

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 494 Session of
1999

INTRODUCED BY KUKOVICH, CONTI, COSTA, EARLL, MUSTO, O'PAKE,
KASUNIC, SCHWARTZ, BOSCOLA AND BODACK, FEBRUARY 25, 1999

REFERRED TO STATE GOVERNMENT, FEBRUARY 25, 1999

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; limiting certain contributions; imposing powers
13 and duties on the Department of State; and providing
14 penalties.

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

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

20 ARTICLE XVI-A

21 Pennsylvania Fair Campaign Fund

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

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

4 "Department" shall mean the Department of State of the
5 Commonwealth.

6 "Fund" shall mean the Pennsylvania Fair Campaign Fund
7 established under section 1604-A.

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

11 "Secretary" shall mean the Secretary of the Commonwealth.

12 Section 1602-A. Application of Article.--(a) The provisions
13 of this article shall be applicable to candidates for the
14 following State-wide offices who elect to apply for campaign
15 funding under this article:

16 (1) Governor.

17 (2) Lieutenant Governor.

18 (3) Attorney General.

19 (4) Auditor General.

20 (5) State Treasurer.

21 (6) Supreme Court Justice.

22 (7) Superior Court Judge.

23 (8) Commonwealth Court Judge.

24 (b) For the purposes of this article insofar as it relates
25 to funding of nominated candidates in the general election, a
26 political party's or political body's nominated candidates for
27 Governor and Lieutenant Governor shall be considered as one
28 candidacy and the provisions specifically applicable to the
29 Governor shall be applicable to the combined candidacy.

30 Section 1603-A. Administration.--The provisions of this

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

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

15 Section 1605-A. Allocation of Certain Tax Proceeds to
16 Fund.--Beginning with tax years commencing January 1, 2000, and
17 thereafter, each individual subject to the tax imposed by
18 Article III of the act of March 4, 1971 (P.L.6, No.2), known as
19 the "Tax Reform Code of 1971," whose tax liability for the year
20 is two dollars and fifty cents (\$2.50) or more may designate two
21 dollars and fifty cents (\$2.50) of his personal income taxes to
22 be paid into the fund. In the case of married taxpayers filing a
23 joint return, each spouse may designate two dollars and fifty
24 cents (\$2.50) to be paid into the fund if their tax liability is
25 five dollars (\$5) or more. All of these designated tax revenues
26 shall be paid into the fund. The check-off and instructions
27 shall be prominently displayed on the first page of the return
28 form. The instructions shall readily indicate that these
29 designations neither increase nor decrease an individual's tax
30 liability.

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

4 Section 1607-A. Qualification for Funding.--(a) Any
5 candidate for State-wide office as described in section 1602-A
6 may apply for funding under this article if the candidate meets
7 the contributory thresholds established in subsection (b) and
8 otherwise conforms to the requirements of this article. No
9 candidate shall be obligated to apply for funding under this
10 article and if any candidate elects not to apply, the provisions
11 of this article pertaining to limits on expenditures or the use
12 of his personal funds shall be inapplicable to the person and
13 his candidacy. Any candidate electing to receive funding under
14 this article shall declare his intention to do so and specify
15 the State office for which he is a candidate. No candidate may
16 elect to receive funding under this article for a general or
17 municipal election unless the candidate elected to receive
18 funding under this article for the primary election. Any and all
19 committees authorized to receive contributions or make
20 expenditures for the candidate who has so declared shall abide
21 by the provisions of section 1613-A. Any candidate who for any
22 reason has his name withdrawn from the ballot for a State-wide
23 election, after receipt of funds under this article, shall
24 return all moneys received to the fund as well as offering back
25 qualifying contributions for that State-wide office.

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

<u>Office</u>	<u>Qualifying Contributions Required</u>
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1	<u>(i) Governor</u>	<u>\$100,000</u>
2	<u>(ii) Lieutenant Governor</u>	<u>50,000 (for primary only)</u>
3	<u>(iii) State Treasurer</u>	<u>50,000</u>
4	<u>(iv) Auditor General</u>	<u>50,000</u>
5	<u>(v) Attorney General</u>	<u>50,000</u>
6	<u>(vi) Supreme Court Justices</u>	<u>30,000</u>
7	<u>(vii) Superior Court Judges</u>	<u>30,000</u>
8	<u>(viii) Commonwealth Court Judges</u>	<u>30,000</u>

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

14 (3) (i) The term "qualifying contribution" shall include
15 any contribution, as defined in section 1621(b), which has all
16 of the following characteristics:

17 (A) Made by an individual resident of Pennsylvania.

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

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

26 (iii) Any contribution by an individual which exceeds two
27 hundred fifty dollars (\$250) in the aggregate shall be deemed
28 only a two hundred fifty dollar (\$250) qualifying contribution
29 for the purposes of this section and for the matching payment
30 provisions of section 1608-A.

1 (c) The department shall select an auditor pursuant to the
2 provisions of section 1635(a). Each candidate who elects to
3 apply for funding under this article shall provide evidence that
4 the candidate has raised the qualifying contributions required
5 by this section which evidence shall be verified and certified
6 as correct to the department by the auditor selected under this
7 article.

8 Section 1608-A. Funding Formula.--(a) Every candidate who
9 qualifies for funding for either the primary or the general
10 election pursuant to section 1607-A shall receive matching
11 payments from the fund in the amount of two dollars and fifty
12 cents (\$2.50) for each dollar of qualifying contribution as
13 defined in section 1607-A(b)(3).

14 (b) The two dollars and fifty cents (\$2.50) for each dollar
15 of qualifying contributions provided by this section shall be
16 provided only for qualifying contributions raised which exceed
17 the threshold amounts specified in section 1607-A(b) and not to
18 those qualifying contributions which are attributable to meeting
19 the threshold amounts necessary to qualify for funding under
20 this article.

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

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

29 (d) Matching funds shall not be provided for any qualifying
30 contributions unless the reporting requirements of section

1 1626(b) of the act are satisfied.

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

7 (b) (1) The maximum amount of funding available for the
8 general election for each candidate under this article shall be
9 as follows:

<u>Office</u>	<u>Maximum Pennsylvania Fair</u>
	<u>Campaign Funding</u>
<u>(i) Governor</u>	<u>\$2,000,000</u>
<u>(ii) Attorney General</u>	<u>300,000</u>
<u>(iii) Auditor General, State</u>	
<u>Treasurer</u>	<u>300,000</u>
<u>(iv) Lieutenant Governor</u>	<u>300,000 (primary only)</u>
<u>(v) Supreme Court Justices</u>	<u>200,000</u>
<u>(vi) Superior Court Judges</u>	<u>200,000</u>
<u>(vii) Commonwealth Court Judges</u>	<u>200,000</u>

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

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

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

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

29 Section 1610-A. Time of Payments.--(a) Beginning ninety
30 (90) days prior to the relevant primary or general election, the

department shall make payments authorized by this article at least every two (2) weeks. However, except for the final payment, no payment shall be due or paid if the payment does not equal at least five thousand dollars (\$5,000) in amount.

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

Section 1611-A. Use of Funds by Candidates.--(a) Funds distributed to candidates pursuant to this article may be used only for the election for which they are distributed and only for the purposes set forth in section 1634.1 except that no fund moneys may be used:

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

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

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

Section 1612-A. Expenditures.--(a) Expenditures made by a candidate and his authorized committees, for all purposes and from all sources, including, but not limited to, amounts of funds distributed under this article, proceeds of loans, gifts,

1 contributions from any source or personal funds, subsequent to
2 the date of the primary election, but prior to the date of the
3 general election, may not exceed the amounts specified below:

<u>Office</u>	<u>Total Expenditure Limits</u>
<u>(i) Governor</u>	<u>\$4,000,000</u>
<u>(ii) Lieutenant Governor</u>	<u>600,000 (for primary only)</u>
<u>(iii) Attorney General</u>	<u>600,000</u>
<u>(iv) State Treasurer</u>	<u>600,000</u>
<u>(v) Auditor General</u>	<u>600,000</u>
<u>(vi) Justices and Judges</u> <u>of the Supreme Court,</u> <u>Superior Court and</u> <u>Commonwealth Court</u>	<u>400,000</u>

14 (b) Expenditures made by a candidate and his authorized
15 committees, subsequent to January 1 but prior to the date of the
16 primary election, may not exceed one-half of the amount
17 specified in subsection (a).

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

26 (d) Notwithstanding any other provision of this article, a
27 candidate who accepts public funding pursuant to the formula
28 established in section 1608-A, but whose major political party
29 opponents in a primary election elect to not apply for the
30 public funding, shall not be bound by the expenditure limits

1 specified in this section. If there is more than one candidate
2 in a major political party in a primary election, the fair
3 campaign funds which would have otherwise been available to each
4 opponent who has elected to not apply for the public funding
5 shall be divided equally among the candidates who accept public
6 financing.

7 Section 1613-A. Limitations on Certain Contributions.--(a)
8 Any candidate for the office of Justice of the Supreme Court or
9 Judge of the Superior Court or Commonwealth Court shall not
10 accept any contribution from an individual or political action
11 committee in excess of two hundred fifty dollars (\$250), except
12 that the candidate and spouse may contribute up to twenty-five
13 thousand dollars (\$25,000) for each primary, general or special
14 election. Any non-judicial candidate for a State-wide office set
15 forth under this article shall not accept contributions for each
16 primary, general or special election which exceed those
17 specified limits as follows:

<u>Contributor</u>	<u>Limit</u>
<u>(1) Individual</u>	<u>\$ 1,000</u>
<u>(2) Candidate and spouse</u>	<u>30,000</u>
<u>(3) Political action committee</u>	
<u>as defined in section 1621(1)</u>	<u>5,000</u>

23 (b) A gift, subscription, loan, advance or deposit of money
24 or anything of value to a candidate shall be considered a
25 contribution both by the original source of the contribution and
26 by any intermediary or conduit if the intermediary or conduit--
27 (1) exercises any control or any direction over the making of
28 the contribution; or (2) solicits the contribution or arranges
29 for the contribution to be made and directly or indirectly makes
30 the candidate aware of such intermediary or conduit's role in

soliciting or arranging the contribution for the candidate.

(c) 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 fund-raising 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 fund-raising, or the individual occupies a significant position within the candidate's campaign organization; or (3) in the case of a political committee, the intermediary or conduit is an authorized committee of the candidate.

Section 1614-A. Inflation Indexing of Certain Limitations.--
The dollar figures contained in sections 1607-A, 1609-A and 1612-A shall be adjusted annually during March at a rate equal to the average percentage change in the All-Urban Consumer Price Index for the Pittsburgh, Philadelphia and Scranton standard metropolitan statistical areas as published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor agency, occurring in the prior calendar year. The base year shall be 1998. The average shall be calculated and certified by the secretary annually by adding the percentage increase in each of the three areas and dividing by three. The calculation and resulting new figures shall be published in the Pennsylvania Bulletin during March.

Section 1615-A. Annual Report.--The secretary shall report annually to the Governor and the General Assembly on the operations of funding as provided by this article. This report shall include, but not be limited to, the revenues and expenditures in the fund, the amounts distributed to candidates,

1 the results of any audits performed on candidates in compliance
2 with this article and any prosecutions brought for violations of
3 this article.

4 Section 1616-A. Return of Excess Funds.--(a) All unexpended
5 campaign funds in a candidate's and his authorized committees'
6 possession sixty (60) days after a primary election shall be
7 returned to the secretary for deposit in the fund, up to the
8 amount of the funds which were distributed to the candidate
9 under this article for the primary election.

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

16 Section 1617-A. Penalties.--(a) A person who violates the
17 provisions of this article and who, as a result, obtains funds
18 under this article to which he is not entitled commits a
19 misdemeanor of the first degree and shall, upon conviction, be
20 subject to a fine not to exceed the greater of ten thousand
21 dollars (\$10,000) or three times the amount of funds wrongfully
22 obtained or to imprisonment for up to five (5) years, or both.

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

29 (c) Except as provided in subsections (a) and (b), a person
30 who violates any provision of this act commits a misdemeanor of

1 the third degree and shall, upon conviction, be subject to a
2 fine of not more than one thousand dollars (\$1,000) or to
3 imprisonment for up to one (1) year, or both.

4 Section 4. This act shall be applicable to returns of
5 taxpayers of calendar years commencing January 1, 2000, and
6 thereafter. Funding from the Pennsylvania Fair Campaign Fund
7 shall be provided to candidates for Statewide office beginning
8 with the primary election of 2002 and in each primary, municipal
9 and general election thereafter.

10 Section 5. This act shall take effect immediately.