

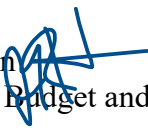



September 13, 2023

FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Roger G. Banegas 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-076-2023 Revision of Fair Election Fund

CB-076-2023 (*Proposed by:* Council Member Dernoga)

Assigned to the Government Operations and Fiscal Policy Committee

AN ACT CONCERNING REVISION OF THE FAIR ELECTION FUND for the purpose of revising language of the Fair Election Fund in order to provide greater clarity.

Fiscal Summary

Direct Impact

Expenditures: No revenue impact likely.

Revenues: No revenue impact likely.

Indirect Impact

None likely.

Legislative Summary:

CB-076-2023¹, proposed and sponsored by Councilmember Dernoga, was presented on July 18, 2023, and referred to the Government Operations and Fiscal Policy (GOPF) Committee. This bill would amend the provisions of the Prince George's County Code that regulate the Fair Election Fund. The bill aims to revise the language to provide greater clarity.

Background/Current Law:

Under the current law, the provisions for the Fair Election Fund are outlined in Subtitle 10. *Finance and Taxation*. Division 26. *Fair Election Fund*². of the Prince George's County Code. Section 10-322 provides the definitions for an Applicant candidate, Campaign finance entity, Certified Candidate, and all keywords pertaining to the Fair Election Fund. Section 10-323 established the Public Election Fund, which the Director of Finance will oversee as a non-lapsing fund. Section 10-324 lays the requirements and limits of contributions received by an applicant candidate, while Section 10-325 sets the requirements for certification for each applicant candidate.

Relevant legislation from Other Jurisdictions

In Montgomery County, Maryland, the Public Election Fund (PEF), established in January 2015 for the 2018 election cycle, is a public campaign financing program established to encourage greater voter participation in County elections, increase opportunities for more residents to run for office, and reduce the influence of large contributions from businesses, political action groups, and other large organizations³. Montgomery County Code, Chapter 16, Article IV⁴, also established a Public Election Fund Committee. The Committee consists of 7 members appointed by the County Council for a 4-year term.

Resource Personnel

- Leroy Maddox Jr., Legislative Officer
 - Michelle Garcia, Chief of Staff, District 1
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¹ [CB-076-2023](#)

² [Subtitle 10, Division 26 of the Prince George's County, MD Code](#)

³ [Public Election Fund - Montgomery County, Maryland](#)

⁴ [Chapter 16, Article IV of the Montgomery County, MD Code](#)

Discussion/Policy Analysis

CB-076-2023 – Intent and Effect

CB-076-2023 aims to fill the gaps and conditions of the Fair Election Fund that were previously enacted by CB-099-2018⁵. The proposed bill addresses the participation of Applicant Candidates with Campaign Finance Entities that were created and used in an election prior to the current election cycle, such as what to do with the prior funds still in that account. The proposed bill only prohibits an Applicant Candidate from accepting any contributions from a pre-existing Campaign Finance Entity and transferring the funds.

There are two slightly different requirements for Applicant Candidates to participate under §10-324(d). The first one is §10-324(d)(1), which provides that if a candidate has a Campaign Finance Entity that *has not received contributions nor has made any expenditures or transfers* from said Campaign Finance Entity during the current Election Cycle, then the Applicant Candidate will need to file a notice of intent in the Fair Election Fund campaign to certify to the State Board that the pre-existing Campaign Finance Entity will be frozen.

The second set of requirements is under §10-324(d)(2), which provides that if an Applicant Candidate has a Campaign Finance Entity that was created and used in an election prior to the current Election Cycle that has an account balance and *has received contributions, made expenditures or made any transfers* from that Campaign Finance Entity during the current Election Cycle, then the Applicant Candidate may file a notice of intent to participate in the Fair Election Fund campaign system if

- the notice of intent is filed 24 months prior to the primary election;
- during the current Election Cycle, expenditures and transfers made from the pre-existing Campaign Finance Entity prior to filing the notice of intent did not exceed \$25,000 for a candidate for County Executive, \$10,000 for a candidate of At-Large Council Member, or \$5,000 for a candidate of District Council Member; and the Applicant Candidate certifies to the State Board that they will freeze the pre-existing Campaign Finance Entity.

The Bill further provides that an Applicant Candidate in the second scenario may return any individual contributions that do not exceed the contribution limits received prior to the filing of the notice of intent, and those individual contributors may then make Eligible Private Contributions to the candidate's Citizen Funded Campaign account.

Specific Provisions of CB-076-2023

The proposed bill would amend Subtitle 10. *Finance and Taxation. Division 26. Fair Election Fund.* to add additional language to multiple subsections for better clarity and transparency. These amendments are primarily clarifying in nature as most changes are technical with capitalizing letters in the definitions, and the key amendments are additions to §10-324, which are as follows:

⁵ [CB-099-2018](#)

- **§10-324(d)(1).** The addition of this subsection states that if an Applicant Candidate has a Campaign Finance Entity that was created and used in an election prior to the current Election Cycle and has an account balance but has not received any contributions nor made any expenditures or transfers from such Campaign Finance Entity during the current Election Cycle, then they may file a notice of intent to participate in the Fair Election Fund campaign system as long as the Applicant Candidate certifies to the State Board that the candidate will free the pre-existing Campaign Finance Entity and will not accept any contributions or make any expenditures or transfers from the Campaign Finance Entity. (page 4, lines 23 through 30).
 - **§10-324(d)(2).** Along with page 4, lines 23 and 24 of this subsection, if there is an account balance, contributions were received, or if expenditures or transfers were made from a Campaign Finance Entity during the current Election Cycle, the Applicant may file a notice of intent to participate in the Fair Election Fund campaign system if:
 - (A) The notice of intent is filed 24 months prior to the primary election;
 - (B) During the current Election Cycle, expenditures and transfers made from the pre-existing Campaign Finance Entity prior to filing the notice of intent did not exceed \$25,000 for a candidate for County Executive, \$10,000 for a candidate of At-Large Council Member, or \$5,000 for a candidate of District Council Member; and
 - (C) The Applicant Candidate certifies to the State Board that the candidate will freeze the pre-existing Campaign Finance Entity and will not accept any additional contributions, nor make any additional expenditures or transfers from such Campaign Finance Entity (page 5, lines 1 through 12).
 - **§10-324(d)(3).** This subsection states that in the case of an Applicant Candidate subject to paragraph (2), any contributions received from an individual that do not exceed the contribution limit in subsection (b) during the current Election Cycle and prior to filing the notice of intent may be returned to the individual. If this happens to be the case, the individual may make Eligible Private Contributions to the candidate's Citizen Funded Campaign account in accordance with subsection (b) (page 5, lines 13 through 17).
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Fiscal Impact

Direct Impact

The enactment of CB-076-2023 may have a direct adverse fiscal impact on the County due to the possibility of changes in program costs if the number of Applicant Candidates increases or decreases as a result of the changes to the participation requirements for Applicant Candidates with Campaign Finance Entities. Any additional administrative demands can likely be absorbed by the existing staff complement. Additional disbursement expenses may be incurred if the change results in an increase in Participating Candidates. Council Staff has sought comment from the Administration regarding CB-076-2023 but has not received additional information as of the date of this memorandum.

Indirect Impact

The enactment of CB-076-2023 is not likely to have an indirect fiscal impact.

Appropriated in the Current Fiscal Year Budget

No.

Effective Date of Proposed Legislation:

The Act shall take effect forty-five (45) days after it becomes law.

If you require additional information or have questions about this fiscal impact statement, please contact me via phone or email.