

  
Councilmember Charles Allen

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A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to set a minimum value for a qualified small-dollar contribution that can be matched under the Fair Elections Program, to clarify the definition of “uncontested election”, to provide an additional reporting date on October 10 of the year preceding an election, to allow candidates seeking certification to file, on a rolling basis, for certification and receive any base amount and initial disbursement of matching payments to which the candidate is entitled, to clarify the requirements for information provided by contributors when contributing and the form for receipts or confirmations provided to contributors, to clarify the disbursement process, to provide guidance as to which non-participating candidates may participate in Fair Elections Program debates, and to clarify the process for donating campaign equipment to unaffiliated non-profit organizations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fair Elections Temporary Amendment Act of 2019”.

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

(1) Paragraph (47A) is amended by striking the phrase “a deposit of money” and inserting the phrase “a deposit of money, including in cash or in kind, with a value of \$5 or more” in its place.

37 (2) Paragraph (53) is amended by striking the phrase “candidate.” and inserting  
38 the phrase “candidate and no other candidate.” in its place.

39 (b) Section 309(b-1) (D.C. Official Code § 1-1163.09(b-1)) is amended as follows:

40 (1) Paragraph (1) is amended as follows:

41 “(1) In addition to the reports required by subsection (a) of this section, candidates  
42 seeking certification and participating candidates shall submit reports of qualified small-dollar  
43 contributions and contributions from non-District resident individuals that include the  
44 information required by section 332b(b) on the 10th day of the October preceding the date on  
45 which an election is held for the office sought and on such other dates as the Director of  
46 Campaign Finance shall establish by rulemaking.”.

47 (2) A new paragraph (3) is added to read as follows:

48 “(3) Candidates seeking certification may file for certification pursuant to section  
49 332c(a)(2) and receive the base amount and initial disbursement of matching payments to which  
50 they are eligible pursuant to sections 332d and 332e, respectively, on a rolling basis.”.

51 (c) Section 332b (D.C. Official Code § 1-1163.32b) is amended as follows:

52 (1) Subsection (b) is amended as follows:

53 (A) The lead-in language is amended by striking the phrase “physical or  
54 digital receipt to the contributor, with a copy to be retained by the candidate. The receipt” and  
55 inserting the phrase “physical or electronic confirmation or receipt, as the candidate prefers. The  
56 candidate shall retain the information in paragraphs (1) and (2) of this subsection. The  
57 confirmation or receipt to the candidate” in its place.

58 (B) Paragraph (1) is amended by striking the phrase “digital or physical  
59 signature, printed name, home address, telephone number,” and inserting the phrase “physical or

60 electronic signature or other indicia of identity (such as an affirmation checkbox), printed or  
61 typed name, address,” in its place.

62 (C) Paragraph (2) is amended by striking the phrase “A written and signed  
63 oath or affirmation declaring” and inserting the phrase “An indication, including by clicking a  
64 checkbox or button, that the contributor has sworn or affirmed” in its place.

65 (2) A new subsection (b-1) is added to read as follows:

66 “(b-1) Notwithstanding subsection (b)(2) of this section:

67 “(1) If a contributor agrees to make contributions to a candidate that recur  
68 automatically on a periodic basis, the contributor’s initial indication made pursuant to subsection  
69 (b)(2) of this section or paragraph (2) of this subsection is sufficient to indicate continuous  
70 assent, and the contributor need not provide an indication pursuant to subsection (b)(2) of this  
71 section for each recurring contribution.

72 “(2) If a contributor makes a contribution to a candidate over the phone, the  
73 indication required by subsection (b)(2) of this section may be provided by the contributor  
74 orally.”.

75 (d) Section 332c (D.C Official Code § 1-1163.32c) is amended as follows:

76 (1) Subsection (b) is amended as follows:

77 (A) The lead-in language is amended by striking the phrase “5 days” and  
78 inserting the phrase “10 business days” in its place.

79 (B) Paragraph (2)(B) is amended by striking the phrase “5 business days”  
80 and inserting the phrase “10 business days after the candidate receives the determination” in its  
81 place.

82                   (2) Subsection (d) is amended by striking the phrase “5 business days” and  
83 inserting the phrase “10 business days” in its place.

84                   (e) Section 332d (D.C. Official Code § 1-1163.32d) is amended as follows:

85                   (1) Subsection (a)(1) is amended to read as follows:

86                   “(a)(1)(A) Within 5 days after a participating candidate is certified under section  
87 332c(b), the Director of Campaign Finance shall direct the Office of the Chief Financial Officer  
88 to disburse to the participating candidate half of the base amount described in paragraph (2) of  
89 this subsection. The Office of the Chief Financial Officer shall disburse the funds within 5  
90 business days after receiving direction to do so from the Director of Campaign Finance.

91                   “(B) Within 5 days after the participating candidate qualifies for the ballot,  
92 the Director of Campaign Finance shall direct the Office of the Chief Financial Officer to  
93 disburse to the participating candidate the other half of the base amount described in paragraph  
94 (2) of this subsection. The Office of the Chief Financial Officer shall disburse the funds within 5  
95 business days after receiving direction to do so from the Director of Campaign Finance.”.

96                   (2) The lead-in language of subsection (b)(2) is amended to read as follows:

97                   “(2) If an uncontested election becomes a contested election after a participating  
98 candidate is certified under section 332c(b), the Director of Campaign Finance shall direct, no  
99 later than 5 days after the uncontested election becomes a contested election, the Office of the  
100 Chief Financial Officer to disburse to the participating candidate, and the Office of the Chief  
101 Financial Officer shall disburse, within 5 business days after receiving direction to do so from  
102 the Director of Campaign Finance.”.

103                   (f) Section 332e (D.C. Official Code § 1-1163.32e) is amended as follows:

104 (1) Subsection (a) is amended by striking the phrase “Qualified-small-dollar” and  
105 inserting the phrase “Qualified small-dollar” in its place.

106 (2) Subsection (e) is amended to read as follows:

107 “(e) Within 5 days after the receipt of a report made under section 309(a) and (b-1), the  
108 Director of Campaign Finance shall direct the Office of the Chief Financial Officer to disburse  
109 payments under this section. The Office of the Chief Financial Officer shall disburse the  
110 payments within 5 business days after receiving direction to do so from the Director of  
111 Campaign Finance.”.

112 (3) Subsection (f) is amended by striking the phrase “5 business days” and  
113 inserting the phrase “10 business days” in its place.

114 (g) Section 332f(d)(7) (D.C. Official Code § 1-1163.32f(d)(7)) is amended by striking  
115 the phrase “section 332k” and inserting the phrase “section 332l” in its place.

116 (h) Section 332g(a) (D.C. Official Code § 1-1163.32g(a)) is amended as follows:

117 (1) The existing text is designated as paragraph (1).

118 (2) A new paragraph (2) is added to read as follows:

119 “(2) Any candidate who has qualified for ballot access for a covered office listed  
120 in paragraph (1) of this subsection, in accordance with the procedures required by the Elections  
121 Board pursuant to section 8 of the Election Code, and who is not a participating candidate, may  
122 participate in a debate for that covered office held pursuant to this section.”.

123 (i) Section 332h (D.C. Official Code § 1-1163.32h) is amended as follows:

124 (1) The section heading is amended by striking the phrase “turning over  
125 equipment to the Office of Campaign Finance” and inserting the phrase “donating equipment” in  
126 its place.

127           (2) Subsection (a) is amended by striking the phrase “turn over any equipment  
128 purchased by the campaign to the Office of Campaign Finance.” both times it appears and  
129 inserting the phrase “donate any equipment purchased by the campaign to a non-profit  
130 organization, within the meaning of section 501(c)(3) of the Internal Revenue Code and  
131 operating in good standing in the District for a minimum of one calendar year before the date of  
132 any donation, that is unaffiliated with the candidate, the candidate’s immediate family, the  
133 principal campaign committee, the principal campaign committee chair and treasurer, the  
134 immediate family of the principal campaign committee chair and treasurer, and any board of  
135 directors or similar governing body on which the candidate, the candidate’s immediately family,  
136 or the principal campaign committee chair or treasurer, sits.” in its place.

137           (3) Subsection (b)(1) is amended by striking the phrase “turn over any equipment  
138 purchased by the campaign to the Office of Campaign Finance.” and inserting the phrase “donate  
139 any equipment purchased by the campaign to a non-profit organization, within the meaning of  
140 section 501(c)(3) of the Internal Revenue Code and operating in good standing in the District for  
141 a minimum of one calendar year before the date of any donation, that is unaffiliated with the  
142 candidate, the candidate’s immediate family, the principal campaign committee, the principal  
143 campaign committee chair and treasurer, the immediate family of the principal campaign  
144 committee chair and treasurer, and any board of directors or similar governing body on which the  
145 candidate, the candidate’s immediately family, or the principal campaign committee chair or  
146 treasurer, sits.” in its place.

147           (4) Subsection (d) is repealed.

148           (j) Section 332j(a)(1)(H) (D.C. Official Code § 1-1163.32j(a)(1)(H)) is amended by  
149 striking the phrase “funds of the” and inserting the phrase “funds that the” in its place.

150 (k) Section 3321(a)(2) (D.C. Official Code § 1-1163.321(a)(2)) is amended to read as  
151 follows:

152 “(2) Rules relating to the donation of equipment.”.

153 Sec. 3. Fiscal impact statement.

154 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact  
155 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
156 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

157 Sec. 4. Effective date.

158 (a) This act shall take effect following approval by the Mayor (or in the event of veto by  
159 the Mayor, action by the Council to override the veto), a 30-day period of congressional review  
160 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
161 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
162 Columbia Register.

163 (b) This act shall expire after 225 days of its having taken effect.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Office of the Budget Director**



Jennifer Budoff  
Budget Director

**FISCAL IMPACT STATEMENT**

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

**FROM:** Jennifer Budoff - Budget Director

**DATE:** May 7, 2019

**SHORT TITLE:** "Fair Elections Emergency Act of 2019"

**TYPE:** Emergency/Temporary

**REQUESTING OFFICE:** Councilmember Charles Allen

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**Conclusion**

This emergency/temporary does not have an impact on the District's budget or the financial plan, because there is no cost associated with implementing this legislation.

**Background**

This emergency/temporary makes the following clarifications to existing law<sup>1</sup>:

- Sets a minimum value of \$5 for qualified small-dollar contributions that can be matched under the Program;
- Defines an "uncontested election" as when one participating candidate is certified and no other candidate – whether or not they are participating in the Program – is running;
- Allows candidates seeking certification under the Program to file for certification and receive any base amount and initial disbursement of matching payments to which they are entitled on a rolling basis, rather than only on the reporting dates under existing law and the Office of Campaign Finance's rulemaking;
- Clarifies the requirements for the form of the receipt provided by a participating candidate to a contributor, in addition to the information provided by contributors when contributing;
- Extends the periods of time for the Office of Campaign Finance to process filings from candidates seeking certification under the Program, for those candidates to appeal determinations that the Program's certification requirements were not met or that their certification should be revoked, and for the disbursement process for base amounts and matching payments;

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<sup>1</sup> Fair Elections Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-94; 65 DCR 2847)



- Allows non-participating candidates who have qualified for ballot access to participate in Program debates; and
- Clarifies the process for donating campaign equipment to ensure that it is not donated to a non-profit organization affiliated with the candidate, their immediate family, or their campaign staff.

**Analysis of Impact on Spending**

This emergency/temporary has no impact on spending.

**Analysis of Impact on Revenue**


This emergency/temporary has no impact on revenue.



OFFICE OF THE GENERAL COUNSEL  
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**MEMORANDUM**

**TO:** Councilmember Charles Allen

**FROM:** Nicole L. Streeter, General Counsel 

**DATE:** May 6, 2019

**RE:** Legal sufficiency determination for Bill 23-XXX, the Fair Elections Temporary Amendment Act of 2019.

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The measure is legally and technically sufficient for Council consideration.

This bill would, on a temporary basis, amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to:

- Set a minimum value for a qualified small-dollar contribution that can be matched under the Fair Elections Program;
- Clarify the definition of "uncontested election";
- Allow candidates seeking certification to file, on a rolling basis, for certification and receive any base amount and initial disbursement of matching payments to which the candidate is entitled;
- Clarify the requirements for information provided by contributors when contributing and the form for receipts or confirmations provided to contributors;
- Clarify the disbursement process;
- Provide guidance as to which non-participating candidates may participate in Fair Elections Program debates; and
- Clarify the process for donating campaign equipment.

I am available if you have any questions.