


Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** December 13, 2017

**SUBJECT:** Fiscal Impact Statement – Fair Elections Amendment Act of 2017

**REFERENCE:** Bill 22-192, Draft Committee Print as shared with the Office of Revenue Analysis on December 12, 2017

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**Conclusion**

Funds are not sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill.

The bill's implementation will cost \$1.9 million in fiscal year 2018 and \$16.3 million over the four-year financial plan period. Approximately \$15.2 million of the four-year financial plan costs fund the public financing base and matching amounts associated with the Fair Elections Program. The remaining costs support the Office of Campaign Finance's administration of the Program.

The bill's implementation is subject to its inclusion in an approved budget and financial plan.

**Background**

The bill establishes the Fair Elections Program as a publicly-funded campaign finance program administered by the District's Office of Campaign Finance (OCF). Under the bill, candidates for covered offices, which are State Board of Education seats, Council, Attorney General, and the Mayor, may apply to OCF to receive District funds for their campaign expenditures. Candidates seeking or receiving such funding must adhere to prescribed limits on contributions from District and non-District individuals. In addition, the bill establishes debate, filing, and other requirements for candidates receiving public campaign funds. The OCF Director will certify candidates eligible for funding. OCF will provide certified candidates with a base amount of public funding and a supplemental public match of small-dollar contributions donated to the candidate by District individuals, up to a calculated cap.

A candidate wishing to participate in the Program must indicate that she or he intends to seek certification at the time she or he registers as a candidate. As indicated in the table below, a candidate must limit her or himself to only small-dollar contributions<sup>1</sup> and must hit the prescribed thresholds for the OCF Director to consider certification in the Program. Candidates can receive small-dollar contributions from both District and non-District individuals, but only contributions from District individuals will count toward the minimum contributions and contributors. Candidates must also affirmatively attest that, if successfully certified, that they will continue to adhere to the Program's requirements and will only participate in the election for which the candidate is certified during any given election cycle.<sup>2</sup> A candidate whom OCF certifies for a primary election is automatically certified for the general election and must continue to participate in the Program for the general election.

<b>Covered Office</b>	<b>Small-Dollar Limit per Individual Contributor</b>	<b>Minimum Aggregate Contributions to Qualify</b>	<b>Minimum Small-Dollar Contributors to Qualify</b>
Mayor	\$200	\$40,000	1,000
Attorney General	\$200	\$20,000	500
Council Chair	\$200	\$15,000	300
At-Large Council	\$100	\$12,000	250
Ward Council	\$50	\$5,000	150
At-Large Board of Education	\$50	\$5,000	150
Ward Board of Education	\$20	\$1,000	50

If a candidate meets the outlined requirements, the OCF Director has five days to certify her or him as a participating candidate in the Program and five additional days to provide a certified candidate with base funding. The table below enumerates the base amounts for each covered office for each election cycle. The OCF Director will also provide a participating candidate with public funds that match, on a five-to-one basis, all small-dollar contributions from only District individuals up to a cap amount.<sup>3</sup> The cap amount is calculated as 110 percent of the average expenditures of the winning candidate for a covered office over the last four<sup>4</sup> or two<sup>5</sup> election cycles. The matching payments should be made within five days of required campaign finance report filings with OCF.<sup>6</sup> A candidate who participates in both the primary and general election for a covered office will only receive one base amount payment and is subject to the matching payment cap over the entire election cycle.

<sup>1</sup> Small-dollar contributions can be received in any form except that cash contributions cannot exceed \$100 from any one contributor.

<sup>2</sup> The bill defines an election cycle as the date beginning after the most recent general election for the covered office through the next general election for that office. For a special election, the cycle begins the date the special election is called and ends on the date of the special election.

<sup>3</sup> Candidates in uncontested elections only receive matching funds, not the base funds. If the election becomes contested, the candidate qualifies for the base amount.

<sup>4</sup> The four election cycle look-back covers the Mayor's, Attorney General's, and Council Chair's offices. The first election for Attorney General was in 2016, so the average will include all elections until four elections have occurred.

<sup>5</sup> The two election cycle look-back covers all other Council offices and all State Board of Education offices.

<sup>6</sup> The bill requires OCF to establish three additional filing dates in the thirty days prior to an election.

<b>Covered Office</b>	<b>Base Amount</b>
Mayor	\$160,000
Attorney General, Council Chair, At-Large Council, and Ward Council	\$40,000
At-Large Board of Education and Ward Board of Education	\$10,000

The OCF Director must also hold at least one debate for each contested primary, special, and general election for the offices of Mayor, Attorney General, Council Chair, At-Large Council, and At-Large State Board of Education. All participating candidates in the Program must take part in the debate unless there are no other participating candidates or willing non-participating<sup>7</sup> candidates.

The OCF Director should report to the Council and the Mayor within nine months of the end of each election cycle describing the election's participants, the public resources contributed to campaigns and expended during the election, and the Program's overall impact on the election. OCF must also include in the report a review of national best practices associated with public campaign financing.

The bill establishes the Fair Elections Fund as a non-lapsing fund to be administered by the OCF Director. The Fund will receive budgeted appropriations, ineligible campaign contributions that are not returned to the contributors, and any fine revenues received from violations of this bill. The Fund's resources can only be used to administer the Program and provide public funding for scheduled and special elections.

The bill limits the contributions and expenditures of participating candidates to the public base and matching funds, small-dollar contributions from both District and non-District individuals, contributions from a Fair Elections Committee,<sup>8</sup> and the candidate's own personal funds up to a prescribed maximum. The most a candidate can contribute to her or his own election is \$5,000 if the candidate is running for Mayor and \$2,500 for all other covered offices. If a candidate received any funds that would otherwise make her or him ineligible for the Program prior to certification, she or he must return any unexpended funds to the contributor or remit them to the Fair Elections Fund. The OCF director should deduct from the base payment any expenditures of these ineligible contributions.

The OCF Director should revoke a participating candidate's certification if the candidate fails to qualify for ballot access, discontinues her or his run for the covered office, does not run for the covered seat for which she or he was certified, or fails to comply with the Program's requirements. A decertified candidate must return any unspent public funds to the Fair Elections Fund.

If the bill is funded for fiscal year 2019, candidates will be eligible to participate in the Program beginning on November 7, 2018.

### **Financial Plan Impact**

Funds are not sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill. The bill establishes a Fair Elections Program whereby candidates for certain covered offices can obtain public financing for their campaigns. OCF will provide approved

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<sup>7</sup> These are candidates who are participating in an election, but are not certified in the Program.

<sup>8</sup> Fair Elections Committees are political committees that only accept contributions from District residents that do not exceed \$250 per resident per calendar year.

candidates with a base amount of funding and a matching amount of funding equal to five times small-dollar contributions from District individuals. OCF must also annually budget a contingency amount to cover the campaign financing cost of special elections that may be called. The bill's implementation will cost \$1.9 million in fiscal year 2018 and \$16.3 million over the four-year financial plan period.

The public campaign financing will cost approximately \$1.6 million in fiscal year 2018 and \$15.2 million over the four-year financial plan period. The actual funding needs will depend on the number of candidates that elect to participate in the Program, the number who can reach the minimum required number of contributions, and the amount of qualifying matching contributions they raise. The maximum matching amount will be determined based on the actual expenditures of the winning candidates for each covered office over the time periods prescribed in the bill and has been estimated based on expenditures to date<sup>9</sup>

OCF will also require three auditors to implement the more rigorous reporting and oversight associated with the Program. This will cost \$243,000 in fiscal year 2018 and \$1 million over the four-year financial plan period. OCF will be able to utilize existing auditors to assist the Program's oversight as more candidates elect to participate in the Program versus traditional campaign financing methods. OCF will also need to upgrade its filing system at a one-time cost of \$62,000 in fiscal year 2018. OCF must host debates for the covered offices that are contested city-wide and expects that it can host those at its new facility<sup>10</sup> without additional resources.

The first election whereby candidates can seek to participate in the Program is expected to be for the primary and general elections that will be held in 2020. The bill also requires funding for a contingency in case a special election is called sooner.

<b>Fair Elections Amendment Act of 2017</b> <b>Bill 22-192</b> <b>Implementation Costs</b> <b>Fiscal Year 2018 – Fiscal Year 2021</b> <b>(\$000s)</b>					
	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Total</b>
<b>Primary and General Election Financing<sup>b</sup></b>	\$0	\$972	\$1,952	\$6,003	\$8,927
<b>Contingency/Special Election Financing</b>	\$1,578	\$1,578	\$1,578	\$1,578	\$6,312
<b>OCF Administrative Costs</b>	\$305 <sup>a</sup>	\$252	\$260	\$269	\$1,086
<b>Total Program Costs</b>	\$1,883	\$2,802	\$3,790	\$7,850	\$16,325

**Table Notes**

<sup>a</sup> OCF administrative costs includes the \$62,000 technology cost in fiscal year 2018.

<sup>b</sup> The public financing costs assume that for any given election cycle, approximately 30 percent of the funding is needed in the fiscal year prior to the primary election, 62 percent in the fiscal year of the primary election, and 8 percent in the fiscal year of the general election.

An election cycle that does not include the Mayor, Council Chair, or Attorney General is expected to cost approximately \$3.2 million. An election cycle that includes those three city-wide offices is

<sup>9</sup> For example, the approximate caps are estimated to be \$3.1 million for the Office of Mayor, \$194,000 for a Ward Councilmember, and \$10,000 for an at-large Board of Education member.

<sup>10</sup> OCF will be relocating to 1015 Half Street, S.E. in 2018.

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expected to cost approximately \$18.8 million. The figures in the chart above do not include the total costs of an election cycle including the Office of Mayor, Council Chair and Attorney General, since the first election including those offices would fall in November 2022. The table does include approximately 30 percent of the cost of the November 2022 election cycle, but the bulk of that election cycle's costs will fall to fiscal year 2022.