403 of
26 this title.

27 (s) Penalties collected under this section shall be distributed to the [General
28 Fund of the State] **FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103**
29 **OF THIS ARTICLE.**

30 14-107.

31 (c) (1) As provided in this subsection, the State Board may impose fees for late
32 filing of:

- 1 (i) a statement required under § 14–104 of this title; or
 2 (ii) an amended statement required under subsection (b) of this
 3 section.

4 (2) The State Board may impose late filing fees in the same amounts and
 5 in the same manner as provided under § 13–331(a) and (b) of this article for late filing of
 6 campaign finance reports.

7 (3) Late filing fees imposed under this subsection shall be distributed to
 8 the [General Fund of the State] FAIR CAMPAIGN FINANCING FUND ESTABLISHED
 9 UNDER § 15–103 OF THIS ARTICLE.

10 15–103.

- 11 (a) There is a Fair Campaign Financing Fund.
 12 (b) The Comptroller shall administer the Fund in accordance with this section.
 13 (c) In accordance with this title, the Comptroller shall:

14 (1) credit to the Fund:

15 (I) all money collected under this title; ~~AND~~

16 ~~(II)~~ (II) VOLUNTARY CONTRIBUTIONS TO THE FUND MADE
 17 ELECTRONICALLY THROUGH THE STATE BOARD’S WEB SITE;

18 (III) FEES, FINES, AND PENALTIES ASSESSED UNDER THIS
 19 ARTICLE THAT ARE EXPRESSLY ALLOCATED TO THE FUND BY LAW;

20 (IV) AN ANONYMOUS CONTRIBUTION PAID TO THE FUND UNDER
 21 § 13–239 OF THIS ARTICLE;

22 (V) SURPLUS CAMPAIGN FUNDS PAID TO THE FUND UNDER §
 23 13–247 OF THIS ARTICLE; AND

24 (VI) CONTRIBUTIONS TO THE FUND MADE THROUGH THE
 25 CHECKOFF ON THE INDIVIDUAL INCOME TAX RETURN ESTABLISHED UNDER §
 26 2–113.1 OF THE TAX – GENERAL ARTICLE;

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

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

3 (d) 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 account
6 of a single campaign finance entity established under Title 13, Subtitle 2 of this article.

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

9 ~~16-1003.~~

10 ~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FINE OR CIVIL~~
11 ~~PENALTY COLLECTED FOR A VIOLATION UNDER THIS ARTICLE SHALL BE DEPOSITED~~
12 ~~IN THE FAIR CAMPAIGN FINANCING FUND UNDER TITLE 15 OF THIS ARTICLE.~~

13 (F) TO PAY COSTS DIRECTLY RELATED TO THE ADMINISTRATION OF THIS
14 TITLE, THE STATE BOARD MAY EXPEND IN EACH FISCAL YEAR AN AMOUNT OF
15 MONEY IN THE FUND THAT DOES NOT EXCEED THE LESSER OF:

16 (1) 3% OF THE FUND'S BALANCE, AS CALCULATED ON THE LAST DAY
17 OF THE IMMEDIATELY PRECEDING FISCAL YEAR; OR

18 (2) \$100,000.

19 ~~16-1003.~~

20 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FINE IMPOSED FOR A
21 CRIMINAL VIOLATION OF THIS ARTICLE SHALL BE DISTRIBUTED TO THE FAIR
22 CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
24 as follows:

25 **Article – Tax – General**

26 **2-113.1.**

27 **(A) (1) THE COMPTROLLER SHALL INCLUDE ON THE INDIVIDUAL**
28 **INCOME TAX RETURN FORM A CHECKOFF DESIGNATED AS THE “FAIR CAMPAIGN**
29 **FINANCING FUND CONTRIBUTION”.**

1 **(2) THE CHECKOFF SHALL STATE THAT:**

2 **(I) THE INDIVIDUAL, OR EACH SPOUSE IN THE CASE OF A JOINT**
3 **RETURN, MAY CONTRIBUTE TO THE FAIR CAMPAIGN FINANCING FUND THE**
4 **AMOUNT DESIGNATED BY THE INDIVIDUAL, ~~NOT TO EXCEED \$500,~~ IF THE**
5 **INDIVIDUAL OR EACH SPOUSE IS A UNITED STATES CITIZEN OR ADMITTED FOR**
6 **PERMANENT LEGAL RESIDENCE IN THE UNITED STATES; AND**

7 **(II) 1. THE INDIVIDUAL SHALL DEDUCT THE AMOUNT OF THE**
8 **CONTRIBUTION FROM ANY REFUND TO WHICH THE INDIVIDUAL IS ENTITLED; OR**

9 **2. IF THE INDIVIDUAL IS NOT ENTITLED TO A REFUND ~~OR~~**
10 **~~DOES NOT OWE ANY INCOME TAX,~~ THE INDIVIDUAL SHALL ADD THE AMOUNT OF THE**
11 **CONTRIBUTION TO THE INCOME TAX TO BE PAID, ~~IF ANY,~~ WITH THE RETURN.**

12 **(3) THE COMPTROLLER SHALL INCLUDE WITH THE INDIVIDUAL**
13 **INCOME TAX RETURN PACKAGE A DESCRIPTION OF THE PURPOSES FOR WHICH THE**
14 **FAIR CAMPAIGN FINANCING FUND WAS ESTABLISHED AND THE PURPOSES FOR**
15 **WHICH THE FUND MAY BE USED.**

16 **(B) THE COMPTROLLER SHALL:**

17 **(1) COLLECT THE CHECKOFF CONTRIBUTIONS AND ACCOUNT TO THE**
18 **STATE TREASURER FOR THE MONEY COLLECTED;**

19 **(2) FROM THE CONTRIBUTIONS COLLECTED, DISTRIBUTE THE**
20 **AMOUNT NECESSARY TO ADMINISTER THE CHECKOFF SYSTEM TO AN**
21 **ADMINISTRATIVE COST ACCOUNT; AND**

22 **(3) AFTER THE DISTRIBUTION UNDER ITEM (2) OF THIS SUBSECTION,**
23 **DISTRIBUTE THE REMAINDER OF THE MONEY COLLECTED UNDER THIS SUBSECTION**
24 **TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THE**
25 **ELECTION LAW ARTICLE.**

26 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
27 ~~October 1, 2015.~~

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2015. Section 2 of this Act shall be applicable to all taxable years beginning after
30 December 31, 2014.