

SB1607



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1607

Introduced 2/13/2013, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.826 new
35 ILCS 5/507DDD 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.

LRB098 09773 HLH 39924 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, Lieutenant Governor, Secretary of State, Attorney
9 General, State Treasurer, State Comptroller, State Senator, or
10 State Representative, in a primary election, and Governor,
11 Secretary 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 Section 20, subsection (e).

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.

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

1 Secretary 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, Lieutenant Governor, Secretary of State,
8 Attorney General, State Treasurer, State Comptroller, State
9 Senator, or State Representative, in a primary election, and
10 Governor, Secretary of State, Attorney General, State
11 Treasurer, State Comptroller, State Senator, or State
12 Representative, in a general election who is seeking to be
13 certified as an Illinois 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 Lieutenant Governor, Secretary of State, Attorney General,
2 State Treasurer, or State Comptroller, the qualifying
3 period begins November 1st immediately preceding the
4 election year and ends at 5:00 p.m. on April 15th of the
5 election year unless the candidate is unenrolled, in which
6 case the period ends at 5:00 p.m. on June 2nd of the
7 election year.

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

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

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

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

9 Section 10. Alternative campaign financing option. This
10 Act establishes an alternative campaign financing option
11 available to candidates running for Governor, Lieutenant
12 Governor, Secretary of State, Attorney General, State
13 Treasurer, State Comptroller, State Senator, and State
14 Representative. This alternative campaign financing option is
15 available to candidates for elections to be held beginning in
16 the year 2014. The State Board shall Administer this Act and
17 the Fund. Candidates participating in this Act must also comply
18 with all other applicable election and campaign laws and
19 regulations.

20 Section 15. The Illinois Clean Elections Fund established;
21 sources of funding.

22 (a) The Illinois Clean Elections Fund is established as a
23 special fund in the State treasury to finance the election
24 campaigns of certified Illinois Clean Elections Act candidates

1 running for Governor, Lieutenant Governor, Attorney General,
2 Secretary of State, State Treasurer, State Comptroller, State
3 Senator, and State Representative and to pay administrative and
4 enforcement costs of the State Board related to this Act. Any
5 interest generated by the Fund is credited to the Fund. The
6 State Board shall administer the Fund.

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

8 (1) The qualifying contributions required under
9 Section 20 when those contributions are submitted to the
10 State Board.

11 (2) \$40,000,000 of the revenues from the taxes imposed
12 by the Illinois Income Tax Act and credited to the General
13 Revenue Fund, transferred to the Fund by the State
14 Treasurer on or before January 1st of each year, beginning
15 January 1, 2014. These revenues must be offset in an
16 equitable manner by an equivalent reduction within the
17 administrative divisions of the legislative branch and
18 executive branch agencies. If the State Board determines
19 that the Fund will not have sufficient revenues to cover
20 the likely demand for funds from the Illinois Clean
21 Elections Fund in an upcoming calendar year, by January 1st
22 the State Board shall provide a report of its projections
23 of the balances in the Illinois Clean Elections Fund to the
24 General Assembly and the Governor and may request that the
25 State Treasurer make the following transfers to the
26 Illinois Clean Elections Fund from the General Revenue

1 Fund:

2 (A) Up to \$20,000,000 no later than February 28,
3 2014, reflecting an advance of the transfer of the
4 amounts that would be received on or before January 1,
5 2015 pursuant to this paragraph.

6 (B) Up to \$15,000,000 no later than July 31, 2014,
7 pursuant to this paragraph reflecting an advance of the
8 transfer of the amounts that would be received on or
9 before January 1, 2016 pursuant to this paragraph.

10 (C) Up to \$5,000,000 no later than September 1,
11 2016, reflecting a partial advance of the transfer of
12 the amounts that would be received on or before January
13 1, 2015 pursuant to this paragraph.

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

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

25 (5) Fund revenues that were distributed to an Illinois
26 Clean Elections Act candidate and that remain unspent after

1 the candidate has lost a primary election or after all
2 general elections.

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

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

7 (8) Fines collected under this Act.

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

14 Section 20. Terms of participation.

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

1 requirement in subsection (c).

2 (b) Subsequent to becoming a candidate defined by and prior
3 to certification, a participating candidate may not accept
4 contributions, except for seed money contributions. A
5 participating candidate must limit the candidate's seed money
6 contributions to the following amounts:

7 (1) \$50,000 for a gubernatorial candidate.

8 (2) \$25,000 for a candidate for Lieutenant Governor,
9 Secretary of State, Attorney General, State Treasurer, or
10 State Comptroller.

11 (3) \$10,000 for a candidate for the State Senate.

12 (4) \$5,000 for a candidate for the State House of
13 Representatives.

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

16 (c) Participating candidates must obtain qualifying
17 contributions during the qualifying period as follows:

18 (1) For a gubernatorial candidate, at least 2,500
19 verified registered voters of this State must support the
20 candidacy by providing a qualifying contribution to that
21 candidate.

22 (2) For a candidate for Lieutenant Governor, Secretary
23 of State, Attorney General, State Treasurer, or State
24 Comptroller, at least 5,000 verified registered voters of
25 this State must support the candidacy by providing a
26 qualifying contribution to that candidate.

1 (3) For a candidate for the State Senate, at least
2 2,000 verified registered voters from the candidate's
3 district must support the candidacy by providing a
4 qualifying contribution to that candidate.

5 (4) For a candidate for the State House of
6 Representatives, at least 1,000 verified registered voters
7 from the candidate's district must support the candidacy by
8 providing a qualifying contribution to that candidate.

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

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

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

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

26 (2) Submitted the appropriate number of valid

1 qualifying contributions.

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

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

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

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

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

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

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

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

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

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

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

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

1 general election.

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

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

9 (i) By July 1, 2014 and at least every 4 years after that
10 date, the State Board shall determine the amount of funds to be
11 distributed to participating candidates based on the type of
12 election and office as follows:

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

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

1 respective offices of State Senate and State House of
2 Representatives.

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

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

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

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

21 (7) For contested primary elections for Lieutenant
22 Governor, the amount of revenues distributed is \$500,000
23 per candidate in the primary election. No funds shall be
24 distributed for the general election.

25 (8) For contested primary elections for Attorney
26 General the amount of revenues distributed per candidate is

1 \$500,000 per candidate.

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

4 (10) For primary elections for Secretary of State the
5 amount of revenues distributed per candidate is \$500,000
6 per candidate.

7 (11) For the general election for Secretary of State,
8 the amount of funds distributed per candidate is
9 \$2,000,000.

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

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

15 (14) For contested primary elections for State
16 Comptroller, the amount of revenues distributed per
17 candidate is \$200,000.

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

20 (16) For any uncontested primary or general election
21 for the office of Governor, Lieutenant Governor, Attorney
22 General, Secretary of State, State Treasurer, or
23 Comptroller, the amount of funds distributed shall be 40%
24 of those otherwise distributed in a contested primary or
25 general election.

26 If the immediately preceding election cycles do not contain

1 sufficient electoral data, the State Board shall use
2 information from the most recent applicable elections.

3 (j) When any campaign, finance, or election report shows
4 that the sum of a candidate's expenditures or obligations, or
5 funds raised or borrowed, whichever is greater, alone or in
6 conjunction with independent reported expenditures, exceeds
7 the distribution amount under subsection (h), the State Board
8 shall issue immediately to any opposing Illinois Clean
9 Elections Act candidate an additional amount equivalent to the
10 reported excess. Matching funds are limited to 2 times the
11 amount originally distributed under subsection (h), paragraph
12 (1), (3), (5), or (6), whichever is applicable.

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

24 (l) The State Board shall establish by rule procedures for
25 qualification, certification, disbursement of Fund revenues,
26 and return of unspent Fund revenues for races involving special

1 elections, recounts, vacancies, withdrawals, or replacement
2 candidates.

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

16 (n) The treasurer shall obtain and keep:

17 (1) Bank or other account statements for the campaign
18 account covering the duration of the campaign.

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

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

25 The treasurer shall preserve the records for 2 years
26 following the candidate's final campaign finance report for the

1 election cycle. The candidate and treasurer shall submit
2 photocopies of the records to the State Board upon its request.

3 (o) The State Board may not distribute revenues to
4 certified candidates in excess of the total amount of money
5 deposited into the Fund as set forth in Section 15.
6 Notwithstanding any other provisions of this Act, if the State
7 Board determines that the revenues in the Fund are insufficient
8 to meet distributions under subsections (h) or (i), the State
9 Board may permit certified candidates to accept and spend
10 contributions, reduced by any seed money contributions,
11 aggregating no more than \$500 per donor per election for
12 gubernatorial candidates and \$250 per donor per election for
13 State Senate and State House candidates, up to the applicable
14 amounts set forth in subsections (h) and (i) according to rules
15 adopted by the State Board.

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

22 (1) A challenger may appeal to the full State Board
23 within 7 days after the certification decision. The appeal
24 must be in writing and must set forth the reasons for the
25 appeal.

26 (2) Within 5 days after an appeal is properly made and

1 after notice is given to the challenger and any opponent,
2 the State Board shall hold a hearing. The appellant has the
3 burden of providing evidence to demonstrate that the State
4 Board decision was improper. The State Board must rule on
5 the appeal within 3 days after the completion of the
6 hearing.

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

10 (4) A candidate whose certification by the State Board
11 as an Illinois Clean Elections Act candidate is revoked on
12 appeal must return to the State Board any unspent revenues
13 distributed from the Fund.

14 If the State Board or court finds that an appeal was made
15 frivolously or to cause delay or hardship, the State Board or
16 court may require the moving party to pay costs of the State
17 Board, court, and opposing parties, if any.

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

1 disbursements, disposition of equipment purchased with Clean
2 Elections Funds, and compliance with this Act.

3 Section 30. Violations.

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

1 of the candidate's control.

2 (b) A person who willfully or knowingly violates this Act
3 or rules of the State Board or who willfully or knowingly makes
4 a false statement in any report required by this Act commits a
5 business offense punishable by a fine of at least \$1,001 and
6 not more than \$5,000 and, if certified as an Illinois Clean
7 Elections Act candidate, must return to the Fund all amounts
8 distributed to the candidate.

9 Section 35. Study report. By January 30, 2015 and every 4
10 years after that date, the State Board shall prepare for the
11 General Assembly a report documenting, evaluating, and making
12 recommendations relating to the administration,
13 implementation, and enforcement of this Act and the Illinois
14 Clean Elections Fund.

15 Section 90. The State Finance Act is amended by adding
16 Section 5.826 as follows:

17 (30 ILCS 105/5.826 new)

18 Sec. 5.826. The Illinois Clean Elections Fund.

19 Section 95. The Illinois Income Tax Act is amended by
20 adding Section 507DDD as follows:

21 (35 ILCS 5/507DDD new)

1 Sec. 507DDD. The Illinois Clean Elections Fund checkoff.
2 For taxable years ending on or after December 31, 2013, the
3 Department must print on its standard individual income tax
4 form a provision indicating that if the taxpayer wishes to
5 contribute to the Illinois Clean Elections Fund, as authorized
6 by the Illinois Clean Elections Act, he or she may do so by
7 stating the amount of the contribution (not less than \$3) on
8 the return and that the contribution will reduce the taxpayer's
9 refund or increase the amount of payment to accompany the
10 return. Failure to remit any amount of increased payment shall
11 reduce the contribution accordingly. This Section does not
12 apply to any amended return.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.