

Legislation Text

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Amending Title 20 of The Philadelphia Code, entitled "Officers and Employees," to add a Chapter establishing a system for public financing of political campaigns; all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 20 of The Philadelphia Code is amended to read as follows:

TITLE 20. OFFICERS, [AND] EMPLOYEES *AND POLITICAL CAMPAIGNS.*

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*CHAPTER 20-1400. PUBLIC FUNDING OF POLITICAL CAMPAIGNS.*

§20-1401. *General.*

*(1) A candidate who meets the qualifications of this Chapter shall be eligible to receive matching funding from the Public Campaign Finance Fund in the amounts set forth in this Chapter, subject to the limitations set forth in this Chapter, for use by the candidate's candidate political committee for the purposes specified in this Chapter.*

§20-1402. *Definitions.*

*(1) The definitions of Chapter 20-1000 ("Political Contributions and Expenditures") shall apply to this Chapter, except as provided herein.*

*(2) "Applicable Spending Limit." Means the following amount in connection with a covered election for one of the following City elective offices:*

*Mayor: \$2,000,000*

*District Attorney and Controller: \$600,000*

*All other City elective offices: \$200,000*

*(3) "Individual." Means a natural person.*

*(4) "January 1 start date." Means January 1 of the year preceding the year in which the candidate qualifies, or seeks to qualify for, eligibility for public campaign funding.*

*(5) "Monetary Contribution." Means money provided to a candidate or his/her agent for use in advocating or influencing the election of the candidate.*

(6) *“Participating Candidate.” Means a candidate who has qualified for and requested matching funding pursuant to the requirements of this Chapter.*

*§20-1403. Qualification for Receipt of Public Funding.*

*(1) A candidate shall be eligible to receive public funding only upon a determination made by the Board of Ethics that monetary contributions have been received by the candidate in amounts eligible for matching funding and that the candidate has satisfied the following criteria:*

*(a) The Office of the City Commissioners has accepted documentation from the candidate to appear on the ballot for a primary or general election for City elective office and the candidate has not been determined ineligible to appear on the ballot by a court.*

*(b) One or more opponents for election to such office have also qualified to appear on the ballot.*

*(c) Since the January 1 start date, the candidate has received the following minimum amount of monetary contributions from individuals, as set forth below, provided that: (i) each individual resides in Philadelphia; (ii) for candidates for office representing a Council District, each individual resides in that District; and (iii) each individual is not a family member of the candidate, as that term is defined in subsection 9-4103(8) of the Code:*

*(.1) For candidates for Mayor, at least \$50,000 in monetary contributions in amounts of no more than \$150 per contributor.*

*(.2) For candidates for all other offices, at least \$15,000 in amounts of no more than \$150 per contributor.*

*(d) The candidate’s candidate political committee has filed all reports and disclosures required to be filed pursuant to Chapter 20-1000 in the previous 12-month period.*

*(e) The candidate is current on tax obligations and debts owed to the City, and with respect to any penalties or other amounts owed as a result of a settlement agreement or enforcement action of the Board. A candidate is current if he or she is current on any payment agreement with the City with respect to such obligations, debts or fines.*

*(f) The candidate applied for a determination of eligibility in such format as shall be determined by the Board.*

*(g) The candidate agrees in writing to comply with any requirements established by the Board pursuant to this Chapter, which shall at a minimum include: agreement that upon a determination that the candidate has received monetary contributions contrary to the limitations of Sections 20-1405 or 20-1407, upon the Board’s written request, the City shall withhold matching funds to which the candidate may otherwise be entitled; agreement to comply with the spending limitations of Section 20-1405; and agreement to cooperate with any investigation of or request for information from the Board.*

*§20-1404. Matching Funds Available.*

(1) *Subject to the limitations set forth in Section 20-1405, eligible candidates shall receive \$5.00 of funding from the Public Campaign Finance Fund for each pre-election monetary contribution of \$1.00 made by an individual resident of Philadelphia since the January 1 start date, but solely in connection with contributions of no more than \$150 from a particular contributor.*

(2) *Funding shall be distributed upon receipt of notification to the Director of Finance by the Board of a determination of funding eligibility and the eligible amount.*

(3) *Matching funds shall be provided by the City to the candidate's candidate political committee and maintained by the committee in a bank account segregated from all other campaign funds available to the candidate for campaign expenditures, pursuant to such requirements as the Board may establish by regulation. All expenditures of such funds shall be made from such account.*

(4) *If appropriations are not available to fund an amount to which a candidate has been determined eligible, such funding shall be provided upon the appropriation of additional funds, in the then-current fiscal year or, if none are appropriated, the appropriation of funds in the subsequent fiscal year.*

*§20-1405. Limitations on Receipt of Matching Funds.*

(1) *No candidate shall receive matching funding in connection with a monetary contribution made by an individual who has contributed more than \$150 to the candidate since the January 1 start date.*

(2) *After receipt or application for matching funding in connection with a monetary contribution from an individual who has contributed \$150 to a candidate since the January 1 start date, a candidate shall not accept any further contribution from such individual until the end of the candidate's candidacy.*

(3) *No candidate shall receive matching funding in connection with a monetary contribution made by a family member, as that term is defined in subsection 9-4103(8) of the Code.*

(4) *No candidate for Mayor shall be eligible to receive matching funding if, since the January start date, he or she has accepted more than \$2,000,000 in total contributions from sources other than individuals. No candidate for District Attorney or Controller shall be eligible to receive matching funding if, since the January start date, he or she has accepted more than \$600,000 in total contributions from sources other than individuals. No other candidate shall be eligible to receive matching funding if, since the January start date, he or she has accepted more than \$200,000 in total contributions from sources other than individuals. During the period between the January start date and the end of the candidate's candidacy, a participating candidate shall not accept more than the amounts set forth in this paragraph in total monetary contributions from sources other than individuals.*

(5) *Total public matching funding that may be received by a candidate shall be limited as follows:*

(a) *For a candidate for Mayor, \$1,000,000.*

(b) *For a candidate for District Attorney or City Controller, \$300,000.*

(c) *For a candidate for any other City elective office, \$100,000.*

(6) *A candidate for multiple offices shall be bound by the limitations applicable to the office to which the lower limitation on matching funds applies. Such limitation shall apply to all matching funds sought by the candidate, regardless of the purpose of the contribution for which matching funding is sought.*

(7) *A candidate for one office who is on the ballot of more than one political party for an office shall be subject to the applicable limitation for that office, regardless of the purpose of the contribution for which matching funding is sought.*

(8) *No candidate shall be eligible for matching funding if he or she spends more than the applicable spending limit either (a) during the period between the January start date and the primary election; or (b) during the period between the primary election and the general election. A participating candidate shall not spend more than the applicable spending limit during such period and shall immediately notify the Board if he or she has exceeded the applicable spending limit.*

(9) *To be eligible for funding, a candidate must meet such requirements for the submission of information and documentation, including requirements related to the timing of submission of such information and documentation, as may be established by the Board by regulation.*

#### *§20-1406. Use of Public Campaign Finance Funds.*

(1) *A participating candidate is not permitted to use matching funding in any calendar year other than the year in which such funding is received.*

(2) *A participating candidate is permitted to use matching funding only to influence the outcome of his or her candidacy for office, which includes expenditures associated with complying with the City's campaign finance law or the State Election Code or defending against a challenge to the candidate's place on the ballot.*

(3) *A participating candidate is prohibited from using matching funds:*

(a) *for any payment to the candidate or a spouse, life partner, child, grandchild, parent, grandparent, brother or sister of the candidate or spouse or life partner of such child, grandchild, parent, grandparent, brother or sister;*

(b) *for any payment to a business entity in which the candidate or any person covered under subsection (3)(a) above has a one percent or greater ownership interest;*

(c) *to make a gift of any kind or for any payment in excess of the fair market value of any services, materials, facilities or other things of value received in exchange for payment;*

(d) *to make a monetary contribution or payment to a political committee;*

(e) *for personal expenses, such as clothes, meals, fees for membership in a club or personal use of a vehicle;*

(f) *for costs incurred (i) after a primary election that the candidate lost; or (ii) after a general election;*

(g) for expenses related to inauguration or transition to office, an election victory celebration or a similar post-election event;

(h) for a post-election bonus to a campaign employee;

(i) for expenses incurred to challenge another candidate's place on the ballot;

(j) for expenses arising from any governmental investigation of the candidate or his or her candidate political committee, including payments to counsel; or

(k) for payments for administrative, civil or criminal fines or penalties, including penalties for violations of the City's campaign finance law.

(4) A participating candidate is prohibited from making an expenditure of matching funds in cash.

(5) Matching funds that cannot be utilized by a participating candidate pursuant to the terms of this Chapter shall be returned to the City pursuant to requirements established by the Board by regulation.

§20-1407. *Suspension of Applicable Spending Limits.*

(1) The applicable spending limit shall be deemed suspended and inapplicable in connection with a particular covered election for a particular City elective office upon certification by the Board, pursuant to such mechanism as established by the Board by regulation:

(a) that a participating candidate has an opponent in that covered election who has spent more than the applicable spending limit.; or

(b) independent expenditures have been made in connection with the covered election that are: (i) adverse to a participating candidate; or (ii) in support of an opponent of such a participating candidate that, alone or combined with expenditures by an opponent of such participating candidate, exceed the applicable spending limit.

For the purposes of Section 20-1407(1)(a), the money spent by a candidate is the sum of (i) expenditures made to date, (ii) debts incurred to date; and (iii) the value of all in kind donations to date.

(2) The Board shall, by regulation, establish rules regarding what is considered an independent expenditure under this Section; when independent expenditures are considered to have been made; and any other matter necessary for implementation of this Section.

(3) A candidate shall immediately notify the Board if he or she has exceeded the applicable spending limit, regardless whether the candidate is a participating candidate.

§20-1408. *Remedies, Penalties and Related Provisions.*

(1) Subject to paragraphs (4) and (5) below, if a participating candidate receives matching funding based on a monetary contribution made by an individual who, at any time between the January 1 start date and one year after the candidacy ends, makes total monetary contributions to the candidate in excess of \$150, the

*candidate shall:*

*(a) forfeit and refund to the City the full amount of the matching fund amount in connection with such contribution; and*

*(b) pay a penalty equal to the amount of matching funds provided in connection with such contribution.*

*(2) Subject to paragraphs (4) and (5) below, if a participating candidate accepts more in total monetary contributions from sources other than individuals than the amount of the applicable spending limit during the period between the January start date and the end of the candidate's candidacy, the participating candidate shall forfeit and refund to the City all matching funding received.*

*3) If a participating candidate spends more than the applicable spending limit either (a) during the period between the January start date and the primary election; or (b) during the period between the primary election and the general election, the candidate shall:*

*(a) be in violation of this Chapter;*

*(b) refund to the City matching funding received by the candidate up to the amount by which the candidate has spent above the applicable spending limit; and*

*(c) be ineligible for receipt of matching funding in connection with the next subsequent covered election.*

*(4) Receipt of a de minimis monetary contribution contrary to the limitations of this Section, or spending a de minimis amount above the limits set forth in this Section, as such amounts may be established by the Board, shall not subject a participating candidate to the remedies and penalties of this Section.*

*(5) If a participating candidate receives from an individual a monetary contribution contrary to the limitations of this Section, and within a time period and limitations established by the Board such candidate returns to the City funding received from the City based upon contributions made by such individual, the candidate shall not be subject to the remedies and penalties of this Section.*

*(6) If, prior to a covered election, a participating candidate who exceeds the applicable spending limit for such election forfeits to the City an amount equal to the amount by which he or she exceeded the spending limit, within a time period and subject to standards established by the Board by regulation, such candidate shall not be subject to the remedies and penalties of this Section.*

*(7) An intentional violation of this Chapter, as the term intent is defined in subsection 20-1302(1)(b) (i), shall subject the candidate to disqualification from receipt of public funds pursuant to this Chapter for the election cycle in connection with which the violation occurs and such future election cycles as may be determined by the Board, depending on the severity of the violation.*

*(8) In addition to any applicable penalties under Chapter 20-1000, failure to comply with applicable reporting requirements of Section 20-1006 shall disqualify the candidate from receipt of any public funding under this Chapter not yet received during such time as the candidate remains in violation of such requirements.*

(9) *Provision of false, misleading or fraudulent documentation or information in connection with application for public funds under this Chapter shall subject the violator to a penalty of up to \$2,000. The provision of each separate false, misleading or fraudulent piece of information or document shall be a separate violation. Provision of such information or documentation shall disqualify the candidate from the receipt of any public funds under this Chapter not yet received for the course of the applicable election cycle.*

(10) *Except as otherwise provided in this Chapter, a violation of this Chapter shall be subject to penalties as set forth in Code section 20-1302.*

(11) *The Board shall conduct investigations and hearings relating to compliance with the provisions of this Chapter or any regulation adopted thereunder pursuant to and in compliance with the Board's authority under the Home Rule Charter and Section 20-600.*

§20-1409. *Appeals.*

(1) *Upon a determination that a candidate is not eligible to receive matching funding, under the standards of Section 20-1403, or that a particular monetary contribution does not qualify for matching public funding under Sections 20-1404 or 20-1405, the Board shall provide the candidate a written determination specifying the basis for ineligibility or lack of qualification. The Board shall establish by regulation a method of providing a due-process compliant hearing for reconsideration of such determination within a week of a reconsideration request, and a decision on reconsideration may be appealed to a court of competent jurisdiction under the Local Agency Law.*

§20-1410. *Duties of the Board.*

(1) *Except as otherwise provided in this Chapter, the Board shall administer, implement, and enforce the provisions of this Chapter and shall have the authority to promulgate any regulations necessary to carry out such duties.*

(2) *The Board shall provide regular reports to the Mayor and the Council regarding the efficacy, administration and impact of this Chapter.*

§20-1411. *Effective Date.*

*This Chapter shall be effective with respect to monetary contributions received by candidates on or after January 1, 2018.*

SECTION 2. Chapter 20-1000 of The Philadelphia Code is amended to read as follows:

CHAPTER 20-1000. POLITICAL CONTRIBUTIONS AND EXPENDITURES.

\* \* \*

§ 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 and for transition or inauguration to that office, *except as provided in Section 20-1404 of the Code (“Matching Funds Available”)*. \* \* \*

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**Explanation:**

[Brackets] indicate matter deleted.

*Italics* indicate new matter added.