


MEMORANDUM

February 28, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 16-14, Elections – Public Campaign Financing

Bill 16-14, Elections – Public Campaign Financing, sponsored by the Councilmembers Andrews, Elrich, Berliner, Riemer, Council Vice President Leventhal, Council President Rice, Councilmembers Navarro, Floreen, and Branson was introduced on February 4. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for March 17 at 2:00 p.m.

Bill 16-14 would:

- (1) establish a Public Election Fund to provide public campaign financing for a candidate for a County elective office;
- (2) regulate campaign finance activity of a candidate for County elective office who voluntarily accepts public campaign financing;
- (3) authorize the Maryland State Board of Elections to administer and enforce the public campaign financing system; and
- (4) provide for penalties for violations of the public campaign financing system.

Background

One of the provisions in the Campaign Finance Reform Act of 2013 (Chapter 419 of the 2013 Laws of Maryland), enacted by the General Assembly in its 2013 Session, authorizes the governing body of a county to establish, by law, a public campaign finance system for the election of County Executive and County Council. A copy of this part of Chapter 419 is at ©13-14.

Bill 16-14 would implement this authority by establishing a public campaign finance system for the election of County Executive and County Council. The goal of this Bill is to encourage greater voter participation in County elections, increase opportunities for more residents to run for office, and reduce the influence of large contributions from businesses, political action groups, and other large organizations. Councilmember Andrews explained the purpose of the Bill in his January 29 memorandum at ©15 and summarized the components of the Bill at ©16.

The Bill would designate the Maryland State Board of Elections to certify candidates and generally administer the public campaign financing system. The Director of Finance would be responsible for establishing the Public Election Fund and distributing the public contributions to certified candidates. The Council would have to appropriate funds for the Public Election Fund.

This packet contains:	<u>Circle #</u>
Bill 16-14	1
Legislative Request Report	12
House Bill 1499 (excerpt)	13
Councilmember Andrews Memorandum	15
Summary of Bill	16

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Bill No. 16-14
Concerning: Elections – Public
Campaign Financing
Revised: February 3, 2014 Draft No. 16
Introduced: February 4, 2014
Expires: August 4, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Andrews, Elrich, Berliner, Riemer, Council Vice President Leventhal,
Council President Rice, Councilmembers Navarro, Floreen, and Branson

AN ACT to:

- (1) establish a Public Election Fund to provide public campaign financing for a candidate for a County elective office;
- (2) regulate certain campaign finance activity of a candidate for County elective office who voluntarily accepts public campaign financing;
- (3) authorize the Maryland State Board of Elections to administer and enforce the public campaign financing system;
- (4) provide for penalties for violations of the public campaign financing system; and
- (5) generally amend the law governing elections for County elective offices.

By amending

Montgomery County Code
Chapter 16, Elections
Section 16-17

By adding

Montgomery County Code
Chapter 16, Elections
Article IV, Public Campaign Financing

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 16-17 is amended as follows:**

2 **16-17. Council vacancy - election required.**

3 * * *

4 (c) Except as otherwise provided in this Section, and to the extent
5 applicable:

6 (1) The special election must be conducted in a manner consistent
7 with provisions of state law that govern special elections to fill
8 vacancies in the office of representative in Congress. The
9 deadlines and time periods required under those provisions of
10 state law apply to a special Council election unless the Council,
11 acting under subsection (d) or subsection (e), expressly modifies
12 them.

13 (2) Except as provided in paragraph (1), the general provisions of
14 state and County law that govern quadrennial elections for
15 Councilmembers apply to the special election conducted under
16 this Section.

17 (d) (1) Within 30 days after a Council vacancy occurs, the Council must
18 adopt a resolution that:

19 (A) sets the dates of the special primary election and the
20 special general election;

21 (B) sets the timeline for certification of a candidate for public
22 campaign financing for the special primary election and
23 the special general election; and

24 [(B)] (C) takes any other action authorized by this Section or
25 state law.

26 If a Councilmember submits a resignation with a later effective date, the
27 vacancy occurs when the Council receives the resignation.

* * *

28
29 **Sec. 2. Article IV of Chapter 16 is added as follows:**

30 **Article IV. Public Campaign Financing.**

31 **16-18. Definitions.**

32 In this Article, the following terms have the meanings indicated:

33 *Applicant candidate* means a person who is running for a covered office and
34 who is seeking to be a certified candidate in a primary or general election.

35 *Board* means the Maryland State Board of Elections.

36 *Campaign finance entity* means a political committee established under Title
37 13 of the State Election Law, as amended.

38 *Certified candidate* means a candidate running for a covered office who is
39 certified as eligible for public campaign financing from the Fund.

40 *Consumer Price Index* means the Consumer Price Index for All Urban
41 Consumers: All items in Washington-Baltimore, DC-MD-VA-WV (CMSA),
42 as published by the United States Department of Labor, Bureau of Labor
43 Statistics, or a successor index.

44 *Contested election* means an election in which there are more candidates for an
45 office than the number who can be elected to that office. Contested election
46 includes a special election held to fill a vacancy in a covered office under
47 Section 16-17.

48 *County Board* means the Montgomery County Board of Elections.

49 *Covered office* means the office of County Executive or County
50 Councilmember.

51 *Director* means the Director of the Department of Finance or the Director's
52 designee.

53 *Election cycle* means the primary and general election for the same term of a
54 covered office.

55 Fund means the Public Election Fund.

56 Noncertified candidate means a person who is running for a covered office
57 who either:

58 (1) chooses not to apply to be a certified candidate; or

59 (2) applies to be a certified candidate but fails to qualify.

60 Non-participating candidate means a person who is running for a covered
61 office who is either a noncertified candidate or a certified candidate who
62 declines to accept a public contribution.

63 Participating candidate means a certified candidate who has received a public
64 contribution from the Fund for a primary or general election.

65 Public contribution means money disbursed from the Fund to a certified
66 candidate.

67 Publicly funded campaign account means a campaign finance account
68 established for the exclusive purpose of receiving qualifying contributions and
69 spending funds in accordance with this Article.

70 Qualifying contribution means a donation of at least \$5.00 but no more than
71 \$150.00 in support of an applicant candidate that is:

72 (1) made by a registered voter of the County;

73 (2) made after the beginning of the designated qualifying period, but
74 no later than 15 days before the election;

75 (3) obtained through efforts made with the knowledge and approval
76 of the applicant candidate; and

77 (4) acknowledged by a receipt that identifies the contributor's name
78 and residential address and signed by the contributor.

79 Qualifying period means the period of time beginning 365 days before the
80 primary election for the office the candidate seeks and ending 45 days before

81 the date of the primary election. The qualifying period for a special election
82 under Section 16-17 must be set by Council resolution.

83 **16-19. Public Election Fund established.**

84 (a) The Director must create a Public Election Fund. This Fund is
85 continuing and non-lapsing.

86 (b) The Fund consists of:

87 (1) all funds appropriated to it by the County Council;

88 (2) any unspent money remaining in a certified candidate's publicly
89 funded campaign account after the candidate is no longer a
90 candidate for a covered office;

91 (3) any public contribution plus interest returned to the Fund by a
92 participating candidate who withdraws from participation;

93 (4) all interest earned on money in the Fund; and

94 (5) voluntary donations made directly to the Fund.

95 **16-20. Collecting Qualifying Contributions.**

96 (a) Before raising any contribution governed by this Article, an applicant
97 candidate must:

98 (1) file notice of intent with the Board on or before April 15 of the
99 year of the election on a form prescribed by the Board; and

100 (2) establish a publicly funded campaign account for the candidate
101 for the purpose of receiving contributions and spending funds in
102 accordance with this Article.

103 (b) Other than a contribution from an applicant candidate or the candidate's
104 spouse, an applicant candidate must not accept a qualifying contribution
105 from an individual greater than \$150. An applicant candidate or the
106 candidate's spouse must not contribute or lend a combined total of more
107 than \$6000 each to the candidate's publicly funded campaign account.

108 (c) Annual adjustment. The Chief Administrative Officer must adjust the
 109 contribution limit established in Subsections (b), effective July 1, 2016,
 110 and July 1 of each subsequent year, by the annual average increase, if
 111 any, in the Consumer Price Index for the previous calendar year. The
 112 Chief Administrative Officer must calculate the adjustment to the
 113 nearest multiple of 5 cents, and must publish the amount of this
 114 adjustment not later than March 1 of each year.

115 **16-21. Requirements for Certification.**

- 116 (a) To qualify as a certified candidate:
- 117 (1) a candidate for Executive must collect at least:
- 118 (A) 500 qualifying contributions; and
- 119 (B) an aggregate total of \$40,000;
- 120 (2) a candidate for At-Large Councilmember must collect at least:
- 121 (A) 250 qualifying contributions; and
- 122 (B) an aggregate total of \$20,000; and
- 123 (3) a candidate for District Councilmember must collect at least:
- 124 (A) 125 qualifying contributions; and
- 125 (B) an aggregate total of \$10,000.
- 126 (b) An applicant candidate must deposit all qualifying contributions
 127 received into the candidate's publicly funded campaign account. An
 128 applicant candidate must deliver to the Board a copy of a receipt for
 129 each qualifying contribution.
- 130 (c) A candidate must apply to the Board for certification during the
 131 qualifying period.
- 132 (d) The Executive, after consulting with the Board, must adopt regulations
 133 under Method 1 that specify:

- 134 (1) how and when receipts for qualifying contributions from
135 contributors must be submitted to the Board;
- 136 (2) the documents that must be filed with the Board for certification;
137 (3) the allowable uses of money in a publicly funded campaign
138 account; and
- 139 (4) other policies necessary to implement this Article.

140 **16-22. Board Determination.**

- 141 (a) The Board must certify an applicant candidate if the Board finds that the
142 candidate has received the required number of qualifying contributions
143 and the required aggregate total dollars for the office no later than 10
144 business days after receiving:
- 145 (1) a declaration from the candidate agreeing to follow the
146 regulations governing the use of a public contribution; and
- 147 (2) a campaign finance report that includes:
- 148 (A) a list of each qualifying contribution received;
149 (B) a list of each expenditure made by the candidate during the
150 qualifying period; and
- 151 (C) the receipt associated with each contribution and
152 expenditure.
- 153 (b) The decision by the Board whether to certify a candidate is final.
- 154 (c) A candidate may submit only one application for certification for any
155 election.
- 156 (d) If the Board certifies a candidate, the Board must authorize the Director
157 to disburse a public contribution to the candidate's publicly funded
158 campaign account.

159 **16-23. Distribution of Public Contribution.**

- 160 (a) The Director must distribute a public contribution from the Fund to each
 161 certified candidate in a contested election as follows:
- 162 (1) for a certified candidate for County Executive, the matching
 163 dollars must equal:
- 164 (A) \$6 for each dollar of a qualifying contribution received for
 165 the first \$50 of each qualifying contribution;
- 166 (B) \$4 for each dollar of a qualifying contribution received for
 167 the second \$50 of each qualifying contribution; and
- 168 (C) \$2 for each dollar of a qualifying contribution received for
 169 the third \$50 of each qualifying contribution.
- 170 (2) for a certified candidate for County Council, the matching dollars
 171 must equal:
- 172 (A) \$4 for each dollar of a qualifying contribution received for
 173 the first \$50 of each qualifying contribution
- 174 (B) \$3 for each dollar of a qualifying contribution received for
 175 the second \$50 of each qualifying contribution; and
- 176 (C) \$2 for each dollar of a qualifying contribution received for
 177 the third \$50 of each qualifying contribution.
- 178 (3) The total public contribution payable to a certified candidate for
 179 either a primary or a general election must not exceed:
- 180 (A) \$750,000 for a candidate for County Executive;
- 181 (B) \$250,000 for a candidate for At Large Councilmember;
 182 and
- 183 (C) \$125,000 for a candidate for District Councilmember.
- 184 (b) The Director must not distribute matching dollars from the Fund to a
 185 certified candidate for a contribution from the candidate or the
 186 candidate's spouse.

- 187 (c) A certified candidate may continue to collect qualifying contributions
188 and receive a matching public contribution up to 15 days before a
189 primary or a general election. A qualifying contribution must not
190 exceed \$150 from any individual during an election cycle.
- 191 (d) If the total amount available for distribution in the Fund is insufficient to
192 meet the allocations required by this Section, the Director must reduce
193 each public contribution to a certified candidate by the same percentage
194 of the total public contribution.
- 195 (e) Within 3 business days after the County Board certifies the results of the
196 primary election, the Board must authorize the Director to continue to
197 disburse the appropriate public contribution for the general election to
198 each certified candidate who is certified to be on the ballot for the
199 general election.
- 200 (f) Within 15 days after the County Board certifies the results of the
201 primary election, a participating candidate who is not certified to be on
202 the ballot for the general election must return any unspent money in the
203 candidate's publicly funded campaign account to the Fund. Within 15
204 days after the County Board certifies the results of the general election,
205 a participating candidate must return any unspent money in the
206 candidate's publicly funded campaign account to the Fund.
- 207 (g) A certified candidate nominated by petition may receive a public
208 contribution for the general election if:
- 209 (1) the candidate's nomination is certified by the County Board; and
210 (2) the candidate did not participate in a primary election.
- 211 (h) A participating candidate must submit a receipt for each qualifying
212 contribution to the Board to receive a public contribution. The Director
213 must deposit the appropriate public contribution into a participating

214 candidate's publicly funded campaign account within 3 business days
 215 after the Board authorizes the public contribution.

216 (i) Annual adjustment. The Chief Administrative Officer must adjust the
 217 public contribution limits established in Subsection (a)(3) and the
 218 qualifying contribution limit established in Subsection (c), effective July
 219 1, 2016, and July 1 of each subsequent year, by the annual average
 220 increase, if any, in the Consumer Price Index for the previous calendar
 221 year. The Chief Administrative Officer must calculate the adjustment to
 222 the nearest multiple of 5 cents, and must publish the amount of this
 223 adjustment not later than March 1 of each year.

224 **16-24. Use of Public Contribution.**

225 (a) A participating candidate may only use the qualifying contributions and
 226 the matching public contribution for a primary or general election for
 227 expenses incurred for the election.

228 (b) Within 15 days after the County Board certifies the results of the
 229 general election, a participating candidate must return to the Fund any
 230 unspent money in the candidate's publicly funded campaign account.

231 **16-25. Withdrawal.**

232 (a) A certified candidate may withdraw an application for a public
 233 contribution any time before the public contribution is received by the
 234 candidate's publicly funded campaign account.

235 (b) A participating candidate may withdraw from participation if the
 236 candidate:

237 (1) files a statement of withdrawal with the Board on a form
 238 prescribed by the Board; and

239 (2) repays to the Fund the full amount of the public contribution
 240 received, together with the applicable interest established by
 241 regulation.

242 **16-26. Applicant and Participating Candidate Restrictions .**

243 An applicant candidate or a participating candidate must not:

- 244 (a) accept a private contribution from any group or organization, including
 245 a political action committee, a corporation, a labor organization, or a
 246 State or local central committee of a political party;
- 247 (b) accept a private contribution from an individual greater than \$150, or
 248 the maximum amount of a qualifying contribution as adjusted by
 249 Section 16-23(i);
- 250 (c) be a member of a slate in any election in which the candidate receives a
 251 public contribution unless all members of the slate are participating
 252 candidates; or
- 253 (d) transfer funds:
- 254 (1) to the candidate's publicly funded campaign account from any
 255 other campaign finance entity established for the candidate; and
- 256 (2) from the candidate's publicly funded campaign account to any
 257 other campaign finance entity.

258 **16-27. Penalties.**

259 Any violation of this Section is a Class A civil violation. Each day a violation
 260 exists is a separate offense.

261 **Sec. 2. Effective Date.** This Bill takes effect on January 1, 2015.

LEGISLATIVE REQUEST REPORT

Bill 16-14

Elections – Public Campaign Financing

DESCRIPTION: Bill 16-14 would establish a Public Election Fund to provide public campaign financing for a candidate for County Executive and County Council. The Bill would also regulate the campaign finance activity of a candidate who voluntarily accepts public campaign finance.

PROBLEM: State law recently authorized a County to enact a public campaign finance law for the election of County Executive and County Council. Under current law, a candidate for County elective office, who must raise significant amounts of private donations, will often need large donations from businesses and other large organizations to run a campaign.

GOALS AND OBJECTIVES: The goal is to encourage candidates to seek out large numbers of small donations from County residents and open opportunities for more people to run for County elective offices.

COORDINATION: State Board of Elections, Finance, County Attorney

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: Class A civil violation.

HOUSE BILL 1499 (excerpt)

13-505.

- (A) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE GOVERNING BODY OF A COUNTY MAY ESTABLISH, BY LAW, A SYSTEM OF PUBLIC CAMPAIGN FINANCING FOR ELECTIVE OFFICES IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF COUNTY GOVERNMENT.**
- (2) *WHEN ESTABLISHING A SYSTEM OF PUBLIC CAMPAIGN FINANCING FOR ELECTIVE OFFICES IN THE EXECUTIVE OR LEGISLATIVE BRANCHES OF COUNTY GOVERNMENT, THE GOVERNING BODY OF A COUNTY SHALL SPECIFY THE CRITERIA THAT IS TO BE USED TO DETERMINE WHETHER AN INDIVIDUAL IS ELIGIBLE FOR PUBLIC CAMPAIGN FINANCING.***
- (B) A SYSTEM OF PUBLIC CAMPAIGN FINANCING ENACTED UNDER SUBSECTION (A) OF THIS SECTION:**
- (1) SHALL PROVIDE FOR PARTICIPATION OF CANDIDATES IN PUBLIC CAMPAIGN FINANCING ON A STRICTLY VOLUNTARY BASIS;**
- (2) MAY NOT REGULATE CANDIDATES WHO CHOOSE NOT TO PARTICIPATE IN PUBLIC CAMPAIGN FINANCING;**
- (3) SHALL PROHIBIT THE USE OF PUBLIC CAMPAIGN FINANCING FOR ANY CAMPAIGN EXCEPT A CAMPAIGN FOR COUNTY ELECTIVE OFFICE;**
- (4) SHALL REQUIRE A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING TO:**

- (I) ESTABLISH A CAMPAIGN FINANCE ENTITY SOLELY FOR THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE; AND
 - (II) USE FUNDS FROM THAT CAMPAIGN FINANCE ENTITY ONLY FOR THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE;
 - (5) SHALL PROHIBIT A CANDIDATE WHO ACCEPTS PUBLIC CAMPAIGN FINANCING FROM TRANSFERRING FUNDS:
 - (I) TO THE CAMPAIGN FINANCE ENTITY ESTABLISHED TO FINANCE THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE FROM ANY OTHER CAMPAIGN FINANCE ENTITY ESTABLISHED FOR THE CANDIDATE; AND
 - (II) FROM THE CAMPAIGN FINANCE ENTITY ESTABLISHED TO FINANCE THE CAMPAIGN FOR COUNTY ELECTIVE OFFICE TO ANY OTHER CAMPAIGN FINANCE ENTITY;
 - (6) SHALL PROVIDE FOR A PUBLIC ELECTION FUND FOR COUNTY ELECTIVE OFFICES THAT IS ADMINISTERED BY THE CHIEF FINANCIAL OFFICER OF THE COUNTY; AND
 - (7) SHALL BE SUBJECT TO REGULATION AND OVERSIGHT BY THE STATE BOARD TO ENSURE CONFORMITY WITH STATE LAW AND POLICY TO THE EXTENT PRACTICABLE.
- (C) A SYSTEM OF PUBLIC CAMPAIGN FINANCING ENACTED UNDER SUBSECTION (A) OF THIS SECTION MAY:
- (1) PROVIDE FOR MORE STRINGENT REGULATION OF CAMPAIGN FINANCE ACTIVITY BY CANDIDATES WHO CHOOSE TO ACCEPT PUBLIC CAMPAIGN FINANCING, INCLUDING CONTRIBUTIONS, EXPENDITURES, REPORTING, AND CAMPAIGN MATERIAL, THAN IS PROVIDED FOR BY STATE LAW; AND
 - (2) PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS, IN ACCORDANCE WITH ARTICLE 25A, § 5 OF THE CODE.



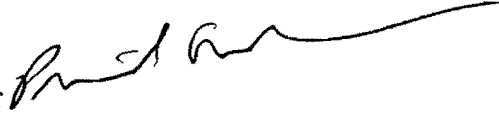
MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

PHIL ANDREWS
COUNCILMEMBER - DISTRICT 3

MEMORANDUM

January 29, 2014

TO: Councilmembers

FROM: Phil Andrews, Councilmember 

SUBJECT: Public financing option for County Council and Executive candidates

Since 2001, the County Council has urged the General Assembly to provide Montgomery County with the authority to adopt campaign finance reforms. In 2013, the General Assembly adopted a bill that enables counties to provide for the option of public financing for county elections beginning with the 2015-18 election cycle. Participation by candidates would be voluntary.

The goals of Bill 16-14, which is attached, are to reduce the influence of big money in County elections, encourage more voters to participate in County elections, and to expand opportunities for more candidates to run for County office who do not have access to big contributions from interest groups or individuals. The bill provides strong incentives for candidates to seek small, individual contributions from County voters.

A summary of the bill's major provisions is attached.

The bill is scheduled for introduction on February 4. Please let me know if you would like to co-sponsor the bill or have any questions or suggestions. I look forward to working with you on this measure.

SUMMARY OF BILL16-14

Campaign Finance Reform

- Public Election Fund Established

Requirements for Qualifying

- Notice of Intent must be filed by a candidate prior to collecting qualifying money
- Publicly funded campaign account must be established
- Qualifying contribution - a donation of more than \$5.00 but no more than \$150 from a registered voter in Montgomery County
- Qualifying number of contributions – County Executive - 500; Council At-large - 250
Council – District - 125
Qualifying dollar threshold-\$40,000 County Executive; \$20,000 Council At-Large; \$10,000 Council District
- Qualifying timing - beginning 365 days before the primary election and ending 45 days before the primary election

Public Matching Fund Ratios

- Matching dollars - County Executive - \$6 for each dollar of a qualifying contribution received for the first \$50; \$4 for each dollar for the second \$50; \$2 for each dollar for the third \$50
- Matching dollars - County Council - \$4 for each dollar for the first \$50; \$3 for each dollar for the second \$50; \$2 for each dollar for the third \$50

Maximum Limits on Public Funds to a Candidate

- County Executive - \$750,000; Council At-Large - \$250,000; Council District - \$125,000 (matching dollars are not distributed for self/spouse contributions)
- Funding for system from general revenues

Allowable Contributions for Participating Candidates

- System is voluntary for candidates, but candidates who participate must limit their fundraising to individual contributions of \$150 or less except for contributions from the candidate or spouse, which are limited to \$6,000 each. No PAC money, labor organization, corporate money.

Application to Slates

- If a candidate is a member of a slate, all slate members must participate in public funding system for any one of them to qualify

Other Provisions

- Unspent money must be returned to the fund
- Spending and contribution limits would be adjusted for inflation

Effective Date

- System would be effective beginning for the 2015-18 election cycle