

SB0835



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0835

Introduced 2/1/2017, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.878 new
35 ILCS 5/507GGG new

Creates the Illinois Clean Elections Act. Establishes a voluntary method of public financing of the campaigns of candidates for statewide constitutional offices and the General Assembly. Amends the State Finance Act to create the Illinois Clean Elections Fund as a special fund in the State treasury. Amends the Illinois Income Tax Act to create an individual tax return checkoff in support of the Fund. Effective immediately.

LRB100 09230 MLM 19386 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Clean Elections Act.

6 Section 5. Definitions. As used in this Act:

7 "Certified candidate" means a candidate running for
8 Governor, Secretary of State, Attorney General, State
9 Treasurer, State Comptroller, State Senator, or State
10 Representative, in a primary election, and Governor, Secretary
11 of State, Attorney General, State Treasurer, State
12 Comptroller, State Senator, or State Representative, in a
13 general election who chooses to participate in this Act and who
14 is certified as an Illinois Clean Elections Act candidate under
15 subsection (e) of Section 20 of this Act.

16 "Contribution" has the same meaning as in Article 9 of the
17 Election Code.

18 "Fund" means the Illinois Clean Elections Fund established
19 in Section 15 of this Act.

20 "Nonparticipating candidate" means a candidate running for
21 Governor, Secretary of State, Attorney General, State
22 Treasurer, State Comptroller, State Senator, or State
23 Representative, in a primary election, and Governor, Secretary

1 of State, Attorney General, State Treasurer, State
2 Comptroller, State Senator, or State Representative, in a
3 general election who does not choose to participate in this Act
4 and who is not seeking to be certified as an Illinois Clean
5 Elections Act candidate.

6 "Participating candidate" means a candidate who is running
7 for Governor, Secretary of State, Attorney General, State
8 Treasurer, State Comptroller, State Senator, or State
9 Representative, in a primary election, and Governor, Secretary
10 of State, Attorney General, State Treasurer, State
11 Comptroller, State Senator, or State Representative, in a
12 general election who is seeking to be certified as an Illinois
13 Clean Elections Act candidate.

14 "Qualifying contribution" means a donation:

15 (1) Of \$5 in the form of a check or a money order
16 payable to the Fund in support of a candidate;

17 (2) Made by a registered voter within the district for
18 the office a candidate is seeking;

19 (3) Made during the designated qualifying period and
20 obtained with the knowledge and approval of the candidate;
21 and

22 (4) That is acknowledged by a written receipt that
23 identifies the name and address of the donor on forms
24 provided by the State Board.

25 "Qualifying period" means the following:

26 (1) For a participating candidate for Governor,

1 Secretary of State, Attorney General, State Treasurer, or
2 State Comptroller, the qualifying period begins November
3 1st immediately preceding the election year and ends at
4 5:00 p.m. on April 15th of the election year unless the
5 candidate is unenrolled, in which case the period ends at
6 5:00 p.m. on June 2nd of the election year.

7 (2) For State Senate or State House of Representatives
8 participating candidates, the qualifying period begins
9 January 1st of the election year and ends at 5:00 p.m. on
10 April 15th of that election year unless the candidate is
11 unenrolled, in which case the period ends at 5:00 p.m. on
12 June 2nd of the election year.

13 "Seed money contribution" means a contribution of no more
14 than \$100 per individual made to a contribution from the
15 candidate or the candidate's family. To be eligible for
16 certification, a candidate may collect and spend only seed
17 money contributions subsequent to becoming a candidate as
18 defined by Article 9 of the Election Code and throughout the
19 qualifying period. A participating candidate who has accepted
20 contributions or made expenditures that do not comply with the
21 seed money restrictions under this Act may petition the State
22 Board to remain eligible for certification as an Illinois Clean
23 Elections Act candidate in accordance with rules of the State
24 Board, if the failure to comply was unintentional and does not
25 constitute a significant infraction of these restrictions.
26 Prior to certification, a candidate may obligate an amount

1 greater than the seed money collected if the value of the goods
2 and services received from a vendor does not exceed the amount
3 paid to the vendor. A candidate may not collect or spend seed
4 money contributions after certification as an Illinois Clean
5 Elections Act candidate. A seed money contribution must be
6 reported according to procedures developed by the State Board.

7 "State Board" means the State Board of Elections.

8 Section 10. Alternative campaign financing option. This
9 Act establishes an alternative campaign financing option
10 available to candidates running for Governor, Secretary of
11 State, Attorney General, State Treasurer, State Comptroller,
12 State Senator, and State Representative. This alternative
13 campaign financing option is available to candidates for
14 elections to be held beginning in the year 2016. The State
15 Board shall Administer this Act and the Fund. Candidates
16 participating in this Act must also comply with all other
17 applicable election and campaign laws and regulations.

18 Section 15. The Illinois Clean Elections Fund established;
19 sources of funding.

20 (a) The Illinois Clean Elections Fund is established as a
21 special fund in the State treasury to finance the election
22 campaigns of certified Illinois Clean Elections Act candidates
23 running for Governor, Attorney General, Secretary of State,
24 State Treasurer, State Comptroller, State Senator, and State

1 Representative and to pay administrative and enforcement costs
2 of the State Board related to this Act. Any interest generated
3 by the Fund is credited to the Fund. The State Board shall
4 administer the Fund.

5 (b) The following must be deposited into the Fund:

6 (1) The qualifying contributions required under
7 Section 20 of this Act when those contributions are
8 submitted to the State Board.

9 (2) \$40,000,000 of the revenues from the taxes imposed
10 by the Illinois Income Tax Act and credited to the General
11 Revenue Fund, transferred to the Fund by the State
12 Treasurer on or before January 1st of each year, beginning
13 January 1, 2018. These revenues must be offset in an
14 equitable manner by an equivalent reduction within the
15 administrative divisions of the legislative branch and
16 executive branch agencies. If the State Board determines
17 that the Fund will not have sufficient revenues to cover
18 the likely demand for funds from the Illinois Clean
19 Elections Fund in an upcoming calendar year, by January 1st
20 the State Board shall provide a report of its projections
21 of the balances in the Illinois Clean Elections Fund to the
22 General Assembly and the Governor and may request that the
23 State Treasurer make the following transfers to the
24 Illinois Clean Elections Fund from the General Revenue
25 Fund:

26 (A) Up to \$20,000,000 no later than February 28,

1 2018, reflecting an advance of the transfer of the
2 amounts that would be received on or before January 1,
3 2019 pursuant to this paragraph.

4 (B) Up to \$15,000,000 no later than July 31, 2018,
5 pursuant to this paragraph reflecting an advance of the
6 transfer of the amounts that would be received on or
7 before January 1, 2019 pursuant to this paragraph.

8 (C) Up to \$5,000,000 no later than September 1,
9 2020, reflecting a partial advance of the transfer of
10 the amounts that would be received on or before January
11 1, 2021 pursuant to this paragraph.

12 (3) Revenue from a tax checkoff program allowing a
13 resident of the State who files a tax return with the
14 Department of Revenue to designate that \$3 be paid into the
15 Fund. If a husband and wife file a joint return, each
16 spouse may designate that \$3 be paid. The Department of
17 Revenue shall report annually the amounts designated for
18 the Fund to the State Treasurer, who shall transfer that
19 amount to the Fund.

20 (4) Seed money contributions remaining unspent after a
21 candidate has been certified as an Illinois Clean Elections
22 Act candidate.

23 (5) Fund revenues that were distributed to an Illinois
24 Clean Elections Act candidate and that remain unspent after
25 the candidate has lost a primary election or after all
26 general elections.

1 (6) Other unspent Fund revenues distributed to any
2 Illinois Clean Elections Act candidate who does not remain
3 a candidate throughout a primary or general election cycle.

4 (7) Voluntary donations made directly to the Fund.

5 (8) Fines collected under this Act.

6 (c) By September 1st preceding each election year, the
7 State Board shall publish an estimate of revenue in the Fund
8 available for distribution to certified candidates during the
9 upcoming year's elections and an estimate of the likely demand
10 for clean elections funding during that election. The State
11 Board may submit legislation to request additional funding.

12 Section 20. Terms of participation.

13 (a) A participating candidate must file a declaration of
14 intent to seek certification as an Illinois Clean Elections Act
15 candidate and to comply with the requirements of this Act. The
16 declaration of intent must be filed with the State Board prior
17 to or during the qualifying period, except as provided in
18 subsection (1) of this Section, according to forms and
19 procedures developed by the State Board. A participating
20 candidate must submit a declaration of intent within 5 business
21 days after collecting qualifying contributions under this Act
22 or the qualifying contributions collected before the
23 declaration of intent has been filed will not be counted toward
24 the eligibility requirement in subsection (c) of this Section.

25 (b) Subsequent to becoming a candidate defined by and prior

1 to certification, a participating candidate may not accept
2 contributions, except for seed money contributions. A
3 participating candidate must limit the candidate's seed money
4 contributions to the following amounts:

5 (1) \$50,000 for a gubernatorial candidate.

6 (2) \$25,000 for a candidate for Secretary of State,
7 Attorney General, State Treasurer, or State Comptroller.

8 (3) \$10,000 for a candidate for the State Senate.

9 (4) \$5,000 for a candidate for the State House of
10 Representatives.

11 The State Board may, by rule, revise these amounts to
12 ensure the effective implementation of this Act.

13 (c) Participating candidates must obtain qualifying
14 contributions during the qualifying period as follows:

15 (1) For a candidate for Governor, Secretary of State,
16 Attorney General, State Treasurer, or State Comptroller,
17 the minimum number of qualifying donations from verified
18 registered voters of this State is equal to the minimum
19 number of signatures required for a candidate petition for
20 a statewide office under subsection (a) of Section 7-10 of
21 this Code.

22 (2) For a candidate for the State Senate, the minimum
23 number of qualifying donations from verified registered
24 voters of this State is equal to the minimum number of
25 signatures required for a candidate petition for a State
26 Senator under Section 8-8 of this Code.

1 (3) For a candidate for the State House of
2 Representatives, the minimum number of qualifying
3 donations from verified registered voters of this State is
4 equal to the minimum number of signatures required for a
5 candidate petition for a Representative in the General
6 Assembly under Section 8-8 of this Code.

7 A payment, gift, or anything of value may not be given in
8 exchange for a qualifying contribution. A candidate may pay the
9 fee for a money order in the amount of \$5, which is a
10 qualifying contribution, as long as the donor making the
11 qualifying contribution pays the \$5 amount reflected on the
12 money order. Any money order fees paid by a participating
13 candidate must be paid for with seed money and reported in
14 accordance with State Board rules.

15 (d) A participating candidate must submit qualifying
16 contributions to the State Board during the qualifying period
17 according to procedures developed by the State Board, except as
18 provided under subsection (1) of this Section.

19 (e) Upon receipt of a final submittal of qualifying
20 contributions by a participating candidate, the State Board
21 shall determine whether or not the candidate has:

22 (1) Signed and filed a declaration of intent to
23 participate in this Act.

24 (2) Submitted the appropriate number of valid
25 qualifying contributions.

26 (3) Qualified as a candidate by petition or other

1 means.

2 (4) Not accepted contributions, except for seed money
3 contributions, and otherwise complied with seed money
4 restrictions.

5 (5) Not run for the same office as a nonparticipating
6 candidate in a primary election in the same election year.

7 (6) Otherwise met the requirements for participation
8 in this Act.

9 The State Board shall certify a candidate complying with
10 the requirements of this Section as an Illinois Clean Elections
11 Act candidate as soon as possible and no later than 3 business
12 days after final submittal of qualifying contributions. Upon
13 certification, a candidate must transfer to the Fund any
14 unspent seed money contributions. A certified candidate must
15 comply with all requirements of this Act after certification
16 and throughout the primary and general election periods.
17 Failure to do so is a violation of this Act.

18 (f) After certification, a candidate must limit the
19 candidate's campaign expenditures and obligations, including
20 outstanding obligations, to the revenues distributed to the
21 candidate from the Fund and may not accept any contributions
22 unless specifically authorized by the State Board. Candidates
23 may also accept and spend interest earned on bank accounts. All
24 revenues distributed to a certified candidate from the Fund
25 must be used for campaign-related purposes. The candidate, the
26 treasurer, the candidate's political committee, or any agent of

1 the candidate and committee may not use these revenues for any
2 but campaign-related purposes. The State Board shall publish
3 guidelines outlining permissible campaign-related
4 expenditures.

5 (g) The State Board shall distribute to certified
6 candidates revenues from the Fund in amounts determined under
7 subsection (h) in the following manner.

8 (1) Within 3 days after certification, for candidates
9 certified prior to March 15th of the election year,
10 revenues from the Fund must be distributed as if the
11 candidates are in an uncontested primary election.

12 (2) Within 3 days after certification, for all
13 candidates certified between March 15th and April 15th of
14 the election year, revenues from the Fund must be
15 distributed according to whether the candidate is in a
16 contested or uncontested primary election.

17 (3) For candidates in contested primary elections
18 receiving a distribution under paragraph (1) of this
19 subsection, additional revenues from the fund must be
20 distributed within 3 days of March 15th after the election
21 year.

22 (4) Within 3 days after the primary election results
23 are certified, for general election certified candidates,
24 revenues from the Fund must be distributed according to
25 whether the candidate is in a contested or uncontested
26 general election.

1 Funds may be distributed to certified candidates under this
2 Section by any mechanism that is expeditious, ensures
3 accountability, and safeguards the integrity of the Fund.

4 (h) The candidate or committee shall deposit all revenues
5 from the Fund in a campaign account with a bank or other
6 financial institution. The campaign funds must be segregated
7 from, and may not be commingled with, any other funds.

8 (i) By July 1, 2018 and at least every 4 years after that
9 date, the State Board shall determine the amount of funds to be
10 distributed to participating candidates based on the type of
11 election and office as follows:

12 (1) For contested legislative primary elections, the
13 amount of revenues to be distributed is the average amount
14 of campaign expenditures made by each candidate during all
15 contested primary election races for the immediately
16 preceding 2 primary elections, as reported in the initial
17 filing period subsequent to the primary election, for the
18 respective offices of State Senate and State House of
19 Representatives.

20 (2) For uncontested legislative primary elections, the
21 amount of revenues distributed is the average amount of
22 campaign expenditures made by each candidate during all
23 uncontested primary election races for the immediately
24 preceding 2 primary elections, as reported in the initial
25 filing period subsequent to the primary election, for the
26 respective offices of State Senate and State House of

1 Representatives.

2 (3) For contested legislative general elections, the
3 amount of revenues distributed is the average amount of
4 campaign expenditures made by each candidate during all
5 contested general election races for the immediately
6 preceding 2 general elections, as reported in the initial
7 filing period subsequent to the general election, for the
8 respective offices of State Senate and State House of
9 Representatives.

10 (4) For uncontested legislative general elections, the
11 amount of revenues to be distributed from the Fund is 40%
12 of the amount distributed to a participating candidate in a
13 contested general election.

14 (5) For gubernatorial primary elections, the amount of
15 revenues distributed is \$2,000,000 per candidate in the
16 primary election.

17 (6) For gubernatorial general elections, the amount of
18 revenues distributed is \$4,000,000 per candidate in the
19 general election.

20 (7) For contested primary elections for Attorney
21 General the amount of revenues distributed per candidate is
22 \$500,000 per candidate.

23 (8) For the general election for Attorney General, the
24 amount of funds distributed per candidate is \$2,000,000.

25 (9) For primary elections for Secretary of State the
26 amount of revenues distributed per candidate is \$500,000

1 per candidate.

2 (10) For the general election for Secretary of State,
3 the amount of funds distributed per candidate is
4 \$2,000,000.

5 (11) For contested primary elections for State
6 Treasurer, the amount of revenues distributed per
7 candidate is \$200,000.

8 (12) For the general election for State Treasurer, the
9 amount of funds distributed per candidate is \$800,000.

10 (13) For contested primary elections for State
11 Comptroller, the amount of revenues distributed per
12 candidate is \$200,000.

13 (14) For the general election for State Comptroller,
14 the amount of funds distributed per candidate is \$800,000.

15 (15) For any uncontested primary or general election
16 for the office of Governor, Attorney General, Secretary of
17 State, State Treasurer, or Comptroller, the amount of funds
18 distributed shall be 40% of those otherwise distributed in
19 a contested primary or general election.

20 If the immediately preceding election cycles do not contain
21 sufficient electoral data, the State Board shall use
22 information from the most recent applicable elections.

23 (j) When any campaign, finance, or election report shows
24 that the sum of a candidate's expenditures or obligations, or
25 funds raised or borrowed, whichever is greater, alone or in
26 conjunction with independent reported expenditures, exceeds

1 the distribution amount under subsection (h) of this Section,
2 the State Board shall issue immediately to any opposing
3 Illinois Clean Elections Act candidate an additional amount
4 equivalent to the reported excess. Matching funds are limited
5 to 2 times the amount originally distributed under paragraph
6 (1), (3), (5), or (6) of subsection (h) of this Section,
7 whichever is applicable.

8 (k) An unenrolled candidate certified by January 15th
9 preceding the primary election is eligible for revenues from
10 the Fund in the same amounts and at the same time as an
11 uncontested primary election candidate and a general election
12 candidate as specified in subsections (g) and (h) of this
13 Section. For an unenrolled candidate not certified by January
14 15th at 5:00 p.m. the deadline for filing qualifying
15 contributions is 5:00 p.m. on June 2nd preceding the general
16 election. An unenrolled candidate certified after January 15th
17 at 5:00 p.m. is eligible for revenues from the Fund in the same
18 amounts as a general election candidate, as specified in
19 subsections (g) and (h) of this Section.

20 (l) The State Board shall establish by rule procedures for
21 qualification, certification, disbursement of Fund revenues,
22 and return of unspent Fund revenues for races involving special
23 elections, recounts, vacancies, withdrawals, or replacement
24 candidates.

25 (m) Notwithstanding any other provision of law,
26 participating and certified candidates shall report any money

1 collected, all campaign expenditures, obligations, and related
2 activities to the State Board according to procedures developed
3 by the State Board. Upon the filing of a final report for any
4 primary election in which the candidate was defeated and for
5 all general elections that candidate shall return all unspent
6 Fund revenues to the State Board. In developing these
7 procedures, the State Board shall utilize existing campaign
8 reporting procedures whenever practicable. The State Board
9 shall ensure timely public access to campaign finance data and
10 may utilize electronic means of reporting and storing
11 information.

12 (n) The treasurer shall obtain and keep:

13 (1) Bank or other account statements for the campaign
14 account covering the duration of the campaign.

15 (2) A vendor invoice stating the particular goods or
16 services purchased for every expenditure of \$50 or more.

17 (3) A record proving that a vendor received payment for
18 every expenditure of \$50 or more in the form of a cancelled
19 check, receipt from the vendor, or bank or credit card
20 statement identifying the vendor as the payee.

21 The treasurer shall preserve the records for 2 years
22 following the candidate's final campaign finance report for the
23 election cycle. The candidate and treasurer shall submit
24 photocopies of the records to the State Board upon its request.

25 (o) The State Board may not distribute revenues to
26 certified candidates in excess of the total amount of money

1 deposited into the Fund as set forth in Section 15.
2 Notwithstanding any other provisions of this Act, if the State
3 Board determines that the revenues in the Fund are insufficient
4 to meet distributions under subsections (h) or (i) of this
5 Section, the State Board may permit certified candidates to
6 accept and spend contributions, reduced by any seed money
7 contributions, aggregating no more than \$500 per donor per
8 election for gubernatorial candidates and \$250 per donor per
9 election for State Senate and State House candidates, up to the
10 applicable amounts set forth in subsections (h) and (i) of this
11 Section according to rules adopted by the State Board.

12 (p) A candidate who has been denied certification as an
13 Illinois Clean Elections Act candidate, the opponent of a
14 candidate who has been granted certification as an Illinois
15 Clean Elections Act candidate, or other interested persons may
16 challenge a certification decision by the State Board as
17 follows:

18 (1) A challenger may appeal to the full State Board
19 within 7 days after the certification decision. The appeal
20 must be in writing and must set forth the reasons for the
21 appeal.

22 (2) Within 5 days after an appeal is properly made and
23 after notice is given to the challenger and any opponent,
24 the State Board shall hold a hearing. The appellant has the
25 burden of providing evidence to demonstrate that the State
26 Board decision was improper. The State Board must rule on

1 the appeal within 3 days after the completion of the
2 hearing.

3 (3) A challenger may appeal the decision of the State
4 Board in paragraph (2) of this subsection by commencing an
5 action in circuit court.

6 (4) A candidate whose certification by the State Board
7 as an Illinois Clean Elections Act candidate is revoked on
8 appeal must return to the State Board any unspent revenues
9 distributed from the Fund.

10 If the State Board or court finds that an appeal was made
11 frivolously or to cause delay or hardship, the State Board or
12 court may require the moving party to pay costs of the State
13 Board, court, and opposing parties, if any.

14 Section 25. Rules. The State Board shall adopt rules to
15 ensure effective administration of this Act. These rules must
16 include but must not be limited to procedures for obtaining
17 qualifying contributions, certification as an Illinois Clean
18 Elections Act candidate, circumstances involving special
19 elections, vacancies, recounts, withdrawals or replacements,
20 collection of revenues for the Fund, distribution of Fund
21 revenue to certified candidates, return of unspent Fund
22 disbursements, disposition of equipment purchased with Clean
23 Elections Funds, and compliance with this Act.

24 Section 30. Violations.

1 (a) In addition to any other penalties that may be
2 applicable, a person who violates any provision of this Act or
3 rules of the State Board adopted pursuant to Section 25 of this
4 Act is subject to a fine not to exceed \$10,000 per violation
5 payable to the Fund. The State Board may assess a fine of up to
6 \$10,000 for a violation of reporting requirements if it
7 determines that the failure to file a timely and accurate
8 report resulted in the late payment of matching funds. This
9 fine is recoverable in a civil action. In addition to any fine,
10 for good cause shown, a candidate, treasurer, consultant, or
11 other agent of the candidate or the committee authorized by the
12 candidate found in violation of this Act or rules of the State
13 Board may be required to return to the Fund all amounts
14 distributed to the candidate from the Fund or any funds not
15 used for campaign-related purposes. If the State Board makes a
16 determination that a violation of this Act or rules of the
17 State Board has occurred, the State Board shall assess a fine
18 or transmit the finding to the Attorney General for
19 prosecution. Fines paid under this Section must be deposited
20 into the Fund. In determining whether or not a candidate is in
21 violation of the expenditure limits of this Act, the State
22 Board may consider as a mitigating factor any circumstances out
23 of the candidate's control.

24 (b) A person who willfully or knowingly violates this Act
25 or rules of the State Board or who willfully or knowingly makes
26 a false statement in any report required by this Act commits a

1 business offense punishable by a fine of at least \$1,001 and
2 not more than \$5,000 and, if certified as an Illinois Clean
3 Elections Act candidate, must return to the Fund all amounts
4 distributed to the candidate.

5 Section 35. Study report. By January 30, 2019 and every 4
6 years after that date, the State Board shall prepare for the
7 General Assembly a report documenting, evaluating, and making
8 recommendations relating to the administration,
9 implementation, and enforcement of this Act and the Illinois
10 Clean Elections Fund.

11 Section 90. The State Finance Act is amended by adding
12 Section 5.878 as follows:

13 (30 ILCS 105/5.878 new)

14 Sec. 5.878. The Illinois Clean Elections Fund.

15 Section 95. The Illinois Income Tax Act is amended by
16 adding Section 507GGG as follows:

17 (35 ILCS 5/507GGG new)

18 Sec. 507GGG. The Illinois Clean Elections Fund checkoff.
19 For taxable years ending on or after December 31, 2017, the
20 Department must print on its standard individual income tax
21 form a provision indicating that if the taxpayer wishes to

1 contribute to the Illinois Clean Elections Fund, as authorized
2 by the Illinois Clean Elections Act, he or she may do so by
3 stating the amount of the contribution (not less than \$3) on
4 the return and that the contribution will reduce the taxpayer's
5 refund or increase the amount of payment to accompany the
6 return. Failure to remit any amount of increased payment shall
7 reduce the contribution accordingly. This Section does not
8 apply to any amended return.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.