

Legislation Text

File #: 020823, **Version:** 0

Amending Title 20 of The Philadelphia Code, entitled "Officers and Employees," by amending Chapter 20-600 to prohibit the receipt of contributions by city elected officials or candidates for city offices from individuals or businesses who are applicants for, or recipients of, city contracts or financial assistance; to limit the eligibility of individuals or businesses to receive city contracts or financial assistance if they have made political contributions within certain timeframes to city elected officials or candidates for city offices, and to prohibit any person campaigning for elective City office from using for such purpose funds contributed to him or her while serving in another elective City office; and by adding a new Chapter 20-800, entitled "Campaign Finance" and by amending Chapter 20-300, entitled "Compensation," to provide for the limitation of contributions for municipal election campaigns for all offices, to create an Independent Campaign Finance Board and to establish a system of public financing for election campaigns for certain offices, for those candidates who voluntarily limit their campaign expenditures; all under certain terms and conditions.

WHEREAS, in Philadelphia in recent years, a substantial number of individual campaign contributions have exceeded ten thousand dollars and oftentimes exceeding twenty-five thousand dollars; and

WHEREAS, campaign contributions in the City's municipal elections since 1991 have escalated to astronomical levels, approaching a half million dollars in some City Council races and exceeding \$27 million spent in the 1999 mayoral election; and

WHEREAS, such excessive monetary contributions leave the impression with the average citizen that our government is for sale to the highest bidder and that only those persons or businesses that have contributed heavily to the campaigns of City elected officials can obtain City contracts or financial assistance; and

WHEREAS, elected officials spend far too much time raising money for re-election, time which could be better spent in direct public service for their constituents; and

WHEREAS, the high costs of campaigns have made running for office almost exclusively within the purview of the well-off and well-connected; and

WHEREAS, the public good and the electoral process would be better served through voluntary campaign spending limits and public financing, as it enhances the possibility for a broad array of political candidates; and

WHEREAS, mandatory campaign contribution limits would restore confidence that government contracts and assistance are being awarded in an ethical manner and would prevent any one person from exerting undue influence in an election; and

WHEREAS, it is wholly appropriate that the democratically elected legislative body for the citizens of Philadelphia attempt to remedy these perceived and real threats to our democracy through the enactment of municipal campaign finance reform; now therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 20 of The Philadelphia Code relating to Officers and Employees is hereby amended to add the following new Chapter:

CHAPTER 20-800. CAMPAIGN FINANCE.

§20-801. Definitions.

(1) *Board.* *The Independent Campaign Finance Board.*

(2) *Candidate.* *Any person running for election to municipal office in the City of Philadelphia, including those elected officials running for re-election, with the exception of judicial candidates. For the purposes of this Chapter, a person becomes a candidate creating a campaign committee, circulating a nominating petition, soliciting pledges or contributions, or holding a press conference for the purpose of announcing said candidacy.*

(3) *Contribution.* *Money, gifts, forgiveness of debts, loans, with the exception of loans to offset reimbursable expenses from public campaign financing, property 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. Contributions shall also include the purchase of tickets for events such as dinners, luncheons, rallies and all other fund-raising events, the granting of discounts or rebates not available to the general public, the granting of discounts or rebates by the media not extended on an equal basis to all candidates for the same office, and any payment for the services of any person serving as an agent of a candidate or his or her political committee by a person other than the actual candidate or his/her authorized political committee.*

(4) *Covered election.* *Every primary, general or special election for all municipal offices with the exception of races for municipal, common pleas and traffic courts.*

(5) *Expenditure.* *Any of the following:*

(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;*

(b) *the payment, distribution, loan, advance or transfer of money or other valuable thing between or among political committees;*

(c) *the providing of a service or other valuable thing for the purpose of influencing the outcome or nomination or election of any candidate running for office in a covered election; or*

(d) *the payment or providing of money or other valuable thing by any person other than a candidate or his/her own political committee, to compensate any person for services rendered to a candidate running for office in a covered election.*

(6) *Independent Expenditure.* *An expenditure by a person made for the purpose of influencing a covered election without the cooperation or consultation with any candidate or his/her authorized political committee and which is not made in concert with or at the request or suggestion of any candidate, candidate's political committee or agent thereof.*

(7) *Municipal Office.* The office of Mayor, District Attorney, Controller, City Councilperson, Sheriff, City Commissioner, Register of Wills, and Clerk of Quartersessions.

(8) *Person.* Any actual individual, any business partnership, sole proprietorship, or other form of business organization permitted under the laws of the Commonwealth to make political contributions.

(9) *Political Committee.* Any committee, club, association, political party, or other group of persons, including the campaign committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.

§20-802. *Mandatory Campaign Contribution Limitations.*

(1) *No person shall make total contributions per covered election per year, including contributions made to or through one or more political committees, of more than one thousand dollars (\$1,000) to a candidate for any Municipal Office.*

(2) *No political committee shall make total contributions per covered election per year of more than five thousand dollars (\$5,000) to a candidate for any Municipal Office.*

(3) *During those calendar years in which a covered election for a particular Municipal Office is not occurring, candidates shall be limited in receiving contributions to campaigns for such office as follows:*

(i) *candidates for Mayor may receive contributions totaling no more than two hundred thousand dollars (\$200,000) per year;*

(ii) *all other candidates for Municipal Office may receive contributions totaling no more than one hundred fifty thousand dollars (\$150,000) per year.*

(4) *The limitations imposed by this Chapter shall not apply to contributions from a candidate's personal resources to the candidate's own campaign.*

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

§20-803. *Campaign Accounts.*

A candidate for City office shall have no more than one campaign committee and one checking account for the city office being sought, into which all contributions for such office shall be made, and out of which all campaign expenditures for that office shall be made. 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 any campaign for municipal office.

§20-804. *Voluntary expenditure limitations.*

(1) *Campaign Contract.*

(a) *Effective for the elections for Mayor and City Council in the year 2007 and thereafter, a candidate seeking election to any of said offices may sign a contract with the Board to abide by limitations on*

campaign expenditures and the use of all contributions as specified in this Chapter in exchange for public funds.

(b) The campaign 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. No funds raised prior to the signing of the campaign contract shall qualify towards eligibility for public funds as set forth in §20-805.

(c) A candidate may sign a campaign contract limiting his/her overall campaign expenditures as specified in §20-804(3) and choose not to accept public funds.

(2) Contribution Limitations from Candidates' Personal Resources.

(a) A candidate who signs a campaign contract shall make no contributions to his or her own campaign or political committee which in the aggregate exceeds three percent (3%) of the applicable expenditure limit per election.

(b) Loans made by a candidate to his or her own political committee which are not repaid the day before the general election (or special election, if applicable,) shall be deemed to be contributions and subject to the voluntary limitations as set forth above.

(3) Expenditure Limitations.

A candidate who signs a campaign contract in accordance with §20-805(1) of this Chapter shall not make expenditures per covered election in excess of the following amounts:

<i>Mayor</i>	<i>\$2,000,000</i>
<i>City Council Member-at-large</i>	<i>\$200,000</i>
<i>District City Council Member</i>	<i>\$125,000</i>

§20-805. Eligibility for Public Financing.

(1) To be eligible for public funds a candidate must meet all the requirements of law to have his/her name on the ballot, face one or more opponents in the election for which he/she is seeking funds, and

(a) For the office of Mayor, raise fifty thousand dollars (\$50,000) with contributions of no more than one hundred dollars (\$100) from no less than five hundred (500) contributors;

(b) For the office of City Council Member-at-large, raise ten thousand dollars (\$10,000) with contributions of no more than fifty dollars (\$50) from no less than two hundred (200) contributors;

(c) For the office of District City Council Member, raise five thousand dollars (\$5,000) with contributions of no more than fifty dollars (\$50) from no less than one hundred (100) contributors;

(d) Agree to participate in at least two pre-election debates as delineated in § 20-805(9).

(2) For the purpose of establishing eligibility for public financing of candidates for City-wide municipal offices under this Section, only those contributions received from residents of the City of Philadelphia shall be counted. For the purpose of establishing eligibility for public financing of candidates for each District Council office, only those contributions received from individual residents of such council district shall be counted.

(3) Candidates must submit evidence of meeting the eligibility requirements of this Section to the Board for verification. Upon verification of eligibility, a candidate who has signed a campaign contract shall be eligible to receive matching funds, provided that no funds shall be disbursed to any qualified candidate prior to certification of his or her candidacy by the City Board of Elections in the calendar year in which the election is to be held.

(4) Candidates who run in both the primary and general election of the same year only need to meet the eligibility requirements for the first election in which they run in order to qualify for public matching funds for both elections.

(5) Public Funding Formula.

(a) For all contributions of one hundred dollars (\$100) or less for Mayoral candidates, and fifty dollars (\$50) or less for Council candidates, from residents of the political district in which the candidate is running, the candidate shall be entitled to receive four dollars for every dollar donated, but not in a total amount exceeding eighty percent (80%) of the applicable expenditure ceiling set forth in §20-804(3)(a).

(b) *If a candidate in a covered election chooses not to participate in the voluntary expenditure limitations of this Chapter, and if the Independent Campaign Finance Board has determined from inspection of the candidate's pre-election financial disclosure reports as required under the state Election Code at 25 P.S. §3246(d) and §3248, that said candidate has raised or spent more than half the applicable expenditure limit, then:*

(i) *the expenditure limits shall no longer apply to participating candidates for election to the same office; and*

(ii) *the participating candidates shall receive payment for campaign expenditures of five dollars for each one dollar of eligible contributions made pursuant to §20-805(1) and (2), except in no case shall the candidate receive public funds exceeding the amount of expenditure limitations as set forth in §20-804(3), or §20-805(5)(c), whichever is applicable.*

(c) *If the Board determines that a participating candidate in a covered election is the subject of an independent expenditure campaign, the expenditure limits for the targeted candidate shall be raised by the amount of the expenditures made in said independent expenditure campaign. The targeted candidate may be eligible to receive public matching funds at the same rate as set forth in §20-805(5)(a) but not in a total amount exceeding eighty percent (80%) of the modified expenditure ceiling established by this subsection.*

(6) Permitted Use of Public Matching Funds.

Public matching funds shall be expended only for the candidate's direct campaign purposes such as, but not limited to, purchasing campaign literature or media space or time, mailings, renting campaign headquarters, or paying for campaign telephones. A candidate who signs a campaign contract may not use contributions or public matching funds for indirect campaign expenses such as, but not limited to, personal expenses, or donations to another candidate or political committee. Permissibility of an expenditure of public matching funds shall be determined by the Board.

(7) Establishment of the Independent Campaign Finance Board and Campaign Finance Fund.

(a) *Powers and Duties in General. The Independent Campaign Finance Board shall administer the City's campaign finance program as ordained in accordance with this Chapter.*

(b) Composition and Appointment.

(i) *The Independent Campaign Finance Board shall consist of five members who shall be appointed as follows: two Board members who are not members of the same political party shall be appointed by the Mayor, two Board members who are not members of the same political party shall be appointed by the City Council and one Board member who is not a member of any political party whose membership includes other Board members, shall be appointed by the City Controller. No Board member may be an elected official or City employee.*

(ii) *Board members shall serve for a term of four years, except that one of the initial members appointed by the Mayor and one of the initial members appointed by the Council shall be designated by his or her appointing authority to serve for a term of two years. No member may serve for a total of more than two consecutive appointive terms. The*

members shall appoint a Chairperson of the Board who shall serve at the pleasure of the members. Vacancies in Board membership arising for any reason shall be filled in the same manner, and subject to the same restrictions, as were applied in the appointment of the member to be replaced. Subject to the provisions §20-807(b)(iv), Board members may be removed only by their appointing power prior to termination of their terms, only for just cause.

(iii) The Mayor and the Council shall make their initial appointments within forty-five (45) days, and the Controller shall make his or her initial appointment within sixty (60) days, of the effective date of this Section. Upon failure of the Mayor, Council or the Controller to timely make one or more authorized appointments, the other members of the Board shall make such appointment or appointments.

(c) Campaign Finance Fund.

(i) The City Treasurer shall maintain a separate and restricted fund called the Campaign Finance Fund which shall be maintained for the purpose of providing public financing to qualifying candidates for Mayor, Council and such other municipal offices as Council may from time to time ordain.

(ii) Council and the Mayor shall assure that sufficient funds are available in the Campaign Finance Fund to enable the Board to perform its duties and disperse public financing to municipal candidates. If at any time it appears that the amount of money in the Fund is insufficient, or is likely to be insufficient, for such purposes, then the Board, or any registered Philadelphia voter, may petition the Court of Common Pleas of Philadelphia County for a mandamus to the Council and Mayor to provide appropriate funding.

(8) Mandatory Debates.

Candidates who are part of the public financing and voluntary expenditure limitation program as delineated in this Chapter, shall agree to participate in at least two one-hour debates per covered election. The Board may organize or administer such debates in conjunction with local non-partisan civic groups, such as the League of Women Voters of Philadelphia as well as local electronic media.

§20-806. Administration.

(1) The Board shall be responsible for the administration and implementation of the provisions of this Chapter and shall promulgate any regulations necessary or proper to carry out the policies and purposes of this Chapter.

(2) The Board may employ such staff as may be necessary for the effective implementation of this Chapter.

(3) The Board shall dispense public matching funds to candidates who shall have signed a campaign contract and who, upon verification by the Board, shall have met all eligibility requirements set forth in §20-805.

(4) The Board shall publicize the names of all candidates who sign campaign contracts, the names of those non-participating candidates who exceed the campaign expenditure limits as specified in §20-804(3)(a), the names of participating candidates who violate the provisions of the campaign contract and the names of all candidates who violate §20-802 by accepting contributions exceeding the specified limitations.

(5) The Board may render advisory opinions with respect to questions arising under this Chapter. Such advisory opinions may be rendered on the written request of a candidate, an officer of a political committee or a member of the public, or may be rendered on its own initiative. The Board shall make public its advisory opinions. Any candidate who acts in good faith in accord with an advisory opinion received from the Board shall not be subject to penalties for negligently failing to comply with the provisions of this Chapter or regulations promulgated thereunder.

(6) The Board shall develop a program for informing candidates and the public of the purpose and effect of the provisions of this Chapter. The Board shall prepare and make available to the public relevant educational materials, including, but not limited to, compliance manuals and summaries and explanations of the purposes and provisions of this Chapter.

(7) The Board shall develop a computer data base that shall contain all information necessary for the proper

administration of this Chapter including information on contributions to, and expenditures by, candidates, and distributions of moneys from the Campaign Finance Fund. Such data base shall be made accessible to the public, in both electronic and printed form, in a timely manner as it is filed.

(8) The Board shall establish a financial disclosure reporting schedule that will facilitate the policies and provisions of this Chapter, which schedule shall:

- (i) require candidates to file reports at least monthly, including a final report to be filed seven (7) days before the election and a post-election report to be filed no later than thirty (30) days after the election;
- (ii) require candidates to report the name, address, and contribution amount of each contribution of \$500 or more within two business days of its receipt by the candidate, which report shall be placed within two business days of its receipt by the Board on its internet website.

In conjunction with such reporting requirements, the Board may develop and disseminate computer software to candidates and other interested parties to more effectively implement record-keeping, monitoring, and disclosure requirements.

(9) The Board shall periodically review and evaluate the effect of this Chapter upon the conduct of election campaigns in the city and shall submit a report to the Mayor and the City Council no later than four years after the effective date, and no later than every fourth year thereafter, at any other time requested by the Mayor or the City Council, and at such other times as the Board deems appropriate. Such reports shall include, but not be limited to, the following information:

(a) the number and names of candidates qualifying for and choosing to receive public funds pursuant to this Chapter, and the number of candidates failing to qualify or otherwise not choosing to receive such funds, in each covered election during the four preceding years;

(b) the amount of public funds provided to each candidate pursuant to this Chapter and the contributions received and expenditures made by each candidate, in each covered election during the four preceding years;

(c) recommendations as to whether the campaign expenditure limitations set forth in §20-804(3)(a) and eligibility amounts as set forth in §20-805(1) should be modified;

(d) analysis of the effect of this Chapter on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates, and the candidates' ability to campaign effectively for public office;

(e) a review of the procedures utilized in providing public funds to candidates; and

(f) such recommendations for changes in this Chapter as it deems appropriate.

(10) The Board shall conduct such investigations and hearings as it deems appropriate relating to compliance by any individual, candidate or entity or any class of individuals, candidates or entities, with the provisions of this Section or regulations promulgated thereunder. Attendance of witnesses and production of documents may be compelled in connection with any such investigation in accordance with the provisions of Section 8-409 of the Home Rule Charter.

§20-807. Penalties.

(1) Violation of any of the provisions of this Chapter shall be punishable by a fine of three hundred dollars (\$300) and imprisonment of up to ninety (90) days. Every contribution made or received, and every expenditure made, in excess of the maximum amounts authorized in this Chapter shall constitute a separate violation.

(2) Late or inadequate filing of required financing reports by non-participating candidates shall be deemed an admission by them that they surpassed the campaign expenditure limits, for purposes of accelerating matching public funds to participating candidates pursuant to §20-805(5)(b).

(3) Candidates who have signed contracts agreeing to expenditure limits and have received matching funds from the

Campaign Finance Fund and who, without the authority of this Chapter, have exceeded such expenditure limits, shall be required to reimburse the Campaign Finance Fund the full amount of the excess expenditures, plus interest, plus the costs of collection, including reasonable attorney fees.

§20-808. Injunctive Relief.

Any person residing in the City of Philadelphia, including the City Solicitor, may bring an action for injunctive relief in any Court of competent jurisdiction to enjoin any violation of, or to compel compliance with, the provisions of this Chapter. The Court may award to a prevailing plaintiff in any such action his or her costs of litigation, including reasonable attorney's fees.

SECTION 2. Chapter 20-600 of The Philadelphia Code entitled "Standards of Conduct and Ethics," is hereby amended to read as follows:

CHAPTER 20-600. STANDARDS OF CONDUCT AND ETHICS.

§20-601. Definitions.

* * *

(7) *City-Related Agency.* All authorities and quasi-public corporations which either: receive appropriations from the City, have entered into continuing contractual or cooperative relationships with the City, or which operate under legal authority granted to them by City ordinance.

[(7)] (8) * * *

(9) *Contribution.* For the purposes of §20-604(3) contribution shall mean money, gifts, debts, loans, property or things having a monetary value incurred by an elected official or candidate for city office or his/her agent for use in advocating or influencing an election. Contributions shall also include the purchase of tickets for events such as dinners, luncheons, rallies and all other fund-raising events, the granting of discounts or rebates not available to the general public, the granting of discounts or rebates by the media not extended on an equal basis to all elected officials or candidates for the same office or offices, and any payment for the services of any person serving as an agent of a candidate or elected official.

(10) *Financial Assistance.* Any grant, loan, tax incentive or abatement, bond financing subsidy for land purchase or otherwise, or other form of assistance of fifty thousand dollars (\$50,000) or more that is realized by or provided to a business or individual or individuals through the authority or approval of the City or a City-related Agency, including, but not limited to, Tax Increment Financing (TIF) aid, industrial development bonds, use of the power of eminent domain, Community Development Block (CDBG) loans, airport revenue bonds, Enterprise Zone designations, and Private Industry Council aid.

[(8)] (11) *Gift.* A payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value, unless consideration of equal value is received. "Gift" shall not include [a political contribution otherwise reported as required by law,] a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the individual's immediate family or from a relative within the third degree of consanguinity of the individual's spouse or from the spouse of any such relative.

[(9)] (12) *Immediate Family.* A spouse residing in the individual's household and minor dependent children. For purposes of §20-604(3), Immediate Family shall also include a registered life partner as defined in §9-1106.

[(10)] (13) * * *

[(11)] (14) * * *

[(12)] (15) * * *

[(13)] (16) * * *

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§20-604. Gifts, Loans and Favors to City Personnel.

* * *

(3) (a) *No elected official or candidate for city office shall accept any contribution of one thousand dollars (\$1,000) or more from any person or business that is an applicant for, or a recipient of, a contract with the City or a City-related Agency in an amount in excess of ten thousand dollars (\$10,000), or from any applicant for, or recipient of, financial assistance in an amount in excess of fifty thousand dollars (\$50,000).*

(b) *No person or business shall be eligible to apply for, or receive, a city contract, or financial assistance, from the City or a City-related Agency, or any renewal thereof, until the expiration of the term of office of any Mayor or Council member to whom said person or business made any political contribution in excess of one thousand dollars (\$1,000) during said term of office, or during the campaign for election to said office.*

(c) *All applicants or recipients of City contracts in an amount over ten thousand dollars (\$10,000) or applicants or recipients of financial assistance in an amount in excess of fifty thousand dollars (\$50,000) shall disclose at the time of their application for an initial, or renewal, City or City-related contracts or grant of financial assistance, on a form to be provided by the department or agency from which they are seeking such assistance or contract, any contributions that they have made within the four years prior to said application or renewal, to any city elected officials or candidates for City office.*

SECTION 3. Section 20-304 of The Philadelphia Code is hereby amended to read as follows:

§20-304. Compensation for Members of Boards, Commissions, Committees, and Councils.

* * *

(40) Independent Campaign Finance Board. Each member of the Independent Campaign Finance Board shall receive one hundred (100) dollars compensation for each meeting of the Board which he or she attends; provided that the total compensation paid to each member in any year shall not exceed twenty-two thousand (22,000) dollars.

SECTION 4. Severability.

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of City Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 5. Effective dates. This Ordinance shall be effective immediately, except that Sections 20-304(40), 20-604(3) and (4), 20-804, 20-805, 20-806, and 20-807(b) of The Philadelphia Code shall be effective upon approval by the voters of the question placed on the ballot in Ordinance No. .

Explanation:

[Brackets] indicates matter deleted.
Italics indicate new matter added.