

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7549

BILL NUMBER: HB 1944

DATE PREPARED: Jan 8, 2001

BILL AMENDED:

SUBJECT: Funding gubernatorial election campaigns.

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**FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: This bill has the following provisions:

(A) Establishes a system of public funding for candidates for Governor who agree to limit contributions from private sources and expenditures to public funds.

(B) Provides for political parties to make limited contributions to candidates who participate in public funding.

(C) Provides that all expenditures by participating candidates, except for small expenditures, must be made with a public election debit card.

(D) Provides for increasing a participating candidate's funding to offset certain expenditures by nonparticipating opponents, independent expenditures, and issue advertising.

(E) Requires the Election Commission to impose civil penalties for violations of the campaign financing law and gives the Attorney General powers to prosecute criminal violations of the statute.

(F) Authorizes the Commission, and under certain circumstances, private persons to seek judicial remedies.

(G) Establishes the public election campaign fund to finance the election campaigns of participating candidates.

(H) Annually appropriates \$5,250,000 from the state general fund to the fund.

(I) Establishes a voluntary program under which individuals may designate \$2 to the fund on Indiana income tax returns.

(J) Imposes a tax of 5% on certain lobbying expenditures. Requires the amount of the tax to be deposited in the public election campaign fund.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (A), (B), (C), and (D) - This bill establishes a system of public funding for qualified candidates for Governor who agree to limit contributions from private sources and expenditures to the public funds allocated. The Election Division, Office of the Secretary of State, is responsible for administering the system which includes, but is not limited to: (1) administering the Public Election Campaign Fund; (2) issuance of public election debit cards; (3) issuance of warrants for petty cash; (4) conducting random audits of candidates to ensure compliance with the provisions of this bill; and (5) adjusting expenditures for inflation. All cost incurred to administer and enforce the provisions of this bill are to be paid from the Public Election Campaign Fund.

(F) - The Indiana Election Commission (IEC) is responsible for adopting rules, prescribing reporting forms, and imposing civil penalties when it is determined that a candidate has violated the provisions of this bill. The IEC is to refer possible criminal violations to the Attorney General. The Attorney General has all the powers of a prosecuting attorney. All investigative and enforcement costs are to be paid from the Public Election Campaign Fund.

(H) This bill makes an annual appropriation of \$5.25 M from the state General Fund to the Public Election Campaign Fund. The first appropriation would be made in FY 2002. The bill would allow an expenditure limit of 75% of the average contested primary and election expenditures over the two most recent general elections. Data from the Election Division indicates that the average Republican expenditures for Governor in the 1996 primary was \$5.5 M. The average Republican expenditures for Governor in the 2000 primary was \$1.1 M. The average expenditures among the two major party candidates in the 1996 election was \$5.6 M. The average expenditures among the two major party candidates in the 2000 election was \$5.7 M.

(I) The Department of State Revenue will have some additional administrative expenses associated with revising the tax forms, instructions, and computer programs to accommodate the new check-off. These costs will be absorbed in its current budget.

Explanation of State Revenues: (E) Currently, the IEC is allowed to assess civil penalties. This bill adds a number of provisions for which civil penalties can be assessed. In FY 2000, the IEC collected \$19,343 in civil penalties. The collected civil penalties are deposited in the Campaign Finance Enforcement Account. Under this bill, all civil penalties, including the new ones created in this bill, are to be deposited in the Public Election Campaign Fund.

(G) This bill establishes the Public Election Campaign Fund to finance the election campaigns of participating candidates. The purpose of the fund is to: (1) provide public financing for the election campaigns of certified participating candidates during primary and general campaign periods; and (2) pay the administrative and enforcement costs related to implementing the provisions of this bill.

The Public Election Campaign Fund consists of: (1) annual appropriations from the state General Fund; (2) money transferred from the state General Fund through an individual income tax check-off; (3) certain contributions and funds required to be paid by participating candidates; (4) civil penalties imposed by the IEC under Indiana election law; (5) voluntary contributions; and (6) interest earned on money in the Fund.

The Treasurer of State shall invest the money in the Fund not currently needed to meet the obligations of the Fund. Since the \$5.25 M appropriation is made annually and a gubernatorial election (both primary and general) will occur every four years, there will be significant interest earnings on the annual appropriation. Assuming the appropriations were made at the beginning of the fiscal year, there could be \$21 M in accumulated appropriations by the gubernatorial election of 2004. Money in the Fund at the end of the state fiscal year does not revert to the state General Fund. Money in the fund is appropriated for the purposes specified in the bill.

(H) As stated above, this bill makes an annual appropriation of \$5.25 M from the state General Fund to the Public Election Campaign Fund. The first appropriation would be made in FY 2002.

(I) One source of money for the Fund comes from campaign fund donations from a resident taxpayer's income tax refund. The bill contains a provision for a campaign fund donation for those resident individuals who do not receive an income tax refund. The bill provides that a resident taxpayer may designate \$2 of the taxpayer's income tax refund (a husband and wife may jointly direct a single donation of \$2 to the Fund or direct a donation of \$2 each to the Fund on a joint form) to be deposited in the Fund.

It is difficult to estimate how many individuals who have refunds may select this check-off. According to the Department of Revenue, the Indiana Nongame and Endangered Wildlife fund check-off generated **\$389,977** from **36,285** tax returns in **1998**. The additional check-off may reduce the amount that is deposited in the Nongame Fund. The bill requires the Department of Revenue to report the total amount of donations to the Auditor of State who is to transfer the amount from the state General Fund to the Public Election Campaign Fund.

This new check-off applies to tax years beginning January 1, 2002, so that the first revenue this Fund would receive from the check-off will be in FY 2003.

(J) The bill creates a Lobbyist Expenditure Tax. The tax is 5% of expenditures over \$2,5000. In CY 2000, the Indiana Lobby Registration Commission reported \$3.3 M in total compensated lobbyist expenditures. This tax would raise an indeterminable amount of revenue. The tax would be paid at the time the lobbyist files each semiannual report. Revenue from the tax would be deposited into the Public Election Campaign Fund. The tax would take effect in FY 2002.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Election Division, Office of the Secretary of State; Indiana Election Commission; Attorney General; Auditor of State; Treasurer of State; Department of State Revenue; Indiana Lobby Registration Commission.

Local Agencies Affected:

Information Sources: Department of State Revenue, Individual Income Tax Statistics; Indiana Election Division; Indiana Lobby Registration Commission.