

SENATE BILL 358

G1
SB 416/21 – EHE & B&T

2lr1261

By: **Senators Pinsky, Lam, Kagan, Smith, Waldstreicher, Elfreth, and Guzzone**

Introduced and read first time: January 21, 2022

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Public Financing Act – State Senate and House of Delegates**

3 FOR the purpose of altering the candidates authorized to receive public contributions from
4 the Fair Campaign Financing Fund to include candidates for State Senator and
5 member of the House of Delegates; and generally relating to the Public Financing
6 Act.

7 BY repealing and reenacting, with amendments,
8 Article – Election Law
9 Section 13–235, 15–102(d) and (i), 15–103, 15–104, 15–106 through 15–109, 15–111,
10 and 15–113(b)
11 Annotated Code of Maryland
12 (2017 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Election Law
15 Section 15–102(a) and 15–113(a)
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2021 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Election Law**

21 13–235.

22 (a) This section applies to the following officials:

23 (1) the Governor;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- (2) the Lieutenant Governor;
- (3) the Attorney General;
- (4) the Comptroller; and
- (5) a member of the General Assembly.

(b) Except as provided in subsection (c), (d), or (e) of this section, during a regular session of the General Assembly an official described in subsection (a) of this section, or a person acting on behalf of the official, may not, as to a candidate for federal, State, or local office, or a campaign finance entity of the candidate or any other campaign finance entity organized under this title and operated in coordination with a candidate:

- (1) receive a contribution;
- (2) conduct a fund-raising event;
- (3) solicit a contribution; or
- (4) deposit or use any contribution of money that was not deposited prior to the session.

(c) An official described in subsection (a) of this section, or a person acting on behalf of the official, is not subject to this section when engaged in activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate.

(d) Under the Public Financing Act, a gubernatorial ticket **OR A CANDIDATE FOR STATE SENATOR OR MEMBER OF THE HOUSE OF DELEGATES**, during the year of the election only, may accept eligible private contributions and any disbursement of funds by the State Board that is based on the eligible private contributions.

(e) An official described in subsection (a) of this section, or a person acting on behalf of the official, may deposit a contribution during the legislative session if the contribution was made electronically before the start of the session.

(f) (1) As to a violation of this section, the campaign finance entity of the official in violation is liable for a civil penalty as provided in § 13–604.1 of this title.

(2) A civil penalty imposed under this subsection shall be distributed to the Fair Campaign Financing Fund established under § 15–103 of this article.

15–102.

(a) In this title the following words have the meanings indicated.

(d) “Eligible [gubernatorial ticket] **CANDIDATE**” means a gubernatorial ticket, **A CANDIDATE FOR STATE SENATOR, OR A CANDIDATE FOR MEMBER OF THE HOUSE OF DELEGATES** that qualifies to receive a public contribution.

(i) “Public contribution” means money distributed from the Fund to [a gubernatorial ticket] **AN ELIGIBLE CANDIDATE** under this title.

15–103.

(a) There is a Fair Campaign Financing Fund.

(b) The Comptroller shall administer the Fund in accordance with this section.

(c) In accordance with this title, the Comptroller shall:

(1) credit to the Fund:

(i) all money collected or appropriate under this title;

(ii) voluntary contributions to the Fund made electronically through the State Board’s website;

(iii) fees, fines, and penalties assessed under this article or the General Provisions Article that are expressly allocated to the Fund by law;

(iv) an anonymous contribution paid to the Fund under § 13–239 of this article;

(v) an illegal contribution paid to the Fund under § 13–239.1 of this article;

(vi) surplus campaign funds paid to the Fund under § 13–247 of this article; and

(vii) contributions to the Fund made through the checkoff on the individual income tax return established under § 2–113.1 of the Tax – General Article;

(2) subject to the usual investing procedures for State funds, invest the money in the Fund; and

(3) make distributions from the Fund promptly on authorization by the State Board.

(d) The Comptroller shall distribute public contributions:

(1) only on authorization of the State Board; and

(2) as to each eligible [gubernatorial ticket] **CANDIDATE**, to the campaign account of a single campaign finance entity established under Title 13, Subtitle 2 of this article to receive public contributions.

(e) The Comptroller shall submit a statement of the Fund's balance to the State Board each month.

(f) (1) On or before June 30 of the third year immediately preceding a year of a gubernatorial election, the State Board shall determine whether the balance of the Fund is sufficient to provide for a full contribution for:

(i) in a primary election[.]:

1. two gubernatorial tickets;

2. **47 CANDIDATES FOR STATE SENATOR; AND**

3. **141 CANDIDATES FOR MEMBER OF THE HOUSE OF DELEGATES; and**

(ii) in a general election[.]:

1. one gubernatorial ticket;

2. **47 CANDIDATES FOR STATE SENATOR; AND**

3. **141 CANDIDATES FOR MEMBER OF THE HOUSE OF DELEGATES.**

(2) If the balance of the Fund is determined to be insufficient to provide the public contributions described under paragraph (1) of this subsection:

(i) on or before August 1 of the third year immediately preceding a year of a gubernatorial election, the State Board shall send a notice to the Governor of the amount of money needed to provide the public contributions described under paragraph (1) of this subsection; and

(ii) the Governor shall include in the annual budget bill for the appropriate fiscal year an appropriation in an amount equal to the amount submitted to the Governor under item (i) of this paragraph.

(3) For fiscal year 2023, the Governor shall include in the annual budget bill an appropriation of at least \$4,000,000 to the Fund.

(g) To pay costs directly related to the administration of this title, the State Board

1 may expend in each fiscal year an amount of money in the Fund that does not exceed the
2 lesser of:

3 (1) 3% of the Fund's balance, as calculated on the last day of the
4 immediately preceding fiscal year; or

5 (2) \$100,000.

6 15–104.

7 (a) Before receiving a private contribution, a gubernatorial ticket **OR**
8 **CANDIDATE FOR STATE SENATOR OR MEMBER OF THE HOUSE OF DELEGATES** shall:

9 (1) on or before the deadline to file a certificate of candidacy under §
10 13–303 of this article, file with the State Board a notice of intent to participate as a publicly
11 financed candidate for both the primary and general elections; and

12 (2) establish a campaign finance entity for complying with the
13 requirements of this title.

14 (b) (1) A campaign finance entity established under subsection (a)(2) of this
15 section may accept only:

16 (i) a private contribution;

17 (ii) an eligible private contribution;

18 (iii) a public contribution; and

19 (iv) subject to paragraph (2) of this subsection, a contribution or loan
20 from [a member of a gubernatorial ticket] **THE ELIGIBLE CANDIDATE** or the spouse of [a
21 member of the gubernatorial ticket] **THE ELIGIBLE CANDIDATE**.

22 (2) [A member of a gubernatorial ticket or the spouse of a member of a
23 gubernatorial ticket] **AN ELIGIBLE CANDIDATE OR THE SPOUSE OF AN ELIGIBLE**
24 **CANDIDATE** may not make a contribution of or lend a combined total of more than \$50,000
25 to the campaign of the [gubernatorial ticket] **ELIGIBLE CANDIDATE**.

26 (c) To qualify as an eligible [gubernatorial ticket,] **CANDIDATE**:

27 **(1)** a gubernatorial ticket shall collect within the qualifying period at least:

28 **[(1)] (I)** 1,500 eligible private contributions; and

29 **[(2)] (II)** an aggregate total of \$120,000;

(2) A CANDIDATE FOR STATE SENATOR SHALL COLLECT WITHIN THE QUALIFYING PERIOD AT LEAST:

(I) 250 ELIGIBLE PRIVATE CONTRIBUTIONS; AND

(II) AN AGGREGATE TOTAL OF \$15,000; OR

(3) A CANDIDATE FOR MEMBER OF THE HOUSE OF DELEGATES SHALL COLLECT WITHIN THE QUALIFYING PERIOD AT LEAST:

(I) 150 ELIGIBLE PRIVATE CONTRIBUTIONS; AND

(II) AN AGGREGATE TOTAL OF \$7,500.

15–106.

(a) After filing a notice of intent to qualify for a public contribution under this title, a gubernatorial ticket or a person acting on behalf of the gubernatorial ticket **OR A CANDIDATE FOR STATE SENATOR OR MEMBER OF THE HOUSE OF DELEGATES OR A PERSON ACTING ON BEHALF OF THE CANDIDATE FOR STATE SENATOR OR MEMBER OF THE HOUSE OF DELEGATES** may not, for the benefit of any political committee or any person required to register with the State Board under § 13–306 or § 13–307 of this article or for a participating organization organized under § 13–309.2 of this article:

(1) solicit contributions, including the authorized use of the names or images of the gubernatorial ticket **OR CANDIDATE FOR STATE SENATOR OR MEMBER OF THE HOUSE OF DELEGATES** in the solicitation; or

(2) operate in coordination with any entity for fundraising activities.

(b) After filing a notice of intent to qualify for a public contribution under this title, the members of a gubernatorial ticket **OR A CANDIDATE FOR STATE SENATOR OR MEMBER OF THE HOUSE OF DELEGATES** may not be a member of a slate that does not receive a public contribution.

(c) Until a final campaign finance report is filed with the State Board and any remaining funds of the public contribution distributed to [a gubernatorial ticket] **AN ELIGIBLE CANDIDATE** are repaid to the Comptroller for redeposit in the Fund in accordance with § 15–109 of this title, any authorized candidate campaign committee organized under Title 13 of this article on behalf of the [members of a gubernatorial ticket] **ELIGIBLE CANDIDATE** may not engage in campaign finance activity.

15–107.

(a) (1) In accordance with subsection (c) of this section and regulations

adopted by the State Board, the State Board shall authorize distribution of money in the Fund on a continuing basis on certification that the qualifications under § 15–104 of this title have been met.

(2) Distributions shall begin not earlier than January 1 of the year of the election.

(b) If the State Board determines that there is not, or may not be, sufficient money in the Fund to provide a full public contribution to all eligible [gubernatorial tickets] CANDIDATES, the State Board shall allocate the available money so that each eligible [gubernatorial ticket] CANDIDATE in that election receives a proportionate share of the full public contribution to which the [gubernatorial ticket] ELIGIBLE CANDIDATE otherwise would be entitled.

(c) (1) The State Board shall authorize distribution of the money that is designated for distribution as provided in this subsection.

(2) The State Board shall distribute a public contribution from the Fund to each [gubernatorial ticket] ELIGIBLE CANDIDATE during the distribution period [in] AS FOLLOWS:

(I) FOR EACH GUBERNATORIAL TICKET, matching dollars equal to:

[(i)] 1. \$8 for each dollar of an eligible private contribution received for the first \$50 of each eligible private contribution;

[(ii)] 2. \$6 for each dollar of an eligible private contribution received for the second \$50 of each eligible private contribution;

[(iii)] 3. \$2 for each dollar of an eligible private contribution received for the third \$50 of each eligible private contribution; and

[(iv)] 4. \$0 for each dollar of an eligible private contribution received for the remaining \$100 of each eligible private contribution;

(II) FOR EACH ELIGIBLE CANDIDATE FOR STATE SENATOR, MATCHING DOLLARS EQUAL TO:

1. \$6 FOR EACH DOLLAR OF AN ELIGIBLE PRIVATE CONTRIBUTION RECEIVED FOR THE FIRST \$50 OF EACH ELIGIBLE PRIVATE CONTRIBUTION;

2. \$2 FOR EACH DOLLAR OF AN ELIGIBLE PRIVATE CONTRIBUTION RECEIVED FOR THE NEXT \$100 OF EACH ELIGIBLE PRIVATE

1 CONTRIBUTION; AND

2 3. \$0 FOR EACH DOLLAR OF AN ELIGIBLE PRIVATE
3 CONTRIBUTION RECEIVED FOR THE REMAINING \$100 OF EACH ELIGIBLE PRIVATE
4 CONTRIBUTION; OR

5 (III) FOR EACH ELIGIBLE CANDIDATE FOR MEMBER OF THE
6 HOUSE OF DELEGATES, MATCHING DOLLARS EQUAL TO:

7 1. \$6 FOR EACH DOLLAR OF AN ELIGIBLE PRIVATE
8 CONTRIBUTION RECEIVED FOR THE FIRST \$50 OF EACH ELIGIBLE PRIVATE
9 CONTRIBUTION;

10 2. \$2 FOR EACH DOLLAR OF AN ELIGIBLE PRIVATE
11 CONTRIBUTION RECEIVED FOR THE NEXT \$100 OF EACH ELIGIBLE PRIVATE
12 CONTRIBUTION; AND

13 3. \$0 FOR EACH DOLLAR OF AN ELIGIBLE PRIVATE
14 CONTRIBUTION RECEIVED FOR THE REMAINING \$100 OF EACH ELIGIBLE PRIVATE
15 CONTRIBUTION.

16 (3) The total public contribution payable to [a gubernatorial ticket] AN
17 ELIGIBLE CANDIDATE for either a primary or general election may not exceed:

18 (I) \$3,000,000 FOR A GUBERNATORIAL TICKET;

19 (II) \$150,000 FOR A CANDIDATE FOR STATE SENATOR; AND

20 (III) \$90,000 FOR A CANDIDATE FOR MEMBER OF THE HOUSE OF
21 DELEGATES.

22 (4) The State Board may not distribute matching dollars from the Fund to
23 [a gubernatorial ticket] AN ELIGIBLE CANDIDATE for:

24 (i) a contribution or loans from the [gubernatorial ticket] ELIGIBLE
25 CANDIDATE or the spouse of [a member of the gubernatorial ticket] THE ELIGIBLE
26 CANDIDATE; or

27 (ii) an in-kind contribution of property, goods, or services.

28 (5) [A gubernatorial ticket] AN ELIGIBLE CANDIDATE that is unopposed
29 in a primary election shall receive one-third of the public contribution amount the
30 [gubernatorial ticket] ELIGIBLE CANDIDATE would otherwise be entitled to receive.

1 15–108.

2 (a) [A gubernatorial ticket] **AN ELIGIBLE CANDIDATE** may withdraw from
3 participation as a publicly funded candidate at any time before a public contribution is
4 received by the [gubernatorial ticket's] **ELIGIBLE CANDIDATE'S** campaign finance entity.

5 (b) If a public contribution has been received by an eligible [gubernatorial
6 ticket's] **CANDIDATE'S** campaign finance entity, the eligible candidate may withdraw from
7 participating if the [gubernatorial ticket] **ELIGIBLE CANDIDATE**:

8 (1) files a statement of withdrawal on a form prescribed by the State Board;
9 and

10 (2) repays to the Fund the full amount of any public contribution received,
11 with interest established in regulation by the State Board.

12 15–109.

13 (a) A public contribution may be spent only:

14 (1) in accordance with § 13–218 of this article;

15 (2) to further the [gubernatorial ticket's] **ELIGIBLE CANDIDATE'S**
16 nomination or election;

17 (3) for expenses incurred not later than 45 days after the election for which
18 the public contribution was made;

19 (4) for purposes that do not violate State law; and

20 (5) for an expenditure that is accompanied by a receipt.

21 (b) An eligible [gubernatorial ticket] **CANDIDATE** may not make:

22 (1) a transfer; or

23 (2) an expenditure relating to fundraising activity by any other political
24 committee organized under this article.

25 (c) (1) Any part of a public contribution that is not spent shall be repaid to the
26 Comptroller for redeposit in the Fund not later than 90 days after the election for which
27 the public contribution was made.

28 (2) In computing whether part of a public contribution is not spent, all
29 private contributions to the [gubernatorial ticket] **ELIGIBLE CANDIDATE** shall be treated
30 as spent before the expenditure of any of the public contribution.

(d) The [members of a gubernatorial ticket] **ELIGIBLE CANDIDATE** and the responsible officers of the campaign finance entity that received a public contribution are jointly and severally personally liable civilly and criminally for repaying to the Comptroller any part of a public contribution that is not spent or that was spent in violation of subsection (a) of this section.

15–111.

(a) (1) Subject to § 15–103 of this title, the State Board shall administer this title.

(2) The State Board may request the assistance of the Comptroller to administer this title.

(b) (1) The State Board shall adopt comprehensive regulations to implement this title.

(2) The regulations shall include provisions relating to:

(i) the deadline for [a gubernatorial ticket] **AN ELIGIBLE CANDIDATE** to submit a request for a public contribution;

(ii) the dates when the State Board will authorize, and the Comptroller will make, distributions of public contributions to [gubernatorial tickets] **ELIGIBLE CANDIDATES** in accordance with this title;

(iii) a proportionate distribution when there is not, or may not be, sufficient money in the Fund;

(iv) thresholds for in-kind contributions that are not considered contributions or expenditures for the purposes of this title;

(v) distributions to a write-in gubernatorial ticket; and

(vi) the purposes for which a public contribution may not be used.

15–113.

(a) In this section, “person” includes a political committee.

(b) (1) This subsection applies only to violations committed, as applicable, by:

(i) the eligible [gubernatorial ticket] **CANDIDATE**;

(ii) the eligible [gubernatorial ticket’s] **CANDIDATE’S** campaign

1 finance entity;

2 (iii) the chairman of the eligible [gubernatorial ticket's]
3 **CANDIDATE'S** campaign finance entity;

4 (iv) the treasurer of the eligible [gubernatorial ticket's]
5 **CANDIDATE'S** campaign finance entity; or

6 (v) a person acting on behalf of a person listed in item (i), (ii), (iii), or
7 (iv) of this paragraph.

8 (2) The State Board may impose a civil penalty in accordance with this
9 section for the following violations:

10 (i) making a disbursement in a manner not authorized under §
11 13-218(b)(2), (c), and (d) of this article;

12 (ii) failure to maintain a campaign bank account as required under
13 § 13-220(a) of this article;

14 (iii) making a disbursement by a method not authorized under §
15 13-220(d) of this article;

16 (iv) failure to maintain detailed and accurate account books and
17 records as required under § 13-221 of this article;

18 (v) fund-raising during the General Assembly session in a manner
19 not authorized in § 13-235 of this article;

20 (vi) failure to report all contributions received and expenditures
21 made as required in § 13-304(b) of this article;

22 (vii) failure to include an authority line on campaign material as
23 required in § 13-401 of this article; or

24 (viii) failure to retain a copy of campaign material as required in §
25 13-403 of this article.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 January 1, 2023.