



# Montgomery County

## Office of Intergovernmental Relations

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HB 761

DATE: February 12, 2021

SPONSOR: Delegate Kaiser

ASSIGNED TO: Ways and Means

CONTACT PERSON: Kathleen Boucher (kathleen.boucher@montgomerycountymd.gov)

POSITION: Support with Amendments

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### Election Law – Contested Elections

This bill prohibits a person from accepting a donation or making a disbursement relating to a contested election (i.e., recount) unless the person first establishes a contested election committee and complies with comprehensive rules governing donation limits, bank accounts, deposits, disbursements, acceptance of loans, disposal of surplus funds, recordkeeping, and reporting. The bill also establishes a prohibition against a candidate petitioning for a recount if the margin of difference between the number of votes received by an apparent winner and the losing candidate with the highest number of votes for the office is greater than 5% of the total votes cast for those candidates, and increases the margin of difference that triggers public funding of a recount from .10% to .25% of the total votes cast for the two candidates. Importantly, the bill grants enabling authority for a county to provide public funds to a publicly financed candidate's contested election committee.

Montgomery County strongly supports this bill but respectfully requests that it be amended to clarify the scope of local enabling authority (see below). The County also requests that the bill be amended to clarify: (1) that the definition of "contested election" (page 4, line 13) includes elections where there is a potential for a recount that eventually does not materialize because neither candidate decides to file a formal recount petition or initiate a judicial action; and (2) that a candidate may create a contested election committee at any time (i.e., before or after the original certification of the votes).

### PROPOSED AMENDMENTS

#### Amendment 1

On page 11, in line 26, after "(a)" insert:

**"IN THIS SECTION "CONTESTED ELECTION COMMITTEE" MEANS A CONTESTED ELECTION COMMITTEE ESTABLISHED UNDER TITLE 12, SUBTITLE 3 OF THIS ARTICLE.**

**(B)**"; and in line 29, after "financing" insert "**INCLUDING PUBLIC FINANCING OF A CONTESTED ELECTION COMMITTEE,**".

On page 12, in line 5, strike “(b)” and substitute “**(C)**”; in the same line, strike “(a)” and substitute “**(B)**”; in line 26, strike the brackets; strike lines 27 through 29, inclusive; in line 31, strike the brackets; and in the same line, strike “**(8)**”. On page 13, in line 1, strike “(c)” and substitute “**(D)**”; and in the same line strike “(a)” and substitute “**(B)**”.

Rationale: This amendment clarifies that a “system of public campaign financing” enacted by a county may include public financing of a contested election committee established by a publicly financed candidate.

## Amendment 2

On page 13, in line 7, after the semicolon insert “**AND**”; and strike lines 8 through 12, inclusive, and substitute:

**(3) NOTWITHSTANDING SECTION 12-305(B) OF THIS ARTICLE, ALLOW A PUBLICLY FINANCED CANDIDATE TO TRANSFER ANY AMOUNT OF FUNDS FROM THE CANDIDATE’S CAMPAIGN FINANCE ENTITY TO THE CANDIDATE’S CONTESTED ELECTION COMMITTEE.**

Rationale: This amendment allows a county to decide the amount of surplus money that can be transferred from a publicly financed candidate’s campaign finance entity. Without this amendment, a publicly financed candidate would be limited to transferring \$2,000, just like any other candidate. The public interest is best served by allowing this flexibility for publicly financed candidates who receive only small private donations and public funds.