

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1094 Session of  
2006

INTRODUCED BY A. WILLIAMS, KITCHEN, FUMO AND C. WILLIAMS,  
MARCH 16, 2006

REFERRED TO STATE GOVERNMENT, MARCH 16, 2006

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 funding of certain Statewide  
12 elections; establishing the Philadelphia Public Campaign  
13 Financing Fund; limiting certain contributions; imposing  
14 powers and duties on the Department of State; and imposing  
15 penalties.

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

18 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known  
19 as the Pennsylvania Election Code, is amended by adding an  
20 article to read:

21 ARTICLE XVI-A

22 Philadelphia Public Campaign Financing Fund

23 Section 1601-A. Definitions.

24 The following words and phrases when used in this article

shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Declaration of candidacy." The point in a person's campaign for political office at which that person becomes in compliance with section 1622 of this act.

"Department." The Department of State of the Commonwealth.

"Fund." The Philadelphia Public Campaign Financing Fund established under section 1604-A.

"Major political party." A political party whose candidate for Governor received either the highest or second highest number of votes in the preceding gubernatorial election.

"Secretary." The Secretary of the Commonwealth.  
Section 1602-A. Application of article.

Except as provided in section 1613-A, the provisions of this article shall be applicable to candidates for the following offices who elect to apply for campaign funding under this article:

(1) Common Pleas Court Judge.

(2) Municipal Court Judge.

Section 1603-A. Administration.

The provisions of this article shall be administered by the department. The department may adopt rules and regulations as may be necessary for the implementation of this article.

Section 1604-A. Philadelphia Public Campaign Financing Fund established.

There is hereby established a special restricted receipts fund in the State Treasury to be known as the Philadelphia Public Campaign Financing Fund. Payments shall be made into the fund pursuant to section 1605-A and disbursements shall be made from the fund only upon the warrant of the secretary and a

warrant of the State Treasurer. As much of the moneys in the fund as are necessary to make payments to candidates as provided in this article are appropriated from the fund to the Department of State on a continuing basis for the purpose of such payments. No moneys of the General Fund shall be used for the purposes of the fund.

Section 1605-A. Sources of funding.

Money received from all of the following sources must be deposited in the fund:

(1) Beginning with tax years commencing January 1, 2006, and thereafter, each individual subject to the tax imposed by Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, whose tax liability for the year is \$10 or more may designate \$10 of his personal income taxes to be paid into the fund. In the case of married taxpayers filing a joint return, each spouse may designate \$10 to be paid into the fund if their tax liability is \$20 or more. All of these designated tax revenues shall be paid into the fund. The check-off and instructions shall be prominently displayed on the first page of the tax return form. The instructions shall readily indicate that these designations neither increase nor decrease an individual's tax liability.

(2) Fund revenues distributed for an election that remain unspent or uncommitted at the time the recipient is no longer a certified candidate in the election.

(3) Any contribution made by individual residents of a city of the first class.

(4) Voluntary donations made directly to the fund. Corporations, other business entities, labor unions and professional associations may make donations to the fund.

1 Section 1606-A. Certification of moneys in fund.

2 By June 30 of each year, the State Treasurer shall certify to  
3 the department the current balance available in the fund.

4 Section 1607-A. Qualification for funding.

5 (a) General rule.--Any candidate for office as described in  
6 section 1602-A may apply for funding under this article if the  
7 candidate meets the contributory thresholds established in  
8 subsection (b) and otherwise conforms to the requirements of  
9 this article. No candidate shall be obligated to apply for  
10 funding under this article and if any candidate elects not to  
11 apply, the provisions of this article pertaining to limits on  
12 expenditures or the use of his personal funds shall be  
13 inapplicable to the person and his candidacy. Any candidate  
14 electing to receive funding under this article shall declare his  
15 intention to do so and specify the office for which he is a  
16 candidate. No candidate may elect to receive funding under this  
17 article for a general election unless the candidate elected to  
18 receive funding under this article for the primary election. A  
19 candidate who is nominated by his party to fill a vacancy which  
20 occurs after the primary or who is placed on the ballot by  
21 petition and qualifies for funding pursuant to subsection (b) is  
22 eligible to receive funding under this article for a general  
23 election. Any and all committees authorized to receive  
24 contributions or make expenditures for the candidate who has so  
25 declared shall abide by the provisions of section 1613-A. Any  
26 candidate who for any reason has his name withdrawn from the  
27 ballot for an election, after receipt of funds under this  
28 article, shall return to the fund all unspent money received  
29 from the fund.

30 (b) Qualifications.--

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

<u>Qualifying</u>	
<u>Office</u>	<u>Contributions Required</u>
<u>Common Pleas Court Judge</u>	<u>\$15,000</u>
<u>Municipal Court Judge</u>	<u>15,000</u>

(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 January 1 of the year in which that candidate runs for office one-half of the amount specified in paragraph (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 a city of the first class.

(B) Made by a written instrument which indicates the contributor's full name and mailing address 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) Contributions by an individual which exceed

1       \$500 in the aggregate shall be deemed only a \$500  
2       qualifying contribution for the purposes of this section  
3       and for the matching payment provisions of section 1608-  
4       A.

5       (c) Audit.--The department shall select an auditor pursuant  
6       to the provisions of section 1635(a). Each candidate who elects  
7       to apply for funding under this article shall provide evidence  
8       that the candidate has raised the qualifying contributions  
9       required by this section which evidence shall be verified and  
10       certified as correct to the department by the auditor selected  
11       under this article. The department shall establish a deadline  
12       for the certification and a process for verification by the  
13       auditor selected under this article.

14       Section 1608-A. Funding formula.

15       (a) General rule.--Every candidate who qualifies for funding  
16       for either the primary or the general election pursuant to  
17       section 1607-A shall receive matching payments from the fund in  
18       the amount of \$1 for each dollar of qualifying contribution as  
19       defined in section 1607-A(b)(3).

20       (b) Payments.--

21       (1) Only those qualifying contributions made during the  
22       period between January 1 of the year in which the candidate  
23       runs for office and the primary election shall be eligible  
24       for matching payments from the fund for the primary election.

25       (2) Only those qualifying contributions made during the  
26       period between the primary election and the general election  
27       of the year in which that candidate runs for office shall be  
28       eligible for matching payments from the fund for the general  
29       election.

30       (c) Reporting requirements.--Matching funds shall not be

1 provided for any qualifying contributions unless the reporting  
2 requirements of section 1626(b) are satisfied.

3 Section 1609-A. Limitations on funding.

4 (a) General rule.--Every candidate who qualifies for and  
5 receives funding pursuant to the formula established in section  
6 1608-A shall be entitled to receive no more than the maximum  
7 amount specified in subsection (b) for the office the candidate  
8 is seeking.

9 (b) Maximum.--

10 (1) The maximum amount of funding available for the  
11 general election for each candidate under this article shall  
12 be as follows:

<u>Maximum Philadelphia Public</u>	
<u>Office</u>	<u>Campaign Financing</u>
<u>Common Pleas Court Judges</u>	<u>\$100,000</u>
<u>Municipal Court Judges</u>	<u>100,000</u>

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

20 (c) Restrictions.--Notwithstanding any other provisions of  
21 this article, no funding shall be provided to the following:

22 (1) Candidates in the general election who have been  
23 nominated by both major political parties.

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

26 Section 1610-A. Time of payments.

27 (a) General rule.--Beginning 90 days prior to the relevant  
28 primary or general election, the department shall make payments  
29 authorized by this article at least every two weeks. However,  
30 except for the final payment, no payment shall be due or paid if

1 the payment does not equal at least \$5,000 in amount.

2 (b) Insufficient funds.--If in the secretary's opinion  
3 insufficient funds exist in the fund to provide the anticipated  
4 full funding to eligible candidates in a given primary or  
5 general election, the department shall distribute the available  
6 funds to qualified candidates on a pro rata basis. In  
7 determining whether sufficient funds are available, the  
8 secretary shall not take into consideration the needs of any  
9 subsequent primary or general elections but shall base the  
10 decision solely on the immediate primary or election at hand.  
11 Section 1611-A. Use of funds by candidates.

12 (a) General rule.--Funds distributed to candidates pursuant  
13 to this article may be used only for the election for which they  
14 are distributed and only for the purposes set forth in section  
15 1634.1 except that no fund moneys may be used:

16 (1) To transfer to other candidates or to committees of  
17 other candidates or to political committees.

18 (2) To pay for expenditures incurred after the date of  
19 the general election.

20 (b) Distribution.--Funds distributed to a candidate pursuant  
21 to this article shall be placed in a single bank account.  
22 Expenditures from this account shall be made only for campaign  
23 expenses listed in subsection (a).

24 Section 1612-A. Expenditures.

25 (a) General rule.--Expenditures made by a candidate and his  
26 authorized committees, for all purposes and from all sources,  
27 including, but not limited to, amounts of funds distributed  
28 under this article, proceeds of loans, gifts, contributions from  
29 any source or personal funds, subsequent to the date of the  
30 primary election, but prior to the date of the general election,



1 may not exceed the amounts specified below:

2 <u>Office</u>	<u>Total Expenditure Limits</u>
3 <u>Court of Common</u>	
4 <u>Pleas Judge</u>	<u>\$200,000</u>
5 <u>Municipal</u>	
6 <u>Court Judge</u>	<u>200,000</u>

7 (b) Primary expenditures.--Expenditures made by a candidate  
8 and his authorized committees, subsequent to January 1 of the  
9 year in which the candidate runs for office but prior to the  
10 date of the primary election, may not exceed one-half of the  
11 amount specified in subsection (a).

12 (c) Exception for single candidate.--Notwithstanding any  
13 other provision of this article, a candidate who accepts public  
14 funding pursuant to the formula established in section 1608-A,  
15 but whose major political party opponent in a general or  
16 municipal election elects not to apply for the public funding,  
17 shall not be bound by the expenditure limits specified in this  
18 section. A candidate who accepts public funding shall be  
19 eligible to qualify for those public campaign funds which would  
20 have otherwise been available to an opponent who has chosen not  
21 to apply for funding from the fund.

22 (d) Exception for multiple candidates.--Notwithstanding any  
23 other provision of this article, a candidate who accepts public  
24 funding pursuant to the formula established in section 1608-A,  
25 but whose major political party opponents in a primary election  
26 elect to not apply for the public funding, shall not be bound by  
27 the expenditure limits specified in this section. If there is  
28 more than one candidate in a major political party in a primary  
29 election, the fair campaign funds which would have otherwise  
30 been available to each opponent who has elected to not apply for

the public funding shall be divided equally among the candidates who accept public financing.

Section 1613-A. Limitations on certain contributions.

(a) General rule.--Any candidate for the office of Common Pleas Court Judge or Municipal Court Judge shall not accept contributions from an individual or political action committee which in the aggregate exceed \$500 for any primary, general or special election. However, the candidate, spouse and immediate family members may contribute up to \$10,000 in the aggregate for each primary, general or special election in which that candidate is running for office.

(b) Contribution.--A gift, subscription, loan, advance or deposit of money or anything of value to a candidate shall be considered a contribution both by the original source of the contribution and by any intermediary or conduit if the intermediary or conduit does one of the following:

(1) Exercises any control or any direction over the making of the contribution.

(2) Solicits the contribution or arranges for the contribution to be made and directly or indirectly makes the candidate aware of such intermediary or conduit's role in soliciting or arranging the contribution for the candidate.

(c) Specific contributions.--For purposes of subsection (b), a contribution shall not be considered to be a contribution by an intermediary or conduit to the candidate if:

(1) The intermediary or conduit has been retained by the candidate's committee for the purpose of fundraising and is reimbursed for expenses incurred in soliciting contributions.

(2) In the case of an individual, the candidate has expressly authorized the intermediary or conduit to engage in

1 fundraising, or the individual occupies a significant  
2 position within the candidate's campaign organization.

3 (3) In the case of a political committee, the  
4 intermediary or conduit is an authorized committee of the  
5 candidate.

6 (d) Applicability.--This section shall apply to any  
7 candidate for any office set forth in this section, regardless  
8 of whether or not the candidate receives funding from the fund.  
9 Section 1614-A. Inflation indexing of certain limitations.

10 The dollar figures contained in sections 1607-A, 1609-A and  
11 1612-A shall be adjusted annually during March at a rate equal  
12 to the average percentage change in the All-Urban Consumer Price  
13 Index for the Philadelphia standard metropolitan statistical  
14 area as published by the Bureau of Labor Statistics of the  
15 United States Department of Labor, or any successor agency,  
16 occurring in the prior calendar year. The base year shall be  
17 1998. The average shall be calculated and certified by the  
18 secretary annually by adding the percentage increase in each of  
19 the three areas and dividing by three. The calculation and  
20 resulting new figures shall be published in the Pennsylvania  
21 Bulletin during March.

22 Section 1615-A. Annual report.

23 The secretary shall report annually to the Governor and the  
24 General Assembly on the operations of funding as provided by  
25 this article. This report shall include, but not be limited to,  
26 the revenues and expenditures in the fund, the amounts  
27 distributed to candidates, the results of any audits performed  
28 on candidates in compliance with this article and any  
29 prosecutions brought for violations of this article.

30 Section 1616-A. Return of excess funds.

1     (a) General rule.--All unexpended campaign funds in a  
2     candidate's and his authorized committee's possession 60 days  
3     after a primary election shall be returned to the secretary for  
4     deposit in the fund, up to the amount of the funds which were  
5     distributed to the candidate under this article for the primary  
6     election.

7     (b) Return of funds.--All unexpended campaign funds in a  
8     candidate's and his authorized committee's possession 60 days  
9     after a general or municipal election shall be returned to the  
10    secretary for deposit in the fund, up to the amount of the funds  
11    which were distributed to the candidate under this article for  
12    the general or municipal election.

13    Section 1617-A. Penalties.

14    (a) General rule.--A person who violates the provisions of  
15    this article and who, as a result, obtains funds under this  
16    article to which he is not entitled commits a misdemeanor of the  
17    first degree and shall, upon conviction, be subject to a fine of  
18    not more than the greater of \$10,000 or three times the amount  
19    of funds wrongfully obtained or to imprisonment for up to five  
20    years, or both.

21    (b) Misdemeanor of the first degree.--A person who violates  
22    section 1611-A or 1612-A commits a misdemeanor of the first  
23    degree and shall, upon conviction, be subject to a fine of not  
24    more than the greater of \$10,000 or three times the amount of  
25    funds that were wrongfully used or expended or to imprisonment  
26    for up to five years, or both.

27    (c) Misdemeanor of the third degree.--Except as provided in  
28    subsections (a) and (b), a person who violates any provision of  
29    this act commits a misdemeanor of the third degree and shall,  
30    upon conviction, be subject to a fine of not more than \$1,000 or

1 to imprisonment for up to one year, or both.

2       Section 2. This act shall apply to returns of taxpayers of  
3 calendar years commencing January 1, 2006, and thereafter.

4 Funding from the Philadelphia Public Campaign Financing Fund  
5 shall be provided to candidates for office beginning with the  
6 primary election of 2008 and in each primary, municipal and  
7 general election thereafter.

8       Section 3. This act shall take effect immediately.