



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2267

Introduced 2/18/2009, 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 statewide officials. 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 09678 JAM 19839 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, Lieutenant Governor, Attorney General, Secretary of
9 State, State Comptroller, or State Treasurer who chooses to
10 participate in this Act and who is certified as an Illinois
11 Clean Election Act candidate under Section 20, subsection (e).

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

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

16 "Nonparticipating candidate" means a candidate running for
17 Governor, Lieutenant Governor, Attorney General, Secretary of
18 State, State Comptroller, or State Treasurer who does not
19 choose to participate in this Act and who is not seeking to be
20 certified as an Illinois Clean Election Act candidate.

21 "Participating candidate" means a candidate who is running
22 for Governor, Lieutenant Governor, Attorney General, Secretary
23 of State, State Comptroller, or State Treasurer who is seeking

1 to be certified as an Illinois Clean Election Act candidate.

2 "Qualifying contribution" means a donation:

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

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

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

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

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

19 "Seed money contribution" means a contribution of no more
20 than \$100 per individual made to a candidate, including a
21 contribution from the candidate or the candidate's family. To
22 be eligible for certification, a candidate may collect and
23 spend only seed money contributions subsequent to becoming a
24 candidate as defined by Article 9 of the Election Code and
25 throughout the qualifying period. A participating candidate
26 who has accepted contributions or made expenditures that do not

1 comply with the seed money restrictions under this Act may
2 petition the State Board to remain eligible for certification
3 as an Illinois Clean Election Act candidate in accordance with
4 rules of the State Board, if the failure to comply was
5 unintentional and does not constitute a significant infraction
6 of these restrictions. Prior to certification, a candidate may
7 obligate an amount greater than the seed money collected if the
8 value of the goods and services received from a vendor does not
9 exceed the amount paid to the vendor. A candidate may not
10 collect or spend seed money contributions after certification
11 as an Illinois Clean Election Act candidate. A seed money
12 contribution must be reported according to procedures
13 developed by the State Board.

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

15 Section 10. Alternative campaign financing option. This
16 Act establishes an alternative campaign financing option
17 available to candidates running for Governor, Lieutenant
18 Governor, Attorney General, Secretary of State, State
19 Comptroller, or State Treasurer. This alternative campaign
20 financing option is available to candidates for elections to be
21 held beginning in the year 2008. The State Board shall
22 administer this Act and the Fund. Candidates participating in
23 this Act must also comply with all other applicable election
24 and campaign laws and regulations.

1 Section 15. The Illinois Clean Election Fund established;
2 sources of funding.

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

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

12 (1) The qualifying contributions required under
13 Section 20 when those contributions are submitted to the
14 State Board.

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

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

25 (4) Seed money contributions remaining unspent after a
26 candidate has been certified as an Illinois Clean Election

1 Act candidate.

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

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

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

10 (8) Fines collected under this Act.

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

17 Section 20. Terms of participation.

18 (a) A participating candidate must file a declaration of
19 intent to seek certification as an Illinois Clean Election Act
20 candidate and to comply with the requirements of this Act. The
21 declaration of intent must be filed with the State Board prior
22 to or during the qualifying period, except as provided in
23 subsection (1), according to forms and procedures developed by
24 the State Board. A participating candidate must submit a
25 declaration of intent within 5 business days after collecting

1 qualifying contributions under this Act or the qualifying
2 contributions collected before the declaration of intent has
3 been filed will not be counted toward the eligibility
4 requirement in subsection (c).

5 (b) Subsequent to becoming a candidate defined by and prior
6 to certification, a participating candidate may not accept
7 contributions, except for seed money contributions. A
8 participating candidate must limit the candidate's seed money
9 contributions to \$50,000 for a candidate.

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

12 (c) Participating candidates must obtain qualifying
13 contributions during the qualifying period from at least 2,500
14 verified registered voters of this State.

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

23 (d) A participating candidate must submit qualifying
24 contributions to the State Board during the qualifying period
25 according to procedures developed by the State Board, except as
26 provided under subsection (1).

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

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

6 (2) Submitted the appropriate number of valid
7 qualifying contributions.

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

10 (4) Not accepted contributions, except for seed money
11 contributions, and otherwise complied with seed money
12 restrictions.

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

15 (6) Otherwise met the requirements for participation
16 in this Act.

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

26 (f) After certification, a candidate must limit the

1 candidate's campaign expenditures and obligations, including
2 outstanding obligations, to the revenues distributed to the
3 candidate from the Fund and may not accept any contributions
4 unless specifically authorized by the State Board. Candidates
5 may also accept and spend interest earned on bank accounts. All
6 revenues distributed to a certified candidate from the Fund
7 must be used for campaign-related purposes. The candidate, the
8 treasurer, the candidate's political committee, or any agent of
9 the candidate and committee may not use these revenues for any
10 but campaign-related purposes. The State Board shall publish
11 guidelines outlining permissible campaign-related
12 expenditures.

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

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

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

25 (3) For candidates in contested primary elections
26 receiving a distribution under paragraph (1), additional

1 revenues from the fund must be distributed within 3 days of
2 March 15th after the election year.

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

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

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

15 (i) By July 1, 2009 and at least every 4 years after that
16 date, the State Board shall determine the amount of funds to be
17 distributed to participating candidates based on the type of
18 election and office as follows:

19 (1) For primary elections, the amount of revenues
20 distributed is \$2,000,000 per candidate in the primary
21 election.

22 (2) For general elections, the amount of revenues
23 distributed is \$4,000,000 per candidate in the general
24 election.

25 If the immediately preceding election cycles do not contain
26 sufficient electoral data, the State Board shall use

1 information from the most recent applicable elections.

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

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

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

1 candidates.

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

15 (n) The treasurer shall obtain and keep:

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

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

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

24 The treasurer shall preserve the records for 2 years
25 following the candidate's final campaign finance report for the
26 election cycle. The candidate and treasurer shall submit

1 photocopies of the records to the State Board upon its request.

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

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

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

24 (2) Within 5 days after an appeal is properly made and
25 after notice is given to the challenger and any opponent,
26 the State Board shall hold a hearing. The appellant has the

1 burden of providing evidence to demonstrate that the State
2 Board decision was improper. The State Board must rule on
3 the appeal within 3 days after the completion of the
4 hearing.

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

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

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

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

1 Section 30. Violations.

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

25 (b) A person who willfully or knowingly violates this Act

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

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

13 Section 90. The State Finance Act is amended by adding
14 Section 5.719 as follows:

15 (30 ILCS 105/5.719 new)

16 Sec. 5.719. Illinois Clean Election Fund.

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

19 (35 ILCS 5/507SS new)

20 Sec. 507SS. The Illinois Clean Election Fund checkoff. For
21 taxable years ending on or after December 31, 2009, the

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.