

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1773 Session of
2003

INTRODUCED BY LEVDANSKY, BROWNE, STEIL, DeWEESE, FREEMAN, TIGUE,
McGEEHAN, TANGRETTI, JOSEPHS, GERGELY, MELIO, GRUCELA, DALEY,
WALKO AND PALLONE, JUNE 30, 2003

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 30, 2003

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," providing for definitions; establishing the
12 Pennsylvania Fair Campaign Fund and its administration;
13 providing for funding limitations and use and for transfers;
14 and making an appropriation.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 102 of the act of June 3, 1937 (P.L.1333,
18 No.320), known as the Pennsylvania Election Code, is amended by
19 adding a clause to read:

20 Section 102. Definitions.--The following words, when used in
21 this act, shall have the following meanings, unless otherwise
22 clearly apparent from the context:

23 * * *

1 (z.5) The word "department" shall mean the Department of
2 State of the Commonwealth.

3 Section 2. The act is amended by adding an article to read:

4 ARTICLE XVI-A

5 Pennsylvania Fair Campaign Fund

6 Section 1601-A. Definitions.--As used in this article, the
7 following words have the following meanings:

8 "Declaration of candidacy" shall mean the point in a person's
9 campaign for political office at which that person becomes in
10 compliance with section 1622.

11 "Fund" shall mean the Pennsylvania Fair Campaign Fund
12 established under section 1604-A.

13 "Major political party" shall mean a political party whose
14 candidate for Governor received either the highest or second
15 highest number of votes in the preceding gubernatorial election.

16 Section 1602-A. Application of Article.--(a) The provisions
17 of this article shall be applicable to candidates for the
18 following offices who elect to apply for campaign funding under
19 this article:

20 (1) Governor.

21 (2) Lieutenant Governor.

22 (3) Attorney General.

23 (4) Auditor General.

24 (5) State Treasurer.

25 (6) Supreme Court Justice.

26 (7) Superior Court Judge.

27 (8) Commonwealth Court Judge.

28 (9) Senator in the General Assembly.

29 (10) Representative in the General Assembly.

30 (b) For the purposes of this article insofar as it relates

1 to funding of nominated candidates in the general election, a
2 political party's or political body's nominated candidates for
3 Governor and Lieutenant Governor shall be considered as one
4 candidacy and the provisions specifically applicable to the
5 Governor shall be applicable to the combined candidacy.

6 Section 1603-A. Administration.--The provisions of this
7 article shall be administered by the department.

8 Section 1604-A. Pennsylvania Fair Campaign Fund
9 Established.--There is hereby established a special restricted
10 receipts fund in the State Treasury to be known as the
11 Pennsylvania Fair Campaign Fund. Payments shall be made into
12 this fund pursuant to section 1605-A and disbursements shall be
13 made from the fund only upon the warrant of the department and a
14 warrant of the State Treasurer. As much of the moneys in the
15 fund as are necessary to make payments to candidates as provided
16 in this article are appropriated from the Pennsylvania Fair
17 Campaign Fund to the department on a continuing basis for the
18 purpose of such payments.

19 Section 1605-A. Funding the Pennsylvania Fair Campaign.--(a)
20 Beginning with tax years commencing January 1, 2001, and
21 thereafter, each individual subject to the tax imposed by
22 Article III of the act of March 4, 1971 (P.L.6, No.2), known as
23 the "Tax Reform Code of 1971," whose tax liability for the year
24 is two dollars and fifty cents (\$2.50) or more may designate two
25 dollars and fifty cents (\$2.50) of his personal income taxes to
26 be paid into the Pennsylvania Fair Campaign Fund. In the case of
27 married taxpayers filing a joint return, each spouse may
28 designate two dollars and fifty cents (\$2.50) to be paid into
29 the Pennsylvania Fair Campaign Fund if their tax liability is
30 five dollars (\$5) or more. All of these designated tax revenues

1 shall be paid into the fund. The check-off and instructions
2 shall be prominently displayed on the first page of the return
3 form. The instructions shall readily indicate that these
4 designations neither increase nor decrease an individual's tax
5 liability.

6 (b) The General Assembly shall each fiscal year appropriate
7 money to the Fair Campaign Fund. The sum appropriated to the
8 Fund for an election shall be equal to the maximum amount of
9 funding available specified in section 1609-A (a) for each
10 office appearing on the ballot multiplied by the number of
11 candidates eligible to receive public funding pursuant to this
12 act who appeared on the ballot at the last preceding election at
13 which such office was voted for minus the tax proceeds collected
14 in accordance with subsection (a).

15 Section 1606-A. Certification of Moneys in Fund.--By June 30
16 of each year, the State Treasurer shall certify to the
17 department the current balance available in the fund.

18 Section 1607-A. Qualification for Funding.--(a) Any
19 candidate for offices described in section 1602-A may apply for
20 funding under this article if the candidate meets the
21 contributory thresholds established in subsection (b) and
22 otherwise conforms to the requirements of this article. No
23 candidate shall be obligated to apply for funding under this
24 article and if any candidate elects not to apply, the provisions
25 of this article pertaining to limits on expenditures or the use
26 of his personal funds shall be inapplicable to the person and
27 his candidacy. Any candidate electing to receive funding under
28 this article shall declare his intention to do so and specify
29 the office for which he is a candidate. No candidate may elect
30 to receive funding under this article for a general or municipal

election unless the candidate elected to receive funding under this article for the primary election. Any committee authorized to receive contributions or make expenditures for the candidate who has so declared shall abide by the provisions of section 1612-A. Any candidate who for any reason has his name withdrawn from the ballot, after receipt of funds under this article, shall return all moneys received to the fund as well as offering back qualifying contributions for that office.

(b) (1) In order to qualify for funding in a general election, a candidate must receive subsequent to the date of the primary election but prior to the date of the general election qualifying contributions of the following amounts:

Office	Qualifying Contributions Required
(i) Governor/Lieutenant Governor	\$200,000
(ii) Lieutenant Governor	50,000 (for primary only)
(iii) State Treasurer	50,000
(iv) Auditor General	50,000
(v) Attorney General	50,000
(vi) Supreme Court Justices	25,000
(vii) Superior Court Judges	25,000
(viii) Commonwealth Court Judges	25,000
(ix) Senator	10,000
(x) Representative	2,500

(2) In order to qualify for funding in a primary election, a candidate must receive prior to the date of the primary election, but subsequent to the immediately preceding general or municipal election, one-half of the amount specified in clause (1) for the appropriate office.

(3) (i) The term "qualifying contribution" shall include

any contribution, as defined in section 1621(b), which has all of the following characteristics:

(A) Made by an individual resident of Pennsylvania.

(B) Made by a written instrument which indicates the contributor's full name and mailing residence and is not intended to be returned to the contributor or transferred to another political committee or candidate.

(ii) If a contributor receives goods or services of value in return for his contribution, the qualifying contribution shall be calculated as the original contribution, minus the fair market value of the goods or services received.

(iii) Any contribution by an individual which exceeds one hundred dollars (\$100) in the aggregate shall be deemed only a one hundred dollar (\$100) qualifying contribution for the purposes of this section and for the matching payment provisions of section 1608-A.

(c) Each candidate who elects to apply for funding under this article shall provide evidence that the candidate has raised the qualifying contributions required by this section which evidence shall be verified and certified as correct by the auditors of the department.

(d) A candidate who has accepted public funding under this act may apply to the department for a waiver of the contribution limits set forth in section 1627.1 and/or the spending limits contained in section 1612-A if one or more of the following conditions exist:

(1) there are insufficient funds in the Fair Campaign Fund to provide funding to the candidate at the level specified in section 1609-A(b) and/or;

(2) the amount of independent expenditures for

communications advocating the defeat of the candidate or election of his opponent require the candidate applying for the waiver to spend above the limits specified in section 1612-A in order to answer the communications paid for by the independent expenditure(s). The department shall issue regulations setting guidelines for granting or denying waivers submitted under this section.

Section 1608-A. Funding Formula.--(a) Every candidate who qualifies for funding for an election pursuant to section 1607-A shall receive matching payments from the fund in the amount of two dollars (\$2) for each dollar of qualifying contribution as defined in section 1607-A(b)(3).

(b) The two dollars (\$2) for each dollar of qualifying contributions provided by this section shall be provided only for qualifying contributions raised which exceed the threshold amounts specified in section 1607-A(b) and not to those qualifying contributions which are attributable to meeting the threshold amounts necessary to qualify for funding under this article.

(c) (1) Only those qualifying contributions made during the period between a declaration of candidacy and the primary election shall be eligible for matching payments from the fund for the primary election.

(2) Only those qualifying contributions made during the period between the primary election and the general election shall be eligible for matching payments from the fund for the general election.

(d) Matching funds shall not be provided for any qualifying contributions unless the reporting requirements of section 1626(b) are satisfied.

Section 1609-A. Limitations on Funding.--(a) Every candidate who qualifies for and receives funding pursuant to the formula established in section 1608-A shall be entitled to receive no more than the maximum amount specified in subsection (b) for the office the candidate is seeking.

(b) (1) The maximum amount of funding available for each candidate under this article shall be as follows:

<u>Office</u>	<u>Maximum Pennsylvania Fair Campaign Funding</u>
<u>(i) Governor/Lieutenant Governor</u>	<u>\$3,600,000</u>
<u>(ii) Attorney General</u>	<u>500,000</u>
<u>(iii) Auditor General, State Treasurer</u>	<u>500,000</u>
<u>(iv) Lieutenant Governor</u>	<u>500,000 (primary only)</u>
<u>(v) Supreme Court Justices</u>	<u>350,000</u>
<u>(vi) Superior Court Judges</u>	<u>350,000</u>
<u>(vii) Commonwealth Court Judges</u>	<u>350,000</u>
<u>(viii) Senator</u>	<u>80,000</u>
<u>(ix) Representative</u>	<u>25,000</u>

(2) The maximum amount of funding available for the primary election for each candidate under this article shall be one-half the appropriate figure in clause (1).

(c) Notwithstanding any other provisions of this article no funding shall be provided to the following:

(1) Candidates in the general or municipal election who have received the nomination of both major political parties and have no opposition.

(2) Candidates in the primary election who are unopposed for the nomination.

1 Section 1610-A. Time of Payments.--(a) Beginning ninety
2 (90) days prior to the relevant election, the department shall
3 make payments authorized by this article at least every two (2)
4 weeks. However, except for the final payment, no payment shall
5 be due or paid if the payment does not equal at least five
6 thousand dollars (\$5,000) in amount.

7 (b) If in the department's opinion insufficient funds exist
8 in the fund to provide the anticipated full funding to eligible
9 candidates in a given election, the department shall distribute
10 the available funds to qualified candidates on a pro-rata basis.
11 In determining whether sufficient funds are available, the
12 department shall not take into consideration the needs of any
13 subsequent elections but shall base the decision solely on the
14 immediate election at hand.

15 Section 1611-A. Use of Funds by Candidates.--(a) Funds
16 distributed to candidates pursuant to this article may be used
17 only for the election for which they are distributed and only
18 for the purposes set forth in section 1621(d) except that no
19 fund moneys may be used:

20 (1) To transfer to other candidates or to committees of
21 other candidates or to political committees.

22 (2) To pay for expenditures incurred after the date of the
23 general election.

24 (b) Funds distributed to a candidate pursuant to this
25 article shall be placed in a single bank account. Expenditures
26 from this account shall be made only for campaign expenses
27 listed in subsection (a).

28 Section 1612-A. Expenditures.--(a) Expenditures made by a
29 candidate and his authorized committees, for all purposes and
30 from all sources, including, but not limited to, amounts of

funds distributed under this article, proceeds of loans, gifts, contributions from any source or personal funds, subsequent to the date of the primary election, but prior to the date of the general election, may not exceed the amounts specified below:

<u>Office</u>	<u>Total Expenditure Limits</u>
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<u>(1) Governor/Lieutenant</u>	
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<u>Governor</u>	<u>\$7,000,000</u>
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<u>(2) Lieutenant Governor</u>	<u>1,000,000</u>
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	<u>(for primary only)</u>
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<u>(3) Attorney General</u>	<u>1,000,000</u>
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<u>(4) State Treasurer</u>	<u>1,000,000</u>
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<u>(5) Auditor General</u>	<u>1,000,000</u>
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<u>(6) Justices and Judges</u>	
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<u>of the Supreme Court,</u>	
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<u>Superior Court and</u>	
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<u>Commonwealth Court</u>	<u>700,000</u>
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<u>(7) Senator</u>	<u>160,000</u>
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<u>(8) Representative</u>	<u>50,000</u>
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(b) Expenditures made by a candidate and his authorized committees, subsequent to January 1 but prior to the date of the primary election, may not exceed one-half of the amount specified in subsection (a).

(c) Notwithstanding any other provision of this article, a candidate who accepts public funding pursuant to the formula established in section 1608-A, but whose major political party opponent in a general or municipal election elects not to apply for the public funding, shall not be bound by the expenditure limits specified in this section. A candidate who accepts public funding shall be eligible to qualify for those fair campaign funds which would have otherwise been available to the opponent.

1 (d) Notwithstanding any other provision of this article, a
2 candidate who accepts public funding pursuant to the formula
3 established in section 1608-A, but whose major political party
4 opponents in a primary election elect to not apply for the
5 public funding, shall not be bound by the expenditure limits
6 specified in this section. If there is more than one candidate
7 in a major political party in a primary election, the fair
8 campaign funds which would have otherwise been available to each
9 opponent who has elected to not apply for the public funding
10 shall be divided equally among the candidates who accept public
11 financing.

12 Section 1613-A. Annual Report.--The State board shall report
13 annually to the Governor and the General Assembly on the
14 operations of funding as provided by this article. This report
15 shall include, but not be limited to, the revenues and
16 expenditures in the fund, the amounts distributed to candidates,
17 the results of any audits performed on candidates in compliance
18 with this article and any prosecutions brought for violations of
19 this article.

20 Section 1614-A. Return of Excess Funds.--(a) All unexpended
21 campaign funds in a candidate's and his authorized committees'
22 possession sixty (60) days after a primary election shall be
23 returned to the department for deposit in the Pennsylvania Fair
24 Campaign Fund, up to the amount of the funds which were
25 distributed to the candidate under this article for the primary
26 election.

27 (b) All unexpended campaign funds in a candidate's and his
28 authorized committee's possession sixty (60) days after a
29 general or municipal election shall be returned to the State
30 board for deposit in the Pennsylvania Fair Campaign Fund, up to

1 the amount of the funds which were distributed to the candidate
2 under this article for the general or municipal election.

3 Section 1615-A. Penalties.--(a) A person who violates the
4 provisions of this article and who, as a result, obtains funds
5 under this article to which he is not entitled commits a
6 misdemeanor of the first degree and shall, upon conviction, be
7 subject to a fine not to exceed the greater of ten thousand
8 dollars (\$10,000), or three times the amount of funds wrongfully
9 obtained or to imprisonment for up to five years, or both.

10 (b) A person who violates section 1611-A or 1612-A commits a
11 misdemeanor of the first degree and shall, upon conviction, be
12 subject to a fine not to exceed the greater of ten thousand
13 dollars (\$10,000), or three times the amount of funds that were
14 wrongfully used or expended or to imprisonment for up to five
15 years, or both.

16 (c) Except as provided in subsections (a) and (b), a person
17 who violates any provision of this article commits a misdemeanor
18 of the third degree and shall, upon conviction, be subject to a
19 fine of not more than one thousand dollars (\$1,000), or to
20 imprisonment for up to one year, or both.

21 Section 3. Article XVI-A shall be applicable to returns of
22 taxpayers of calendar years filed January 1, 2003, and
23 thereafter. Funding from the Pennsylvania Fair Campaign Fund
24 shall be provided to candidates for Statewide office beginning
25 with the general election of 2002 and in each municipal and
26 general election thereafter.

27 Section 4. The dollar figures contained in sections 1607-
28 A(b), 1609-A and 1612-A shall be adjusted annually at a rate
29 equal to the average percentage change in the All-Urban Consumer
30 Price Index for the Pittsburgh, Philadelphia and Scranton

1 standard metropolitan statistical areas as published by the
2 Bureau of Labor Statistics of the United States Department of
3 Labor, or any successor agency, occurring in the prior calendar
4 year. The base year shall be 2002. The average shall be
5 calculated and certified annually by the Pennsylvania State
6 Board of Elections by adding the percentage increase in each of
7 the three areas and dividing by three. The calculation and
8 resulting new figures shall be published for the dollar figures
9 contained in sections 1607-A, 1609-A and 1612-A in March in the
10 Pennsylvania Bulletin.

11 Section 5. The provisions of this act are severable. If any
12 provision of this act or its application to any person or
13 circumstance is held invalid, the invalidity shall not affect
14 other provisions or applications of this act which can be given
15 effect without the invalid provision or application.

16 Section 6. This act shall take effect in 120 days.