

## Overview of 2019, S.32 As Passed by Senate

### *I. General Summary*

2019, S.32 As Passed by Senate would amend Vermont’s public financing option within the State’s campaign finance law. To summarize, this bill:

- 1) Eliminates the prohibition on publicly-financed candidates “announcing” their candidacy prior to February 15<sup>th</sup> of the general election year.<sup>1</sup>
- 2) Creates an earlier start date of the “Vermont campaign finance qualification period”—from current law’s *February 15<sup>th</sup> of the general election year* to the bill’s earlier *start of the two-year general election cycle*<sup>2</sup>—which has the effect of:
  - a. Loosening the restriction on the timeframe under which a candidate can accept or spend the maximum permitted amount of \$2,000 in standard contributions in order to be eligible for public financing grants<sup>3</sup>; and
  - b. Enlarging the amount of time that a candidate has to raise the “qualifying contributions” that are required to qualify for a public finance grant.<sup>4</sup>
- 3) Allows a publicly-financed candidate in a primary to obtain and expend during the primary election period up to 25% of his or her general election period grant (which under current law, cannot be obtained until after the primary).<sup>5</sup>
- 4) Creates the Public Campaign Finance Study Committee to study and make specific recommendations regarding Vermont’s current public finance option.<sup>6</sup>

### *II. Section-by-Section Summary*

Sec. 1, 17 V.S.A. § 2981: Amends the start date of the “Vermont campaign finance qualification period” from *February 15<sup>th</sup> of the general election year* to the *start of the two-year general election cycle*.

- Pursuant to 17 V.S.A. § 2901(18), the “two-year general election cycle” means the 24-month period that begins 38 days after a general election.<sup>7</sup>

<sup>1</sup> Sec. 1, 17 V.S.A. § 2983(a); pg. 2

<sup>2</sup> Sec. 1, 17 V.S.A. § 2981(4); pg. 1.

<sup>3</sup> Sec. 1, 17 V.S.A. § 2983(a); pgs. 1-2.

<sup>4</sup> 17 V.S.A. § 2984(a). See also **ATTACHMENT A** of this Overview, which provides the text of this statute.

<sup>5</sup> Sec. 1, 17 V.S.A. § 2985a; pg. 5.

<sup>6</sup> Sec. 2; pgs. 6-8.

<sup>7</sup> For reference, the 2020 Two-Year General Election Cycle began on Dec. 14, 2018.

Sec. 1, 17 V.S.A. § 2983(a): Amends the conditions that make a person eligible to be a publicly-financed candidate.

- First, this subsection amends the timeframe under which a candidate can accept or spend the maximum permitted amount of \$2,000 in standard contributions that is a condition of eligibility.
  - By providing that a person is not eligible if s/he accepts or spends more than that amount “prior to the [*the new revised*] Vermont campaign finance qualification period”—instead of current law’s “prior to February 15 of the general election year”—it is loosening restrictions on public financing eligibility. In other words, to be eligible, a person would no longer be limited to \$2,000 in standard contributions and expenditures prior to February 15<sup>th</sup> of the election year, and instead would only be limited to that amount prior to the start of the election cycle (approx. mid-December following the last general election).
- Second, this subsection eliminates the eligibility prohibition on “announcing” candidacy prior to February 15<sup>th</sup> of the election year.

Sec. 1, 17 V.S.A. § 2985(b): This is only a technical correction to make cross-references to the current law provisions of this section that provide exceptions to the standard amounts of current law’s public finance grants.

- The cross-reference to subdivision (b)(2) relates to current law’s requirement that a publicly-financed incumbent of the office may only receive 85% of the standard grant amount.
- The cross-reference to subsection (c) relates to current law’s requirement that publicly-financed candidates who lose the primary are not eligible for a general election period grant and are limited to making expenditures equal to the amount of the general election grant the candidate would have received.

Sec. 1, 17 V.S.A. § 2985a: Adds a new section to the public finance chapter to allow a publicly financed candidate in a primary to also obtain and spend up to 25% of the general election period grant.

- If that publicly financed candidate wins the primary, the candidate would be limited to the remaining balance of the general election grant during the general election period.
- But, if that publicly financed candidate loses the primary, the candidate would have to refund the portion of the general election grant that the candidate obtained. The candidate would have to make this refund not later than 40 days after the end of the two-year general election cycle, which would approximately be mid-to-late January after the general election.

Sec. 2: Creates a five-member Public Finance Study Committee to study and make recommendations regarding Vermont's current public finance option.

- The Committee would be made up of one Senate and one House member, each of whom would be Co-Chair of the Committee. The other members would be the Secretary of State, the Attorney General, and the Executive Director of the Ethics Commission, or their designees.
- The Committee would be required to make recommendations on whether Vermont should enact a different structure for its public finance option, such as the voucher program currently used in Seattle, or the structure used in Maine, which provides grants based on the amount of qualifying contributions a publicly financed candidate obtains.
  - If the recommendation would be to keep our current structure, then the Committee would need to address:
    - whether to change the amounts of the qualifying contributions and grant amounts that currently apply for publicly financed candidates for Governor and Lieutenant Governor;
    - whether public financing should be extended to other offices; and
    - any other recommendations for improvement.
  - In any case, the Committee would specifically need to address how to *fund* public financing in the State, because Vermont does not currently have a specific funding source.
- The Committee would need to provide its recommendations by December 1, 2019, and it would be limited to five paid meetings.

Sec. 3 is the effective dates.

- Sec. 2's Study Committee would take effect on passage.
- Sec. 1's changes to Vermont's public financing laws wouldn't take effect until December 11, 2020, which is the beginning of the next election cycle. In the past, the General Assembly has tried to avoid making changes to campaign finance law in the middle of a cycle.

**ATTACHMENT A: Text of Current 17 V.S.A. § 2984**

**17 V.S.A. § 2984. QUALIFYING CONTRIBUTIONS**

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of Governor or Lieutenant Governor shall obtain during **the Vermont campaign finance qualification period** the following amount and number of qualifying contributions for the office being sought:

(1) for Governor, a total amount of no less than \$35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than \$50.00 each; or

(2) for Lieutenant Governor, a total amount of no less than \$17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than \$50.00 each.

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

(c) Each qualifying contribution shall indicate the name and town of residence of the contributor and the date accepted and be acknowledged by the signature of the contributor.

(d) A candidate may retain and expend qualifying contributions obtained under this section. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended under this subsection shall be considered expenditures for purposes of this chapter.

**ATTACHMENT B: Summary of Current Public Campaign Finance Law**

Public financing of campaigns allows candidates to obtain public funds to run their campaign. A candidate must qualify for public campaign financing by obtaining a certain number and amount of qualifying contributions and by meeting other qualifications. A candidate who accepts public campaign financing agrees to limit his or her campaign spending to the amounts the candidate obtained through the qualifying contributions and the public financing. To summarize the specifics of Vermont's public campaign finance law:

- *Permitted candidates.* The public financing of campaigns is allowed for candidates for Governor and Lieutenant Governor. [17 V.S.A. § 2982\(a\)](#).
- *Qualifications.* To qualify for public financing, a person has to wait until **February 15th** of the election year to *announce* his or her candidacy, and the person can't accept or spend **\$2,000 or more** before that time. [17 VSA § 2983\(a\)](#).
- *Qualifying contributions.* A candidate seeking public financing has to raise what are called "qualifying contributions" during the Vermont campaign finance qualification period. [17 V.S.A. § 2984\(a\)](#). The "Vermont campaign finance qualification period" is defined as running from **February 15th** of the election year until the primary petition filing deadline, which is **near the end of May**. [17 V.S.A. § 2981\(4\)](#).
  - For Governor, the person has to raise at least **\$35,000** in qualifying contributions from at least **1,500 contributors**, who give no more than **\$50** apiece. [17 V.S.A. § 2984\(a\)\(1\)](#).
  - For Lieutenant Governor, the person has to raise at least **\$17,500** in qualifying contributions from at least **750 people**, who give no more than **\$50** apiece. [17 V.S.A. 2984\(a\)\(2\)](#).

- There are restrictions on who is a “qualified contributor.” A qualifying contributor can’t give more than one qualifying contribution; they have to be Vermont registered voters; and no more than 25% of the total number of qualifying contributors can be from the same county. [17 V.S.A. § 2984\(b\)](#).
- *Affidavit.* After a candidate for public financing has collected these qualifying contributions, the candidate has to submit to the Secretary of State a campaign finance affidavit, which documents all of those contributions. [17 V.S.A. § 2982\(c\)\(3\)](#). This affidavit has to be filed on or before the primary petition filing deadline. [17 V.S.A. § 2982\(a\)](#).
- *Grants, generally.* If a candidate is able to fulfill these obligations, the candidate is eligible for two separate public financing grants: one for the primary, and one for the general election. [17 V.S.A. § 2985\(a\)\(1\)](#).
  - **Once a candidate accepts a grant, the candidate can only spend his or her qualifying contributions and the grant.** [17 V.S.A. § 2983\(b\)\(1\)](#).
- *State provision of grants.* The Secretary of State will give the primary grant within the first 10 days of the “primary election period,” which starts the day after the primary petition filing deadline, and will give the general election grant within the first 10 days of the “general election period,” which starts the day after the primary election. [17 V.S.A. § 2985\(e\)](#); [17 V.S.A. § 2981\(2\) and \(3\)](#).
  - To cover these grants, the Secretary of State reports to the Commissioner of Finance and Management, who anticipates receipts from the Secretary of State’s Services Fund and issues a warrant to pay for the grants. [17 V.S.A. § 2985\(a\)\(2\)](#).

- *Grant amounts.* The General Assembly increased the amount of these grants in 2014.
  - For publicly-financed candidates for Governor, the amounts are:
    - **\$150,000** for the primary election period, minus the amount of the candidate's qualifying contributions; and
    - **\$450,000** for the general election period. [17 V.S.A. § 2985\(b\)\(1\)](#).
  - For publicly-financed candidates for Lieutenant Governor, the amounts are:
    - **\$50,000** for the primary election period, minus the amount of the candidate's qualifying contributions; and
    - **\$150,000** for the general election period. [17 V.S.A. § 2985\(b\)\(2\)](#).
  - However, if a candidate is an incumbent, it's 85% of those amounts. [17 V.S.A. § 2985\(b\)\(3\)](#).
  - And, if the candidate has an uncontested general election, or if the candidate ran in the primary and lost the primary, the candidate doesn't get the general election grant. In this case, the candidate is able to accept standard contributions, but the candidate can only make expenditures up to an amount equal to the general election grant amount. [17 V.S.A. § 2985\(c\)](#).
- *Return of leftover funds.* Finally, if a publicly-financed candidate still has qualifying contributions, grants, or those permitted standard contributions left over after the general election after all permissible expenditures have been paid, the candidate has to return them to the Secretary of State's Services Fund not later than 40 days after the general election. [17 V.S.A. § 2983\(b\)\(3\)](#).