AN ACT to:
(1) amend the County public campaign financing system;
(2) alter the maximum contribution limits;
(3) allow participating candidates to carryover certain funds under certain circumstances;
(4) require an audit of the public campaign financing system after the general election in an election cycle;
(5) alter the penalties for willful violations of the public campaign financing system; and
(6) generally amend the law governing elections for County elective offices.

By amending
Montgomery County Code
Chapter 16, Elections
Sections 16-18, 16-20, 16-21, 16-22, 16-23, 16-24, 16-25, 16-27, 16-28, 16-29, 16-30,
[[and]] 16-31, and 16-32

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 16-18, 16-20, 16-21, 16-22, 16-23, 16-24, 16-25, 16-27, 16-
28, 16-29, 16-30, [[and]] 16-31, and 16-32 are amended as follows:


In this Article, the following terms have the meanings indicated:

* * * *

Campaign finance entity means a political committee established under Title 13
of the [State] Election Law Article of the Maryland Code [, as amended].

* * * *

[Committee to Recommend Funding for the Public Election Fund means the
Committee established in Section 16-27.]

* * * *

Contribution means the gift or transfer, or promise of gift or transfer, of money
or other thing of value to a campaign finance entity to promote or assist in the
promotion of the success or defeat of a candidate, political party, or question.
Contribution includes proceeds from the sale of tickets to a campaign fund-
raising event as defined in Section 1-101 of the Election Law Article of the
Maryland Code[, as amended].

* * * *

Distribution period means the period of time beginning 365 days before the
primary election for the office the candidate seeks and ending [15] 30 days after
the date of the general election. The distribution period for a special election
under Section 16-17 must be set by Council resolution.

* * * *

Election cycle means the primary and general election for the same term of a
covered office.

Eligible contribution means an aggregate donation in a 4-year election cycle of
[$150] $250 or less from an individual, including an individual who does not
reside in the County.
* * * *

Publicly funded campaign account means a campaign finance account established by a candidate for the exclusive purpose of receiving eligible contributions and spending funds in accordance with this Article.

Qualifying contribution means an eligible contribution of at least $5.00 but no more than $150.00 in support of an applicant candidate that is:

1. made by a County resident;
2. made after the beginning of the designated qualifying period, but no later than the respective election; and
3. acknowledged by a receipt that identifies the contributor’s name and residential address and signed by the contributor directly or by a digital signature using a method approved by the Board.

Qualifying contribution does not include an in-kind contribution of property, goods, or services.

16-20. Collecting qualifying contributions.

(a) Before raising any contribution governed by this Article, an applicant candidate must:

1. file notice of intent with the Board on or before April 15 of the year of the election on a form prescribed by the Board; and
2. establish a publicly funded campaign account for the candidate for the purpose of receiving eligible contributions and spending funds in accordance with this Article.

(b) Other than a contribution from an applicant candidate or the candidate’s spouse, an applicant candidate must not accept an eligible contribution from an individual greater than $150.00.

(c) An applicant candidate must not accept a loan from anyone other than the candidate or the candidate’s spouse. An applicant candidate and the
candidate’s spouse together must not contribute or lend a combined total of more than $12,000 to the candidate’s publicly funded campaign account.

(d) *Consumer Price Index adjustment.* The Chief Administrative Officer must adjust the contribution limit established in Subsection (b), effective July 1, [2018] 2022, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of [10 dollars] $10, and must publish the amount of this adjustment not later than March 1 of each fourth year.

**16-21. Requirements for certification.**

*[d] The Executive, after consulting with the Board, must adopt regulations under Method 1 that specify:

(1) how and when receipts for qualifying contributions from contributors must be submitted to the Board;

(2) the documents that must be filed with the Board for certification;

(3) the allowable uses of money in a publicly funded campaign account; and

(4) other policies necessary to implement this Article.]*

**16-22. Board determination.**

(a) The Board must certify an applicant candidate if the Board finds that the candidate has received the required number of qualifying contributions
and the required aggregate total dollars for the office no later than 10 business days after receiving:

(1) a declaration from the candidate agreeing to follow the regulations governing the use of a public contribution;

(2) a campaign finance report that includes:

(A) a list of each qualifying contribution received;

(B) a list of each expenditure made by the candidate during the qualifying period; and

(C) the receipt associated with each contribution and expenditure; and

(3) a certificate of candidacy for a covered office.

(b) The decision by the Board whether to certify a candidate is final.

(c) A candidate may submit only one application for certification for any election. A candidate may correct any mistakes in the application for certification or supplement their application with additional qualifying contributions within the earlier of:

(1) 10 business days after receiving notice that the Board denied the application; or

(2) the end of the qualifying period.

(d) If the Board certifies a candidate, the Board must authorize the Director to disburse a public contribution to the candidate’s publicly funded campaign account.

(e) A candidate that submits a notice of intent under Section 16-20, but fails to qualify as a certified candidate is deemed a non-participating candidate and is not bound by the requirements of this Article.

16-23. Distribution of public contribution.
Matching amounts. The Director must distribute a public contribution from the Fund to each certified candidate in a contested election only during the distribution period as follows:

(1) for a certified candidate for County Executive, the matching dollars must equal:

(A) $6 for each dollar of a qualifying contribution received for the first $50 of each qualifying contribution;

(B) $4 for each dollar of a qualifying contribution received for the second $50 of each qualifying contribution; [[and]]

(C) $2 for each dollar of a qualifying contribution received for the [remainder] third $50 of each qualifying contribution;

and

(D) $0 for each dollar of a qualifying contribution received for the remainder of each qualifying contribution.

(2) for a certified candidate for County Council, the matching dollars must equal:

(A) $4 for each dollar of a qualifying contribution received for the first $50 of each qualifying contribution;

(B) $3 for each dollar of a qualifying contribution received for the second $50 of each qualifying contribution; [[and]]

(C) $2 for each dollar of a qualifying contribution received for the [remainder] third $50 of each qualifying contribution;

and

(D) $0 for each dollar of a qualifying contribution received for the remainder of each qualifying contribution.

(3) The total public contribution payable to a certified candidate for either a primary or a general election must not exceed:
(A) $750,000 for a candidate for County Executive;
(B) $250,000 for a candidate for At Large Councilmember; and
(C) $125,000 for a candidate for District Councilmember.

(b) **Non-matchable contributions.** The Director must not distribute matching dollars from the Fund to a certified candidate for:
(1) a contribution from the candidate or the candidate’s spouse; or
(2) an in-kind contribution of property, goods, or services.

(c) **Qualifying contribution limits.** A certified candidate may continue to collect qualifying contributions and [receive] submit a request for a matching public contribution up to, and including, the day of a primary or a general election. A qualifying contribution must not exceed [$150] $250 from any individual in the aggregate during a 4-year election cycle.

(d) **Availability of funds for distribution.** On or before July 1 of the year preceding the primary election, the Director must determine if the amount in the Fund is sufficient to meet the maximum public contributions reasonably expected to be required during the next election cycle. If the Director determines that the total amount available for distribution in the Fund is insufficient to meet the allocations required by this Section, the Director must reduce each public contribution to a certified candidate by the same percentage of the total public contribution.

(e) **General election distributions.** Within 3 business days after the County Board certifies the results of the primary election, the Board must authorize the Director to continue to disburse the appropriate public contribution for the general election to each certified candidate who is certified to be on the ballot for the general election.

(f) [Within 30 days after the County Board certifies the results of the primary election, a participating candidate who is not certified to be on the ballot]
for the general election must return any unspent money in the candidate’s publicly funded campaign account to the Fund. Within 30 days after the County Board certifies the results of the general election, a participating candidate must return any unspent money in the candidate’s publicly funded campaign account to the Fund.

(g) **Petition candidates.** A certified candidate nominated by petition may receive a public contribution for the general election if:
   (1) the candidate’s nomination is certified by the County Board; and
   (2) the candidate did not participate in a primary election.

(h) **Receipts required.** A participating candidate must submit a receipt for each qualifying contribution to the Board to receive a public contribution. The Director must deposit the appropriate public contribution into a participating candidate’s publicly funded campaign account within 3 business days after the Board authorizes the public contribution.

(i) **General election public contributions.** A candidate may receive a matching public contribution during the general election for an unmatched qualifying contribution received during the primary election after the candidate has received the maximum public contribution for the primary election if the candidate is otherwise eligible to receive matching public contributions during the general election.

(j) **Mistaken public contributions.** If the Director mistakenly distributes a public contribution to a candidate greater than the candidate was entitled to receive, the candidate must repay the funds mistakenly distributed within 5 business days after being notified of the mistake. Any unspent funds returned to the County after an election may be used as a credit against any repayment required for a public contribution mistakenly received.
[(k)] (j) *Consumer Price Index adjustment.* The Chief Administrative Officer must adjust the public contribution limits established in Subsection (a)(3) and the eligible contribution limit established in Subsection (c), effective July 1, [2018] 2022, and July 1 of each subsequent fourth year, by the annual average increase, if any, in the Consumer Price Index for the previous 4 calendar years. The Chief Administrative Officer must calculate the adjustment to the nearest multiple of [10 dollars] $10, and must publish the amount of this adjustment not later than March 1 of each fourth year.


(a) [A] Except as provided in Section 16-27, a participating candidate may only use the eligible contributions and the matching public contribution for a primary or general election for expenses incurred for the election. A participating candidate must not pay in advance for goods and services to be used after certification with non-qualifying contributions received before applying for certification unless the expenditure is permitted by Executive regulation adopted under Section 16-21.

(b) A complaint alleging an impermissible receipt or use of funds by a participating candidate must be filed with the Board.

(c) A participating candidate must provide the Board with reasonable access to the financial records of the candidate’s publicly funded campaign account, upon request.

[(d) Within 30 days after the County Board certifies the results of the general election, a participating candidate must return to the Fund any unspent money in the candidate’s publicly funded campaign account.]
(a) A certified candidate may withdraw an application for a public
contribution any time before the public contribution is received by the
candidate’s publicly funded campaign account.

(b) A participating candidate may withdraw from participation if the
candidate:
   (1) files a statement of withdrawal with the Board on a form prescribed
       by the Board; and
   (2) repays to the Fund the full amount of the public contribution
       received, together with the applicable interest established by
       regulation.

16-27. Return of unspent funds; retention of funds.

(a) Except as provided in subsection (b):
   (1) within 90 days after the County Board certifies the results of the
       general election, a participating candidate who is not certified to
       be on the ballot for the primary election must return any unspent
       money in the candidate’s publicly funded campaign account to the
       Fund; and
   (2) within 90 days after the County Board certifies the results of the
       general election, a participating candidate must return any unspent
       money in the candidate’s publicly funded campaign account to the
       Fund.

(b) A certified candidate may retain funds to pay for post-election expenses
    if:
    (1) the retained funds do not exceed $5,000;
    (2) the candidate files a new declaration of intent to participate in the
        public campaign financing system for the 4-year next election
        cycle by January 31 the year after the election; and
(3) keep the same campaign finance entity open.


(a) After a general election in an election cycle, the Executive must conduct an audit of the financial activity of the public campaign financing system, including publicly funded campaign accounts, to ensure publicly funded campaign accounts raised and spent funds in compliance with this Article.

(b) The Executive must adopt regulations that specify the scope of the audit required by this Section.

16-29. Regulations.

The Executive, after consulting with the Board, must adopt regulations under Method 1 that specify:

(a) how and when receipts for qualifying contributions from contributors must be submitted to the Board;

(b) the documents that must be filed with the Board for certification;

(c) the allowable uses of money in a publicly funded campaign account;

(d) the scope of the audit required in Section 16-28; and

(e) other policies necessary to implement this Article.


(a) Civil Violations. Any violation of this Article is a Class A civil violation. Each day a violation exists is a separate offense.

(b) Payment. A fine may be paid by the campaign only if all public contributions have been repaid to the Fund. Otherwise, the candidate or officer found to be responsible for the violation is personally liable for the fine.

(c) Additional penalties.
In addition to the penalty specified in Subsection 16-30(a), a certified or participating candidate must withdraw from the public campaign financing system if the candidate intentionally or knowingly provides falsified information, misrepresents a material fact, or conceals relevant information to the Board or Director under this Article.

A candidate that must withdraw from the public campaign financing system under (c)(1) must abide by the withdrawal requirements in Section 16-25, including the repayment of any public contribution received.

[16-27. Committee to Recommend Funding for the] 16-31. Public Election Fund Committee; County liaison.

(a) Committee established. The [Committee to Recommend Funding for the] Public Election Fund Committee [consists of 5] is 7 members appointed by the County Council for a [four] 4-year term beginning on May 1 of the first year of the Council’s term of office. A vacancy occurring before the end of a term must be filled by appointment for the remainder of the term. The Council must ask the County Executive to recommend within 30 days one or more qualified applicants before making any appointment.

(b) Membership; officers.

(1) Each member must be a resident of the County while serving on the Committee.

(2) No more than 3 members [must be of] may be from the same political party.

(3) The members should reflect the diversity of the County.

(4) The Council must designate the chair and vice-chair.
(c) **Compensation.** Each member must serve without compensation, but may be reimbursed for [reasonable expenses] travel and dependent care expenses.

(d) **Duties.** The Committee must [issue a report to the Council on or before March 1 of each year estimating]:

(1) estimate the funds necessary to implement the public campaign finance system [and recommending an appropriation to the Public Election Fund for the following fiscal year]; and

(2) conduct public outreach and education activities to raise awareness of the public campaign financing system.

(e) **Annual report.** The Committee must issue a report to the Council on or before January 30 each year that:

(1) identifies the estimated funds necessary to implement the public campaign financing system;

(2) recommends an appropriation to the Public Election Fund for the following fiscal year; and

(3) the public outreach and education activities undertaken in the prior calendar year.

(f) **Staff support.** The Executive Director of the Office of the County Council must provide staff support for the Committee.

**16-32. County liaison.**

The County Executive must designate an employee to serve as a liaison between County government and the public, candidates, and potential candidates on issues related to the public campaign finance program.
Approved:

Sidney Katz, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date