

Legislation Text

File #: 190083-A, Version: 2

Amending Chapter 20-1000 of The Philadelphia Code, entitled "Political Contributions and Expenditures," to add and make changes to provisions regarding campaign contributions; contributions to transition and inauguration committees; and campaign finance disclosures; and making technical changes; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 20-1000 of The Philadelphia Code is amended to read as follows:

CHAPTER 20-1000. POLITICAL CONTRIBUTIONS AND EXPENDITURES

§ 20-1001. Definitions.

For purposes of this Chapter, the following definitions shall apply:

* * *

(6) Contribution. Money, gifts, forgiveness of debts, loans, or things having a monetary value incurred or received by a candidate or his/her agent for use in advocating or influencing the election of the candidate *or by a former candidate to retire debt incurred to influence a covered election or to pay costs related to transition or inauguration to City elective office.*

* * *

[(8) Election Reform Board. A nonpartisan, non-governmental entity to be created that will execute and monitor voluntary contracts for expenditure limitations and will include representation from the League of Women Voters of Philadelphia and/or the Committee of Seventy.]

[(8.1)] (8) Electioneering communication. Any *publicly distributed* broadcast, cable, radio, print, Internet, or satellite communication (a) that promotes, attacks, supports, or opposes a candidate, or (b) that, within 50 days of a covered election, names, refers to, includes, or depicts a candidate in that covered election. The term shall not include: (i) sponsorship or organization of a candidate debate or forum; (ii) any news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication, including any Internet periodical publication, unless the station, newspaper, magazine, or publication is owned or controlled by a candidate, political committee, or political party.

* * *

[(10) Excess post-candidacy contributions. The amount of money, gifts, forgiveness of debts, loans, or things having a monetary value, contributed by a person or committee to particular political committee that, had it

been contributed for the purpose of retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office, would have been in excess of the contribution limitations set forth in subsections 20-1002(4) or 20-1002(5).]

[(11)] (10) Expenditure.

(a) The payment, distribution, loan or advancement of money or any valuable thing by a candidate, political committee or other person for the purpose of influencing the outcome of a covered election *or to retire debt incurred to influence the outcome of a covered election or to cover expenses related to transition or inauguration to City elective office*, including any expenditure for an electioneering communication;

[(12)] (11) Person ***

[(13)] (12) Political Committee ***

[(14)] Post-candidacy contribution. Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.]

[(15)] (13) Pre-candidacy contribution. ***

[(16)] (14) Sample Ballot. ***

§ 20-1002. Contribution Limitations.

(1) Except as *otherwise* provided in [subsection (9)] *this Section 20-1002*, no individual shall make total contributions per calendar year, including contributions made to or through one or more political committees *or persons*, of more than [two thousand five hundred dollars (\$2,500)] *\$3,000, cumulatively*, to (a) a candidate for City elective office, *or (b) to the candidate committee of a former candidate for City elective office if that committee is carrying debt incurred to influence the outcome of a covered election.*

(2) Except as *otherwise* provided in [subsection (9)] *this Section 20-1002*, no person, other than individuals who are covered under § 20-1002(1), and no political committee shall make total contributions per calendar year, including contributions made to or through one or more political committees *or persons*, of more than [ten thousand dollars (\$10,000)] *\$12,000, cumulatively*, to (a) a candidate for City elective office, *or (b) to the candidate committee of a former candidate for City elective office if that committee is carrying debt incurred to influence the outcome of a covered election.*

[(3)] During those calendar years in which a covered election is not occurring, candidates shall be limited in receiving political committee contributions as follows:

(i) candidates for Mayor may receive political committee contributions totaling no more than two hundred fifty thousand dollars (\$250,000) per year;

(ii) candidates for District Attorney and City Controller may receive political committee contributions totaling no more than one hundred thousand dollars (\$100,000) per year;

(iii) candidates for City Council, Sheriff and City Commissioner may receive political committee contributions totaling no more than seventy-five thousand dollars (\$75,000) per year.]

[(4) During the interval between such general election (or primary election, with respect to candidates who were not nominated) and the end of the calendar year in which the general election occurred, and in each calendar year thereafter, no individual shall make total post-candidacy contributions, including contributions made to or through one or more political committees, of more than two thousand six hundred dollars (\$2,600).]

[(5) During the interval between such general election (or primary election, with respect to candidates who were not nominated) and the end of the calendar year in which the general election occurred, and in each calendar year thereafter, no person, other than an individual covered under § 20-1002(4), political committee shall make post-candidacy contributions, including contributions made to or through one or more political committees, of more than ten thousand six hundred dollars (\$10,600).]

[(6)] (3) No candidate or candidate political committee may spend any excess pre-candidacy contributions for the purpose of influencing the outcome of a covered election in which he or she is a candidate.

[(7)] (4) No candidate or candidate political committee may spend any excess pre-candidacy contributions [or excess post-candidacy contributions] for the purposes of:

(a) transition or inauguration expenses; or

(b) retiring debt that was incurred to (i) influence the outcome of an already completed covered election; or (ii) cover transition or inauguration expenses related to an already completed covered election.

[(8)] (5) A pre-candidacy contribution made in the same calendar year that a person becomes a candidate shall count toward the limitations on contributions set forth in paragraphs (1) and (2).

[(9)] (6) The limitations imposed by *subsections 20-1002(1) and (2)* [this Chapter] shall not apply to contributions from a candidate's personal resources to the candidate's candidate political committee. However, if such contributions total \$250,000 or more (regardless of the time period over which such contributions are made), then the contribution limits set forth in [this Section for that City elective office for that City elective office, other than those in subsections (4) and (5) above,] *subsections 20-1002(1) & (2) above shall double with respect to candidates for that City elective office. The contribution limits set forth in subsections 20-1002(7) and 20-1002(8) below shall not double based on such a contribution of personal resources.*

(7) *Notwithstanding the limits set forth in subsections 20-1002(1) & (2), if a candidate establishes a Litigation Fund Committee pursuant to § 20-1009:*

(a) an individual may make contributions to that committee of up to, but not in excess of, \$3,000 per calendar year, including contributions made through one or more political committees or persons; and

(b) a person other than an individual may make contributions to that committee of up to, but not in excess of, \$12,000 per calendar year, including contributions made through one or more political committees or persons.

(8) Notwithstanding the limits set forth in subsections 20-1002(1) & (2), if a candidate or former candidate establishes a Transition and Inauguration Committee pursuant to § 20-1011:

(a) an individual may make contributions to that committee of up to, but not in excess of, \$3,000 per calendar year, including contributions made through one or more political committees or persons; and

(b) a person other than an individual may make contributions to that committee of up to, but not in excess of, \$12,000 per calendar year, including contributions made through one or more political committees or persons.

(9) The limitations imposed by subsections 20-1002(7) & (8) shall not apply to contributions from a candidate's personal resources or from a candidate's candidate political committee. A candidate or former candidate shall not transfer funds to his or her candidate political committee from a Litigation Fund Committee or a Transition and Inauguration Committee.

(10) The limitations imposed by this subsection shall not apply to volunteer labor.

(11) On January 1, [2008] 2020, and on January 1 every four years thereafter, the maximum amounts set forth in *this* § 20-1002 [(1), (2), (4), and (5)] shall be adjusted, as follows. On the December 15 immediately preceding the adjustment, the Finance Director shall calculate the "CPI Multiplier" by dividing the average consumer price index for Philadelphia during the then-current calendar year by the average consumer price index for Philadelphia during calendar year [2005] 2016. To determine the average consumer price index for Philadelphia, the Finance Director shall use the latest available figures for the Consumer Price Index for all urban Consumers (CPI-U) All Items Index, Philadelphia, Pennsylvania, as measured by the United States Department of Labor, Bureau of Labor Statistics. After calculating the CPI Multiplier, the Finance Director shall calculate the new maximum amounts as follows:

[(i)] *(a)* The maximum amounts for purposes of [§] *subsections* 20-1002(1), (7)(a), & (8)(a) shall equal \$3,000 [\$2,500], multiplied by the CPI Multiplier, rounded to the nearest \$100.

[(ii)] *(b)* The maximum amounts for purposes of [§] *subsections* 20-1002(2), (7)(b), & (8)(b) shall equal \$12,000 [\$10,000], multiplied by the CPI Multiplier, rounded to the nearest \$100.

[(iii)] The maximum amount for purposes of § 20-1002(4) shall equal \$2,500, multiplied by the CPI Multiplier, rounded to the nearest \$100.]

[(iv)] The maximum amount for purposes of § 20-1002(5) shall equal \$10,000, multiplied by the CPI Multiplier, rounded to the nearest \$100.]

The Finance Director shall certify the new maximum amounts in writing to the Mayor, the City Council President, *the* Chief Clerk of Council, *and the Board of Ethics.*

(12) No candidate, *former candidate, candidate's candidate political committee, former candidate's candidate political committee, Litigation Fund Committee or Transition and Inauguration Committee* shall

accept any contribution [or post-candidacy contribution] which exceeds the contribution limits set forth in this Chapter.

* * *

(15) A vendor may make expenditures on behalf of a campaign, and such expenditures shall not count against the vendor's contribution limits and shall not constitute a prohibited expenditure of the campaign, so long as the expenditures are for an expense that is incidental to the contractual provision of services by the vendor to the campaign, consistent with standard business practice; and the campaign promptly reimburses the vendor for the expenditure.

§ 20-1003. Candidate Political Committee Accounts.

(1) Candidate Political Committee Account. A candidate for City elective office shall have no more than one political committee and one checking account for the City office being sought, into which all contributions [and post- candidacy contributions for such office] shall be made, and out of which all expenditures for that office shall be made, including expenditures for retiring debt *incurred to influence the outcome of a covered election* [and for transition or inauguration to that office.] If the candidate for office maintains other political or non-political accounts for which contributions are solicited, such funds collected in these accounts shall not be used for the purpose of influencing the outcome of a covered election, or to retire debt that was incurred to influence the outcome of a covered election [, or to cover transition or inauguration expenses]. *The restrictions of the subsection shall not apply to a Litigation Fund Committee established pursuant to § 20-1009 or a Transition and Inauguration Committee established pursuant to § 20-1011.*

(2) It shall not be a violation of this section for a candidate for City elective office who is a ward leader to make expenditures through his or her ward's political committee for the printing or distribution of sample ballots where such sample ballots list the candidate as one of the endorsed candidates either of the candidate's party or of the candidate's ward.

(3) Upon formation of a candidate political committee, the candidate immediately shall file with the Board of Ethics a statement identifying:

* * *

(4) A candidate or an employee or agent of a candidate's campaign may use personal funds to make purchases for the benefit of the campaign so long as:

(i) it is reasonably necessary that such purchases are not made from the candidate committee's checking account;

(ii) the campaign reimburses the candidate or employee or agent within 45 days of the purchase;

(iii) the reimbursement is disclosed and accurately described in the required campaign finance report; and

(iv) *the candidate's campaign maintains documentation of the reimbursement and underlying purchase. A purchase that complies with the foregoing shall not violate Section 20-1003 and shall not count towards the contribution limits set forth at Section 20-1002.*

§ 20-1004. [Candidate Expenditure Limitations.] *Reserved.*

[(1) Expenditure Contract.

(a) Effective for the elections for District Attorney and City Controller in the year 2005, and Mayor, Register of Wills, Sheriff, City Commissioner and City Council in the year 2007 and thereafter, a candidate seeking election to any of said offices may sign a contract with the Election Reform Board to abide by limitations on expenditures.

(b) The expenditure contract for a particular covered election may be signed by an individual candidate no later than the last date upon which such individual may withdraw as an official candidate in said election.

(c) A candidate may sign an expenditure contract limiting his/her overall expenditures as specified in § 20-1004(2).

(2) Expenditure Limitations. A candidate who signs an expenditure contract in accordance with this Chapter shall not make expenditures per covered election in excess of the following amounts:

Mayor \$2,000,000
District Attorney \$500,000
City Controller \$500,000
City Council \$250,000
Register of Wills \$250,000
Sheriff \$250,000
City Commissioner \$250,000]

* * *

§ 20-1006. Campaign Finance Disclosure.

(1) (a) Electronic Filings Required.

* * *

(.2) Any time any [person or] political committee, *treasurer of a political committee, or other person* is required by the Pennsylvania Election Code to file a campaign finance report [or statement] with the City Commissioners or the Secretary of State [and that report or statement discloses, or is required to disclose, any expenditures or any debt incurred to influence the outcome of a covered election, the person or political committee shall file a copy of the report or statement with the Board of Ethics in a digital electronic format

prescribed by the Board no later than the state law due date.] , *that person, treasurer, or political committee shall file a copy of that report with the Board of Ethics if the report discloses or is required to disclose any:*

(i) expenditures made or debt incurred to influence the outcome of a covered election;

(ii) contributions to or expenditures by the candidate political committee of a former candidate that is carrying debt incurred to influence the outcome of a covered election;

(iii) contributions to or expenditures by a Litigation Fund Committee established pursuant to § 20-1009; or

(iv) contributions to or expenditures by a Transition and Inauguration Committee established pursuant to § 20-1011.

Any report required to be filed pursuant to this subsection 20-1006(1)(a)(.2) shall be filed no later than the state law due date for filing the report, and shall be filed in a digital electronic format determined by the Board.

* * *

(c) In addition to any filing required by subsection (a) or (b), any person, including a not-for-profit organization or political committee, other than a candidate political committee, that on or before any report due date set forth below, [spends or promises to pay in the aggregate] *whether directly or through another person, makes or promises to make expenditures of \$5,000 or more in the aggregate* for one or more electioneering communications that are published or to be published within fifty (50) days of a covered election shall file a report with the Board of Ethics in a digital electronic format setting forth all transactions covered by subsection (d) below that occurred more than twenty-four hours before the report due date, but less than eight months prior to the election, and that have not previously been disclosed in a report filed with the Board of Ethics. *If the date of dissemination of the electioneering communication precedes the date of the expenditure for it, then the date of dissemination shall be used to determine the due date of the report.* Such reports shall be due (unless the same person is required to file a report under subsection (a) or (b) on the same date):

(.1) on the sixth Tuesday before a covered election;

(.2) on the fourth Tuesday before a covered election;

(.3) on the second Friday before a covered election; [and]

(.4) on the Tuesday immediately before a covered election;

(.5) *on the Friday immediately before a covered election; and*

(.6) for any covered electioneering communication expenditures made after the last expenditure reported under subsection 20-1006(1)(c)(.5) above, by the 30th day after a covered election.

(d) A report filed pursuant to subsection (b) or (c) shall be in the format required by the Board of Ethics and shall contain all information required by section 1626(b) of the Pennsylvania Election Code, 25 P.S.

§ 3246(b). *In addition to disclosing all contributions as required by section 1626(b) of the Pennsylvania Election Code, 25 P.S. § 3246(b), a filer who is not a registered political committee or an individual shall also disclose all other donations of \$5,000 or more received during the relevant reporting period.*

* * *

[(f) Former candidates and treasurers of political committees shall file reports of post-candidacy contributions and expenditures made to retire debt or for inauguration and transition expenses in such form and detail and on such schedule as the Board of Ethics requires by regulation.]

[(g)] (f) * * *

* * *

[§ 20-1010. Limits on Contributions to a Litigation Fund.

(a) No person shall make a contribution to a litigation fund in excess of the limits set forth in § 20-1002 and no candidate or litigation fund committee shall solicit or accept a contribution in excess of such limits, provided, however, that when a candidate makes contributions of \$250,000 or more from his or her personal resources to his or her candidate political committee, the limits set forth in § 20-1002 shall not double with respect to contributions to a litigation fund.

(b) The limit on contributions to a litigation fund shall be separate from and in addition to the limit on campaign contributions set forth in § 20-1002, so that a contribution to a litigation fund shall not count toward the campaign contribution limits set forth in § 20-1002.

(c) The limitations imposed by this Chapter shall not apply to contributions to a litigation fund from a candidate's personal resources or from a candidate's candidate political committee, provided, however, that a candidate may not transfer excess pre-candidacy contributions to his or her litigation fund.]

[§ 20-1011. Reporting.

(a) A litigation fund committee shall file reports of contributions and expenditures in such detail and on such schedule as is prescribed by law for the reporting of contributions to and expenditures by a candidate's political committee.

(b) The reports required by this Section shall be filed with the Board of Ethics in an electronic format mandated by the Board of Ethics, and shall be accompanied by a written statement, signed by the person making the filing, that subscribes and swears to the information set forth in such filing. Upon receipt of such filing, the Board of Ethics shall issue a written receipt to the person making the filing.

(c) The Board of Ethics shall provide for the publication of all reports filed under this Section in the same manner and on the same timetable it provides for publishing of campaign finance reports under § 20-1006.]

[§ 20-1012.] § 20-1010. Required Termination of a Litigation Fund Committee.

* * *

§ 20-1011. *Transition and Inauguration Committees.*

(a) *A candidate or person elected to City office shall use a political committee that is separate from his or her candidate political committee to solicit and receive contributions for transition or inauguration into City elective office. The name of such committee shall contain the terms "Transition" and "Inauguration."*

(b) *Funds held by a Transition and Inauguration Committee may only be used to pay costs incurred for the transition or inauguration into City elective office of the elected person.*

(c) *A candidate or person elected to City office shall use only one committee and one checking account to receive and expend funds for expenses of his or her transition or inauguration into City elective office, except that nothing shall prohibit a former candidate from transferring money raised while a candidate from the elected person's candidate political committee to his or her Transition and Inauguration Committee. The Board of Ethics shall require a candidate or person elected to City office to provide the Board with such information as the Board deems necessary to identify the candidate's transition and inauguration committee and checking account, within three business days of formation of the committee.*

(d) *Each Transition and Inauguration Committee shall have a treasurer who shall be responsible for keeping records of contributions and expenditures to the same extent and in the same detail that records of contributions and expenditures must be kept by a candidate's political committee pursuant to this Chapter and applicable State law.*

(e) *A Transition and Inauguration Committee must be terminated, including closure of the committee checking account, no later than six months after the date of the former candidate's inauguration to City office. Before a Transition and Inauguration Committee is terminated, any remaining funds shall be returned to contributors on either a "last in, first out" or "first in, first out" accounting basis, or on such other equitable basis as may be approved by the Board of Ethics. The Board of Ethics may for good cause shown extend the deadline for termination of a Transition and Inauguration Committee.*

* * *

SECTION 2. This Ordinance shall be effective immediately.