

Clean Elections Act

(H-3520, S-438)

House Sponsors: Reps. J.H. Neal, Whipper, Anderson, J. Brown, Cobb-Hunter, M. Hines, Hosey, Lee, Mack and Parks

Senate Sponsor: Sen. Clementa Pinckney

Summary

Amends Title 8 Code of Laws of South Carolina 1976, by adding Chapter 14 to enact the Clean Elections Act.

Section 1:

Outlines 12 problems inherent in privately financed campaigns and 12 remedies provided by public financing.

Chapter 14, Section 8-14-10: Definition of terms.

8-14-20: Defines how a party candidate can participate in Clean Election funding.

- A candidate must file his intention to become a “participating candidate” in the Clean Elections with the state Election Commission.
- Participating candidates must pledge not to accept any private or personal donations other than “seed money” contributions and “qualifying contributions.”
- To qualify, participating candidates must take up a minimum number of \$5 contributions from voters in their district(s) during the “qualifying period” (90 to 30 days prior to primary elections):
 - House: 200 \$5 qualifying contributions
 - Senate: 400 \$5 qualifying contributions
 - Comptroller General, Treasurer, Adjutant General and Sec. of State: 1,500 \$5 qualifying contributions
 - Superintendent of Education, Attorney General and Lt. Governor: 2,500 \$5 qualifying contributions
 - Governor: 4,000 \$5 qualifying contributions
- The qualifying contributions, along with a signed receipt indicating that the contributor understands the purpose of the qualifying contribution, are submitted to the Elections Commission for verification.

8-14-30: Qualifying criteria for independent candidates are the same as party candidates.

8-14-40: Requires candidates with existing campaign accounts, prior to applying for participating status, to either return the donations, use them to retire previous campaign debts or submit the money to the Clean Elections Fund.

8-14-50: Once a candidate accepts benefits from the Clean Elections Fund, he shall comply with this legislation through the general elections.

8-14-60: All campaign expenses by participating candidates shall be paid through a “Clean Elections debit card” issued by the Election Commission.

8-14-70: Requires participating candidates to use Clean Election debit account for all expenses. Allows participating candidate to have separate account for retiring prior debts and to file reports on these accounts separately.

8-14-80: Defines “expenditures for direct campaign purposes”. Normal campaign expenses are allowed. Legal fees, capital assets worth more than \$500, loans to family or self, gifts in excess of \$25 are prohibited.

8-14-90: The candidate and their adult family members may contribute \$100 in seed money. The candidate and family members registered in the candidate’s district may make a \$5 qualifying contribution.

8-14-100: Defines “seed money,” specifies maximum contribution of \$100 per donor, and limits aggregate amount to:

- House candidate: \$1,000.
 - Senate candidate: \$3,000.
 - Comptroller General, Treasurer, Adjutant General and Secretary of State: \$15,000.
 - Superintendent of Education, Attorney General and Lt. Governor: \$20,000.
 - Governor: \$30,000
- Seed money contributions of \$25 or less must include contributor’s signature, printed name and address. Contributions between \$25 and \$100 must also include contributor’s telephone number, occupation and employer.

8-14-130: Participating candidates may receive additional funding of up to 200% of the original amount if a nonparticipating

opponent, individual, or committee spends more than the Clean Election limit to defeat the participating candidate.

(ie: a participating House candidate can receive \$25,000 in public financing to run a contested primary and general election. If a nonparticipating opponent spends more than \$25,000 to defeat the participating candidate, the participating candidate will receive additional matching funds up to \$50,000 (200% of original amount of funding).

8-14-140: Requires Election Commission to certify qualified candidates within five days of submission of requisite number of qualifying contributions and receipts. Primary funds are dispersed the day of qualification. General Election funds are dispersed within 48 hours of the primary.

8-14-150: Establishes that qualified candidates will get 40% of their funding for primary and 60% for general election.. Sets funding for eligible party candidate in contested primary at:

- House: \$10,000
- Senate: \$30,000
- Constitutional officers will receive 40% of the average amount spent to win their respective seat in the past two general elections.
- Funding for party candidates in an uncontested primary is 25% the amount for contested elections.
- Participating candidates whose party got at least 20% of the total votes cast in the primary for that seat will receive full funding for the general election.
- The party of a participating candidate who wins that party's primary nomination must get 5% of the total votes cast in the primary for that seat, or the past general election, to get any funding.
- Establishes sliding scale of funding for participating candidates whose party total for that seat was between 5% and 20% of primary vote. Funding is determined by the ratio that the primary vote is to 20%. *(ie. if participating candidate X won her party's nomination, but she and her party opponent only got 10% of the total votes cast in the primary for that seat, candidate X would get 50% of the funding available, as - 10% if the primary vote is 50% of the 20% threshold for full funding).*
- Funding for party candidates in an uncontested general election is 10% the amount for contested elections.
- Funding for a runoff election is 25% the amount provided in the previous election.
- Primary funding for eligible independent candidates is 25% of the full amount received by a party candidate in a contested election.

Sets funding for eligible candidates in contested general elections at:

- House: \$15,000
- Senate: \$45,000
- Constitutional officers will receive 60% of the average amount spent to win their respective seat in the past two general elections.
- General election funding for an eligible independent candidate is the same amount as a party candidate.
- Clean Election funding shall be adjusted based on changes in the cost-of-living-index.

(Initial funding for eligible House candidates for entire election cycle is \$25,00, with \$50,000 additional maximum match. Initial funding for eligible Senate candidates for entire election cycle is \$75,000 with \$150,000 additional maximum match. Initial funding for constitutional officers for the entire election cycle is 100% of average amount spent to win the respective seat in the past two general elections, with 200% additional maximum match. Matching money is 200% of the original grant.)

8-14-160: Clean Elections funds must be used for campaign related expenses.

8-14-170: All Clean Elections expenses must go through the clean elections debit card. The only other account a participating candidate may have must be dedicated to retiring past campaign debt.

8-14-180: Nonparticipating candidates must report to the Election Commission within 48 hours any aggregate expenditures over \$1000 that exceed the spending limit of participating candidates who are their opponent.

- 20 days prior to an election, nonparticipating candidates must report excess expenditures over \$500 within 24 hours.
- Upon determining that excess spending has occurred, participating candidates shall immediately receive an equal amount, up to their maximum funding limit.

8-14-190: All advertisements by nonparticipating candidates must include a clear statement indicating the candidate approved the ad.

8-14-200: Defines “independent expenditures” as they relate to campaigning against participating candidates by individuals and committees.

8-14-210: Independent expenditures over an aggregate of \$1000 must be reported within seven days identifying the candidate(s) that were intended to be aided or defeated.

- Provides fines for failure to file or providing false information.
- Requires reporting within 24 hours, expenditures over \$500 within 20 days of an election.
- If the independent expenditure, combined with the amount raised by the nonparticipating candidate who

benefits from the expenditure, exceeds the clean election limits, additional funds shall be given to the participating candidate(s) within established limits.

8-14-220: The General Assembly shall establish a special, dedicated, nonlapsing Clean Election Fund to provide public financing for certified candidates and to pay the administrative and enforcements costs of this legislation.

8-14-230: Authorizes the General Assembly to raise Clean Election Funds from a number of sources. (*example: Arizona is paying the majority of their Clean Election expenses from a 10% fee placed on corporate filings.*)

8-14-240: Authorizes Clean Election debit cards to be issued to qualified candidates. Requires all expenditures, including the \$100 a day in petty cash for purchases of \$25 or less, to be placed on the debit card.

8-14-250: Allows in-kind contributions from political parties of up to 5% of clean election funding limit.

- Allows in-kind, party funding to groups of general election candidates in the same political subdivision not to apply to the 5% limit.
- Expressly exempts party building and GOTV expenditures from Clean Election limits.

8-14-260: Authorizes the Election Commission to conduct audits and investigations to ensure compliance, seek injunctions and levy fines. Requires Election Commission to meet as often as necessary to resolve funding issues.

8-14-270: Empowers citizens to pursue civil action if Ethics Commission fails to make determination in 30 days. Awards winners of suits costs, and requires frivolous filers to pay costs.

8-14-280: Requires Ethics Commission to report to the General Assembly after each election cycle, with a detailed summary of Clean Elections expenditures, an evaluation and recommendations.

8-14-290: Authorizes Ethics Commission to adopt regulations to carry out Clean Elections Act.

8-14-300: Requires repayment of excess expenditures to Clean Elections Fund and establishes fines for expenditures that have “significant impact on the outcome of the election.”

8-14-310: Provides fines up to \$25,000 and or, imprisonment up to five years for intentional violations that could affect the outcome of an election.

- Allows the Election Commission to nullify elections if the intentional violator wins.
- Provides penalties of \$5,000 and or, five years imprisonment for knowingly providing false information to Election Commission.

Section 4

Severability clause

Section 5

The Clean Elections Act takes effect upon the signature of the Governor, immediately after the next general election.