



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4561

Introduced 5/14/2009, by Rep. John A. Fritchey

SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.719 new

35 ILCS 5/507SS new

730 ILCS 5/5-9-1.17 new

740 ILCS 175/3

from Ch. 127, par. 4103

740 ILCS 175/8

from Ch. 127, par. 4108

Creates the Illinois Public Financing Program Act. Establishes an alternative campaign financing mechanism for candidates for the office of Governor or Illinois Supreme Court Judge. Provides for various funding sources. Amends the State Finance Act, the Illinois Income Tax Act, the Unified Code of Corrections, and the Whistleblower Reward and Protection Act to make conforming changes. Effective immediately.

LRB096 12634 JAM 26106 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 Public Financing Program Act.

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

7 "Contribution" has the same meaning as in Article 9 of the
8 Election Code.

9 "Fund" means the Illinois Public Financing Program Fund
10 established in Section 15.

11 "Nonparticipating candidate" means a candidate running for
12 Governor or Judge of the Illinois Supreme Court in a primary or
13 general election who does not choose to participate in this Act
14 and who is not seeking to be an Illinois Public Financing
15 Program Act candidate.

16 "Participating candidate" means a candidate who is running
17 for Governor or Judge of the Illinois Supreme Court in a
18 primary or general election who is seeking to be an Illinois
19 Public Financing Program Act candidate.

20 "Qualifying contribution" means a donation:

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

23 (2) made by a registered voter within the district for

1 the office a candidate is seeking;

2 (3) made during the designated qualifying period and
3 obtained with the knowledge and approval of the candidate;
4 and

5 (4) that is acknowledged by a written receipt that
6 identifies the name and address of the donor on forms
7 provided by the State Board.

8 "Qualifying period" means the following:

9 For a participating candidate for Governor or Judge of the
10 Illinois Supreme Court, the qualifying period begins August 1st
11 immediately preceding the election year and ends at 5:00 p.m.
12 on June 2nd of the election year.

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

1 value of the goods and services received from a vendor does not
2 exceed the amount paid to the vendor. A candidate may not
3 collect or spend seed money contributions after participation
4 as an Illinois Public Financing Program candidate. A seed money
5 contribution must be reported according to procedures
6 developed by the State Board.

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

8 Section 10. Alternative campaign financing option. This
9 Act establishes an alternative campaign financing option
10 available to candidates running for Governor and Judge of the
11 Illinois Supreme Court. This alternative campaign financing
12 option is available to candidates for elections to be held
13 beginning in the year 2010. The State Board shall administer
14 this Act and the Fund. Candidates participating in this Act
15 must also comply with all other applicable election and
16 campaign laws and regulations.

17 Section 15. The Illinois Public Financing Program Fund
18 established; sources of funding.

19 (a) The Illinois Public Financing Program Fund is
20 established as a special fund in the State treasury to finance
21 the election campaigns of participating Illinois Public
22 Financing Program Act candidates running for Governor and Judge
23 of the Illinois Supreme Court and to pay administrative and
24 enforcement costs of the State Board related to this Act. Any

1 interest generated by the Fund is credited to the Fund. The
2 State Board shall administer the Fund.

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

4 (1) The qualifying contributions required under
5 Section 20 when those contributions are submitted to the
6 State Board.

7 (2) Revenue from a tax checkoff program allowing a
8 resident of the State who files a tax return with the
9 Department of Revenue to designate that an amount of at
10 least \$3 be paid into the Fund. If a husband and wife file
11 a joint return, each spouse may designate that at least \$3
12 be paid. The Department of Revenue shall report annually
13 the amounts designated for the Fund to the State Treasurer,
14 who shall transfer that amount to the Fund.

15 (3) Seed money contributions remaining unspent after a
16 candidate has enrolled as an Illinois Public Financing
17 Program Act candidate.

18 (4) Fund revenues that were distributed to an Illinois
19 Public Financing Program Act candidate and that remain
20 unspent after the candidate has lost a primary election or
21 after all general elections.

22 (5) Other unspent Fund revenues distributed to any
23 Illinois Public Financing Act candidate who does not remain
24 a candidate throughout a primary or general election cycle.

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

26 (7) Fines collected under this Act.

1 (8) Surcharges on fines paid under Section 5-9-1.17 of
2 the Unified Code of Corrections.

3 (9) Surcharges on fines paid under Section 3 of the
4 Whistleblower Reward and Protection Act.

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

12 (d) Notwithstanding any other law to the contrary, the
13 State Board is authorized to use funds in the State Police
14 Whistleblower Reward and Protection Fund for elections held in
15 2010 and until such time as the Board determines that the funds
16 in the Illinois Public Financing Program Fund are sufficient to
17 support the Illinois Public Financing Program.

18 Section 20. Terms of participation.

19 (a) A participating candidate must file a declaration of
20 intent to participate as an Illinois Public Financing Program
21 Act candidate and to comply with the requirements of this Act.
22 The declaration of intent must be filed with the State Board
23 prior to or during the qualifying period, except as provided in
24 subsection (1), according to forms and procedures developed by
25 the State Board. A participating candidate must submit a

1 declaration of intent within 5 business days after collecting
2 qualifying contributions under this Act or the qualifying
3 contributions collected before the declaration of intent has
4 been filed will not be counted toward the eligibility
5 requirement in subsection (c).

6 (b) Subsequent to becoming a candidate and prior to
7 participation, a participating candidate may not accept
8 contributions, except for seed money contributions. A
9 participating candidate must limit the candidate's seed money
10 contributions to the following amounts:

11 (1) \$50,000 for a gubernatorial candidate.

12 (2) \$25,000 for a candidate for Judge of the Illinois
13 Supreme Court.

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 Judge of the Illinois Supreme
23 Court, at least 1,000 verified registered voters from the
24 candidate's district must support the candidacy by
25 providing a qualifying contribution to that candidate.

26 A payment, gift, or anything of value may not be given in

1 exchange for a qualifying contribution. A candidate may pay the
2 fee for a money order in the amount of \$5, which is a
3 qualifying contribution, as long as the donor making the
4 qualifying contribution pays the \$5 amount reflected on the
5 money order. Any money order fees paid by a participating
6 candidate must be paid for with seed money and reported in
7 accordance with State Board rules.

8 (d) A participating candidate must submit qualifying
9 contributions to the State Board during the qualifying period
10 according to procedures developed by the State Board, except as
11 provided under subsection (1).

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

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

17 (2) Submitted the appropriate number of valid
18 qualifying contributions.

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

21 (4) Not accepted contributions, except for seed money
22 contributions, and otherwise complied with seed money
23 restrictions.

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

26 (6) Otherwise met the requirements for participation

1 in this Act.

2 The State Board shall declare a candidate as complying with
3 the requirements of this Section as an Illinois Public
4 Financing Program Act candidate as soon as possible and no
5 later than 3 business days after final submittal of qualifying
6 contributions. Upon declaration, a candidate must transfer to
7 the Fund any unspent seed money contributions. A participating
8 candidate must comply with all requirements of this Act after
9 participation and throughout the primary and general election
10 periods. Failure to do so is a violation of this Act.

11 (f) After declaration, a candidate must limit the
12 candidate's campaign expenditures and obligations, including
13 outstanding obligations, to the revenues distributed to the
14 candidate from the Fund and may not accept any contributions
15 unless specifically authorized by the State Board. Candidates
16 may also accept and spend interest earned on bank accounts. All
17 revenues distributed to a participating candidate from the Fund
18 must be used for campaign-related purposes. The candidate, the
19 treasurer, the candidate's political committee, or any agent of
20 the candidate and committee may not use these revenues for any
21 but campaign-related purposes. The State Board shall publish
22 guidelines outlining permissible campaign-related
23 expenditures.

24 (g) The State Board shall distribute to participating
25 candidates revenues from the Fund in amounts determined under
26 subsection (i) in the following manner.

1 (1) Within 3 days after declaration by the Board,
2 revenues from the Fund must be distributed.

3 (2) For candidates in primary elections receiving a
4 distribution under paragraph (1), revenues from the fund
5 must be distributed within 3 days.

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

11 Funds may be distributed to participating candidates under
12 this Section by any mechanism that is expeditious, ensures
13 accountability, and safeguards the integrity of the Fund as
14 determined by the participating candidate in accordance with
15 the rules of the Board.

16 (h) The candidate or committee shall deposit all revenues
17 from the Fund into a campaign account with a bank or other
18 financial institution. The campaign funds must be segregated
19 from, and may not be commingled with, any other funds.

20 (i) Within 90 days after the effective date of this Act,
21 and at least every 4 years after that date, the State Board
22 shall determine the amount of funds to be distributed to
23 participating candidates based on the type of election and
24 office as follows:

25 (1) For gubernatorial primary elections, the amount of
26 revenues distributed is up to \$2,000,000 per candidate in

1 the primary election.

2 (2) For gubernatorial general elections, the amount of
3 revenues distributed is up to \$4,000,000 per candidate in
4 the general election.

5 (3) For contested primary elections for Judge of the
6 Illinois Supreme Court, the amount of revenues distributed
7 is up to \$300,000 per candidate in the primary election.

8 (4) For the general election for Judge of the Illinois
9 Supreme Court, the amount of funds distributed per
10 candidate is up to \$600,000.

11 (5) For any uncontested primary or general election for
12 the office of Governor or Judge of the Illinois Supreme
13 Court, the amount of funds distributed shall be 40% of
14 those otherwise distributed in a contested primary or
15 general election.

16 (j) When any campaign, finance, or election report shows
17 that the sum of a candidate's expenditures or obligations, or
18 funds raised or borrowed, whichever is greater, alone or in
19 conjunction with independent reported expenditures, exceeds
20 the distribution amount under subsection (i), the State Board
21 shall issue immediately to any opposing Illinois Public
22 Financing Program Act candidate an additional amount
23 equivalent to the reported excess.

24 (k) Funds issued under subsection (j) are limited to 2
25 times the amount originally distributed under subsection (i).

26 (l) The State Board shall establish by rule procedures for

1 qualification, declaration, disbursement of Fund revenues, and
2 return of unspent Fund revenues for races involving special
3 elections, recounts, vacancies, withdrawals, or replacement
4 candidates.

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

17 (n) The treasurer shall obtain and keep:

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

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

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

26 The treasurer shall preserve the records for 2 years

1 following the candidate's final campaign finance report for the
2 election cycle. The candidate and treasurer shall submit
3 photocopies of the records to the State Board upon its request.

4 (o) The State Board may not distribute revenues to
5 participating candidates in excess of the total amount of money
6 deposited into the Fund as set forth in Section 15.

7 Notwithstanding any other provisions of this Act, if the
8 State Board determines that the revenues in the Fund are
9 insufficient to meet distributions under subsections (h) or
10 (i), the State Board may permit participating candidates to
11 accept and spend contributions, reduced by any seed money
12 contributions, aggregating no more than \$500 per donor per
13 election for gubernatorial candidates and \$250 per donor per
14 election for Judge of the Supreme Court candidates, up to the
15 applicable amounts set forth in subsections (h) and (i)
16 according to rules adopted by the State Board.

17 (p) A candidate who has been denied as an Illinois Public
18 Financing Program Act candidate, the opponent of a candidate
19 who has been declared as an Illinois Public Financing Program
20 Act candidate, or other interested persons may challenge a
21 decision by the State Board as follows:

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

25 (2) Within 5 days after an appeal is properly made and
26 after notice is given to the challenger and any opponent,

1 the State Board shall hold a hearing. The appellant has the
2 burden of providing evidence to demonstrate that the State
3 Board's decision was improper. The State Board must rule on
4 the appeal within 3 days after the completion of the
5 hearing.

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

9 (4) A candidate whose status as an Illinois Public
10 Financing Program Act candidate is revoked on appeal must
11 return to the State Board any unspent revenues distributed
12 from the Fund.

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

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

1 with Public Financing Program Funds, and compliance with this
2 Act.

3 Section 30. Violations.

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

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

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

14 Section 50. The State Finance Act is amended by adding
15 Section 5.719 as follows:

16 (30 ILCS 105/5.719 new)

17 Sec. 5.719. The Illinois Public Financing Program Fund.

18 Section 75. The Illinois Income Tax Act is amended by
19 adding Section 507SS as follows:

20 (35 ILCS 5/507SS new)

21 Sec. 507SS. The Illinois Public Financing Program Fund

1 checkoff. For taxable years ending on or after December 31,
2 2009, the Department must print on its standard individual
3 income tax form a provision indicating that if the taxpayer
4 wishes to contribute to the Illinois Public Financing Program
5 Fund, as authorized by the Illinois Public Financing Program
6 Act, he or she may do so by stating the amount of the
7 contribution (not less than \$3) on the return and that the
8 contribution will reduce the taxpayer's refund or increase the
9 amount of payment to accompany the return. Failure to remit any
10 amount of increased payment shall reduce the contribution
11 accordingly. This Section does not apply to any amended return.

12 Section 80. The Unified Code of Corrections is amended by
13 adding Section 5-9-1.17 as follows:

14 (730 ILCS 5/5-9-1.17 new)

15 Sec. 5-9-1.17. Additional fine to support Illinois Public
16 Financing Program. There shall be added to every penalty
17 imposed in sentencing under this Article an additional fine of
18 \$50 payable to the clerk. The fine shall be imposed upon the
19 entry of a judgment of conviction. This additional fine shall
20 be remitted by the clerk to the State Treasurer within 60 days
21 after receipt for deposit into the Illinois Public Financing
22 Program Fund. This additional fee of \$50 shall not be
23 considered a part of the fine for purposes of any reduction in
24 the fine for time served either before or after sentencing. Not

1 later than March 1 of each year the circuit clerk shall submit
2 a report of the amount of funds remitted to the State Treasurer
3 under this Section during the preceding calendar year. All
4 moneys collected by the circuit clerk under this Section and
5 remitted to the State Treasurer shall be deposited into the
6 Illinois Public Financing Program Fund for distribution as
7 provided under the Illinois Public Financing Program Act.

8 Section 85. The Whistleblower Reward and Protection Act is
9 amended by changing Sections 3 and 8 as follows:

10 (740 ILCS 175/3) (from Ch. 127, par. 4103)

11 Sec. 3. False claims.

12 (a) Liability for certain acts. Any person who:

13 (1) knowingly presents, or causes to be presented, to
14 an officer or employee of the State or a member of the
15 Guard a false or fraudulent claim for payment or approval;

16 (2) knowingly makes, uses, or causes to be made or
17 used, a false record or statement to get a false or
18 fraudulent claim paid or approved by the State;

19 (3) conspires to defraud the State by getting a false
20 or fraudulent claim allowed or paid;

21 (4) has possession, custody, or control of property or
22 money used, or to be used, by the State and, intending to
23 defraud the State or willfully to conceal the property,
24 delivers, or causes to be delivered, less property than the

1 amount for which the person receives a certificate or
2 receipt;

3 (5) authorized to make or deliver a document certifying
4 receipt of property used, or to be used, by the State and,
5 intending to defraud the State, makes or delivers the
6 receipt without completely knowing that the information on
7 the receipt is true;

8 (6) knowingly buys, or receives as a pledge of an
9 obligation or debt, public property from an officer or
10 employee of the State, or a member of the Guard, who
11 lawfully may not sell or pledge the property;

12 (7) knowingly makes, uses, or causes to be made or
13 used, a false record or statement to conceal, avoid or
14 decrease an obligation to pay or transmit money or property
15 to the State;

16 (8) knowingly takes adverse employment action against
17 an employee for disclosing information to a government or
18 law enforcement agency, if the employee has reasonable
19 cause to believe that the information discloses a violation
20 of State or federal law, rule, or regulation; or

21 (9) knowingly retaliates against an employee who has
22 disclosed information in a court, an administrative
23 hearing, before a legislative commission or committee, or
24 in another proceeding and discloses information, if the
25 employee has reasonable cause to believe that the
26 information discloses a violation of State or federal law,

1 rule, or regulation,
2 is liable to the State for a civil penalty of not less than
3 \$5,500 and not more than \$11,000, plus 3 times the amount of
4 damages which the State sustains because of the act of that
5 person. A person violating this subsection (a) shall also be
6 liable to the State for the costs of a civil action brought to
7 recover any such penalty or damages. In addition to any penalty
8 assessed under this Section, a person violating this Act shall
9 also be assessed a surcharge of \$50 to be paid into the
10 Illinois Public Financing Program Fund.

11 (b) Knowing and knowingly defined. As used in this Section,
12 the terms "knowing" and "knowingly" mean that a person, with
13 respect to information:

14 (1) has actual knowledge of the information;

15 (2) acts in deliberate ignorance of the truth or
16 falsity of the information; or

17 (3) acts in reckless disregard of the truth or falsity
18 of the information, and no proof of specific intent to
19 defraud is required.

20 (c) Claim defined. As used in this Section, "claim"
21 includes any request or demand, whether under a contract or
22 otherwise, for money or property which is made to a contractor,
23 grantee, or other recipient if the State provides any portion
24 of the money or property which is requested or demanded, or if
25 the State will reimburse such contractor, grantee, or other
26 recipient for any portion of the money or property which is

1 requested or demanded. A claim also includes a request or
2 demand for money damages or injunctive relief on behalf of an
3 employee who has suffered an adverse employment action taken in
4 violation of paragraphs (8) or (9) of subsection (a).

5 (d) Exclusion. This Section does not apply to claims,
6 records, or statements made under the Illinois Income Tax Act.
7 (Source: P.A. 94-1059, eff. 7-31-06; 95-128, eff. 1-1-08.)

8 (740 ILCS 175/8) (from Ch. 127, par. 4108)

9 Sec. 8. Funds; Grants.

10 (a) There is hereby created the Whistleblower Reward and
11 Protection Fund as a special fund in the State Treasury. All
12 proceeds of an action or settlement of a claim brought under
13 this Act shall be deposited in the Fund, except the \$50
14 surcharge for the Illinois Public Financing Program Fund
15 assessed under Section 3.

16 (b) Monies in the Fund shall be allocated, subject to
17 appropriation, as follows: One-sixth of the monies shall be
18 paid to the Attorney General and one-sixth of the monies shall
19 be paid to the Department of State Police for State law
20 enforcement purposes. The remaining two-thirds of the monies in
21 the Fund shall be used for payment of awards to Qui Tam
22 plaintiffs, for attorneys' fees and expenses, and as otherwise
23 specified in this Act. The Attorney General shall direct the
24 State Treasurer to make disbursement of funds as provided in
25 court orders setting those awards, fees, and expenses. The

1 State Treasurer shall transfer any fund balances in excess of
2 those required for these purposes to the General Revenue Fund.

3 (Source: P.A. 87-662.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.