

HB0733



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0733

Introduced 2/6/2009, by Rep. Mike Boland

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.719 new
35 ILCS 5/507SS new

Creates the Illinois Clean Election Act. Establishes a voluntary method of public financing of the campaigns of candidates for Governor, State Senator, and State Representative. Amends the State Finance Act to create the Illinois Clean Election 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.

LRB096 03993 JAM 14029 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 Election Act.

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

7 "Certified candidate" means a candidate running for
8 Governor, State Senator, or State Representative who chooses to
9 participate in this Act and who is certified as an Illinois
10 Clean Election Act candidate under Section 20, subsection (e).

11 "Contribution" has the same meaning as in Article 9 of the
12 Election Code.

13 "Fund" means the Illinois Clean Election Fund established
14 in Section 15.

15 "Nonparticipating candidate" means a candidate running for
16 Governor, State Senator, or State Representative who does not
17 choose to participate in this Act and who is not seeking to be
18 certified as an Illinois Clean Election Act candidate.

19 "Participating candidate" means a candidate who is running
20 for Governor, State Senator, or State Representative who is
21 seeking to be certified as an Illinois Clean Election Act
22 candidate.

23 "Qualifying contribution" means a donation:

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

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

5 (3) Made during the designated qualifying period and
6 obtained with the knowledge and approval of the candidate;
7 and

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

11 "Qualifying period" means the following:

12 (1) For a gubernatorial participating candidate, the
13 qualifying period begins November 1st immediately
14 preceding the election year and ends at 5:00 p.m. on April
15 15th of the election year unless the candidate is
16 unenrolled, in which case the period ends at 5:00 p.m. on
17 June 2nd of the election year.

18 (2) For State Senate or State House of Representatives
19 participating candidates, the qualifying period begins
20 January 1st of the election year and ends at 5:00 p.m. on
21 April 15th of that election year unless the candidate is
22 unenrolled, in which case the period ends at 5:00 p.m. on
23 June 2nd of the election year.

24 "Seed money contribution" means a contribution of no more
25 than \$100 per individual made to a candidate, including a
26 contribution from the candidate or the candidate's family. To

1 be eligible for certification, a candidate may collect and
2 spend only seed money contributions subsequent to becoming a
3 candidate as defined by Article 9 of the Election Code and
4 throughout the qualifying period. A participating candidate
5 who has accepted contributions or made expenditures that do not
6 comply with the seed money restrictions under this Act may
7 petition the State Board to remain eligible for certification
8 as an Illinois Clean Election Act candidate in accordance with
9 rules of the State Board, if the failure to comply was
10 unintentional and does not constitute a significant infraction
11 of these restrictions. Prior to certification, a candidate may
12 obligate an amount greater than the seed money collected if the
13 value of the goods and services received from a vendor does not
14 exceed the amount paid to the vendor. A candidate may not
15 collect or spend seed money contributions after certification
16 as an Illinois Clean Election Act candidate. A seed money
17 contribution must be reported according to procedures
18 developed by the State Board.

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

20 Section 10. Alternative campaign financing option. This
21 Act establishes an alternative campaign financing option
22 available to candidates running for Governor, State Senator,
23 and State Representative. This alternative campaign financing
24 option is available to candidates for elections to be held
25 beginning in the year 2008. The State Board shall administer

1 this Act and the Fund. Candidates participating in this Act
2 must also comply with all other applicable election and
3 campaign laws and regulations.

4 Section 15. The Illinois Clean Election Fund established;
5 sources of funding.

6 (a) The Illinois Clean Election Fund is established as a
7 special fund in the State treasury to finance the election
8 campaigns of certified Illinois Clean Election Act candidates
9 running for Governor, State Senator, and State Representative
10 and to pay administrative and enforcement costs of the State
11 Board related to this Act. Any interest generated by the Fund
12 is credited to the Fund. The State Board shall administer the
13 Fund.

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

15 (1) The qualifying contributions required under
16 Section 20 when those contributions are submitted to the
17 State Board.

18 (2) Up to \$2,000,000 transferred from the General
19 Revenue Fund no later than February 1, 2009.

20 (3) Revenue from a tax checkoff program allowing a
21 resident of the State who files a tax return with the
22 Department of Revenue to designate that \$3 be paid into the
23 Fund. If a husband and wife file a joint return, each
24 spouse may designate that \$3 be paid. The Department of
25 Revenue shall report annually the amounts designated for

1 the Fund to the State Treasurer, who shall transfer that
2 amount to the Fund.

3 (4) Seed money contributions remaining unspent after a
4 candidate has been certified as an Illinois Clean Election
5 Act candidate.

6 (5) Fund revenues that were distributed to an Illinois
7 Clean Election Act candidate and that remain unspent after
8 the candidate has lost a primary election or after all
9 general elections.

10 (6) Other unspent Fund revenues distributed to any
11 Illinois Clean Election Act candidate who does not remain a
12 candidate throughout a primary or general election cycle.

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

14 (8) Fines collected under this Act.

15 (c) By September 1st preceding each election year, the
16 State Board shall publish an estimate of revenue in the Fund
17 available for distribution to certified candidates during the
18 upcoming year's elections and an estimate of the likely demand
19 for clean elections funding during that election. The State
20 Board may submit legislation to request additional funding.

21 Section 20. Terms of participation.

22 (a) A participating candidate must file a declaration of
23 intent to seek certification as an Illinois Clean Election Act
24 candidate and to comply with the requirements of this Act. The
25 declaration of intent must be filed with the State Board prior

1 to or during the qualifying period, except as provided in
2 subsection (1), according to forms and procedures developed by
3 the State Board. A participating candidate must submit a
4 declaration of intent within 5 business days after collecting
5 qualifying contributions under this Act or the qualifying
6 contributions collected before the declaration of intent has
7 been filed will not be counted toward the eligibility
8 requirement in subsection (c).

9 (b) Subsequent to becoming a candidate defined by and prior
10 to certification, a participating candidate may not accept
11 contributions, except for seed money contributions. A
12 participating candidate must limit the candidate's seed money
13 contributions to the following amounts:

14 (1) \$50,000 for a gubernatorial candidate.

15 (2) \$1,500 for a candidate for the State Senate.

16 (3) \$500 for a candidate for the State House of
17 Representatives.

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

20 (c) Participating candidates must obtain qualifying
21 contributions during the qualifying period as follows:

22 (1) For a gubernatorial candidate, at least 2,500
23 verified registered voters of this State must support the
24 candidacy by providing a qualifying contribution to that
25 candidate.

26 (2) For a candidate for the State Senate, at least 150

1 verified registered voters from the candidate's district
2 must support the candidacy by providing a qualifying
3 contribution to that candidate.

4 (3) For a candidate for the State House of
5 Representatives, at least 50 verified registered voters
6 from the candidate's district must support the candidacy by
7 providing a qualifying contribution to that candidate.

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

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

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

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

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

1 (3) Qualified as a candidate by petition or other
2 means.

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

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

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

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

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

1 treasurer, the candidate's political committee, or any agent of
2 the candidate and committee may not use these revenues for any
3 but campaign-related purposes. The State Board shall publish
4 guidelines outlining permissible campaign-related
5 expenditures.

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

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

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

18 (3) For candidates in contested primary elections
19 receiving a distribution under paragraph (1), additional
20 revenues from the fund must be distributed within 3 days of
21 March 15th after the election 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, 2009 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 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), the State Board
2 shall issue immediately to any opposing Illinois Clean Election
3 Act candidate an additional amount equivalent to the reported
4 excess. Matching funds are limited to 2 times the amount
5 originally distributed under subsection (h), paragraph (1),
6 (3), (5), or (6), whichever is applicable.

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

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

23 (m) Notwithstanding any other provision of law,
24 participating and certified candidates shall report any money
25 collected, all campaign expenditures, obligations, and related
26 activities to the State Board according to procedures developed

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

10 (n) The treasurer shall obtain and keep:

11 (1) Bank or other account statements for the campaign
12 account covering the duration of the campaign.

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

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

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

23 (o) The State Board may not distribute revenues to
24 certified candidates in excess of the total amount of money
25 deposited into the Fund as set forth in Section 15.
26 Notwithstanding any other provisions of this Act, if the State

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

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

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

20 (2) Within 5 days after an appeal is properly made and
21 after notice is given to the challenger and any opponent,
22 the State Board shall hold a hearing. The appellant has the
23 burden of providing evidence to demonstrate that the State
24 Board decision was improper. The State Board must rule on
25 the appeal within 3 days after the completion of the
26 hearing.

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

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

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

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

22 Section 30. Violations.

23 (a) In addition to any other penalties that may be
24 applicable, a person who violates any provision of this Act or

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

22 (b) A person who willfully or knowingly violates this Act
23 or rules of the State Board or who willfully or knowingly makes
24 a false statement in any report required by this Act commits a
25 business offense punishable by a fine of at least \$1,001 and
26 not more than \$5,000 and, if certified as an Illinois Clean

1 Election Act candidate, must return to the Fund all amounts
2 distributed to the candidate.

3 Section 35. Study report. By January 30, 2011 and every 4
4 years after that date, the State Board shall prepare for the
5 General Assembly a report documenting, evaluating, and making
6 recommendations relating to the administration,
7 implementation, and enforcement of this Act and the Illinois
8 Clean Election Fund.

9 Section 90. The State Finance Act is amended by adding
10 Section 5.719 as follows:

11 (30 ILCS 105/5.719 new)

12 Sec. 5.719. Illinois Clean Election Fund.

13 Section 95. The Illinois Income Tax Act is amended by
14 adding Section 507SS as follows:

15 (35 ILCS 5/507SS new)

16 Sec. 507SS. The Illinois Clean Election Fund checkoff. For
17 taxable years ending on or after December 31, 2009, the
18 Department must print on its standard individual income tax
19 form a provision indicating that if the taxpayer wishes to
20 contribute to the Illinois Clean Election Fund, as authorized
21 by the Illinois Clean Election Act, he or she may do so by

1 stating the amount of the contribution (not less than \$3) on
2 the return and that the contribution will reduce the taxpayer's
3 refund or increase the amount of payment to accompany the
4 return. Failure to remit any amount of increased payment shall
5 reduce the contribution accordingly. This Section does not
6 apply to any amended return.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.