

Legislation Text

File #: 220048, **Version:** 0

Amending Title 20 of The Philadelphia Code, entitled “Officers and Employees,” to add a Chapter establishing a system for public financing of political campaigns and to make other conforming changes; 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.

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 participating candidate’s campaign 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) “Family member” means:

(a) A biological, adopted or foster child, stepchild or legal ward or a child to whom the employee stands in loco parentis;

(b) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee’s spouse or a person who stood in loco parentis when the employee was a minor child;

(c) A person to whom the employee is legally married under the laws of Pennsylvania;

(d) A grandparent or spouse of a grandparent;

- (e) A grandchild or spouse of a grandchild;*
 - (f) A biological, foster, or adopted sibling or spouse of a biological, foster or adopted sibling;*
 - (g) A Life Partner as defined in Section 9-1102 of this Code; and*
 - (h) A romantic partner.*
- (3) "Individual." A natural person.*
- (4) "January start date." 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." Money provided to a candidate or a candidate's agent for use in advocating or influencing the election of the candidate.*
- (6) "Participating Candidate." A candidate who has qualified for matching funding pursuant to the requirements of this Chapter.*
- (7) "Participating Candidate's Campaign." A participating candidate, a participating candidate's candidate political committee and any officer thereof, and any agent of any of the foregoing.*

§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. Candidates for special elections shall not be eligible to receive public funding.*
 - (b) One or more opponents for election to such office have also qualified to appear on the ballot.*
 - (c) Since the January start date, the candidate has received the following minimum amount of monetary contributions from individuals, as set forth below:*
 - (.1) For candidates for Mayor, at least \$50,000 in monetary contributions in amounts of no more than \$1,000 per contributor.*
 - (.2) For candidates for all other offices, at least \$15,000 in amounts of no more than \$1,000 per contributor.*

(d) The candidate 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 the candidate and the candidate political committee are 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, upon the Board's written request, the City shall withhold matching funds to which the candidate may otherwise be entitled; 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 designated entity for each pre-election monetary contribution of \$1.00 made by an individual resident of Philadelphia since the January start date, but solely in connection with contributions of no more than \$100 from a particular contributor.

(2) The timing of distribution of funding shall be according to regulations set by the Board.

(3) Matching funds shall be provided by the City to the participating candidate's campaign 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 to participating candidates according to the equitable standard established by the Board in effect at the January start date.

§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 \$100 to the candidate since the January start date and is not a Philadelphia resident at the time of the contribution.

(2) After receipt or application for matching funding in connection with a monetary contribution from an individual who has contributed \$100 while a resident of Philadelphia to a candidate since the January 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.

(4) 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 candidates for any other City elective office, \$100,000.

(5) 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 participating candidate's campaign, regardless of the purpose of the contribution for which matching funding is sought.

(6) 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.

(7) 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 that candidate's 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 family member of the candidate;

(b) for any payment to a business ~~entity~~ in which the candidate or any family member of the candidate has a one percent (1%) 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 another political committee;*
 - (e) for personal expenses;*
 - (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 participating candidate's campaign, 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 or a former 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. 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 start date and one year after the candidacy ends, makes total monetary contributions to the candidate in excess of \$100, 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 specified in subsection 20-1405(4) 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) 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.

(4) 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.

(5) 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.

(6) Provision of 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 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.

(7) 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 participating candidate’s campaign remains in violation of such requirements.

(9) 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.

(10) 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.

§20-1408. 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.

§20-1409. 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.*

§20-1410. *Effective Date.*

This Chapter shall be effective with respect to monetary contributions received by candidates on or after January 1, 2024.

§20-1411. *Adjustment of Contribution Limitations.*

On January 1, 2025, and on January 1 every four years thereafter, the maximum amounts set forth in §§ 20-1405(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 2023. 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 by multiplying the amounts set forth in §§ 20-1405(4) and (5) 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.

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

CHAPTER 20-1000. POLITICAL CONTRIBUTIONS AND EXPENDITURES

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§ 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 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, *except as provided in Section 20-1404 of the Code ("Matching Funds Available").* * * *

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SECTION 3. [implementation]