

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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District of
Columbia
Official Code*

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To amend the District of Columbia Statehood Constitutional Convention Initiative of 1979 to establish the District of Columbia Statehood Delegation Fund Commission as an independent public instrumentality of the District of Columbia with the purpose of collecting and disbursing funds to support the offices of the District of Columbia Statehood Delegation, to establish the Statehood Delegation Fund into which shall be deposited funds to be disbursed by the Commission to the District of Columbia Statehood Delegation, to provide procedures for disbursement and restrictions on the use of funds deposited into the Statehood Delegation Fund, to require the Commission to issue a semiannual report on its operations to the Mayor, the Council, and the District of Columbia Board of Elections and Ethics, and to provide for dissolution of the Commission; and to amend Chapter 18 of Title 47 of the District of Columbia Official Code to establish an income tax check-off to enable District of Columbia taxpayers to voluntarily contribute funds to the Statehood Delegation Fund.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Statehood Delegation Fund Commission Establishment and Tax Check-Off Amendment Act of 2004”.

TITLE I

Sec. 101. Short title.

This title may be cited as the “Statehood Delegation Fund Commission Establishment Amendment Act of 2004”.

Sec. 102. The District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-121 *et seq.*), is amended as follows:

- (a) Designate the existing language as Title I.
- (b) A new Title II is added to read as follows:

“TITLE II. DISTRICT OF COLUMBIA STATEHOOD
“DELEGATION FUND COMMISSION

“Sec. 11. Definitions.

“For the purposes of this title, the term:

“(1) “Commission” means the District of Columbia Statehood Delegation Fund Commission.

“(2) “District of Columbia Statehood Delegation” means the 2 United States Senators and the United States Representative holding office pursuant to section 4.

“(3) “Fund” means the Statehood Delegation Fund established by section 18.

“(4) “Statehood Fund” means the fund established by each United States Senator and United States Representative pursuant to section 4(g), and overseen by the Office of Campaign Finance.

“(5) “United States Representative” means the District of Columbia public official elected pursuant to section 4 to the office of Representative, and charged with promoting statehood and voting rights for the citizens of the District of Columbia.

“(6) “United States Senator” means either of the 2 District of Columbia public officials elected pursuant to section 4 to the office of Senator, and charged with promoting statehood and voting rights for the citizens of the District of Columbia.

“Sec. 12. Establishment of the District of Columbia Statehood Delegation Fund Commission; purpose; fiscal year.

“(a) The District of Columbia Statehood Delegation Fund Commission is established as a body corporate and an independent instrumentality of the District of Columbia, created to effectuate the public purposes provided for in this title, but with a legal existence separate from that of the District government.

“(b) The general purposes of the Commission are to:

“(1) Provide financial assistance to the office functions of the offices of the District of Columbia Statehood Delegation;

“(2) Solicit financial and in-kind contributions, grants, allocations, gifts, bequests, and appropriations from public and private sources on behalf of the District of Columbia Statehood Delegation; and

“(3) Disburse funds and other types of assistance collected by the Commission to the offices of the members of the District of Columbia Statehood Delegation.

“(c) The fiscal year of the Commission shall be the fiscal year of the District government.

“Sec. 13. Commissioners.

“(a) The Commission shall consist of 9 voting members to be appointed as follows:

“(1) Five members appointed by the Mayor;

“(2) Four members appointed by the Chairman of the Council, with the advice and consent of the Council.

“(b)(1) The Commission Chairman shall be chosen by the Mayor.

“(2) The Commission Vice Chairman shall be chosen by the Chairman of the

Council.

“(3) The Commission shall elect from among its members such other officers of the Commission as it determines appropriate.

“(4) Officers shall have such duties, not inconsistent with this title, provided in the bylaws and as otherwise determined by the Commission.

“(c) Commissioners shall serve 3-year terms, except that the first members appointed by the Chairman of the Council shall serve 2-year terms. All subsequent appointees shall serve 3-year terms.

“(d) Commissioners shall meet the following requirements:

“(1) All shall reside in the District of Columbia;

“(2) None shall be employees of the District or federal governments; and

“(3) None shall concurrently:

“(A) Hold office as a member of the District of Columbia Statehood

Delegation; or

“(B) Be employed by a member of the District of Columbia Statehood

Delegation.

“(e) When deemed necessary, the Mayor may remove a Commission member, no matter how appointed, for inefficiency, neglect of duty, malfeasance in office, or conduct bringing disrespect to, or impugning the character or integrity of, the Commission.

“(f) A vacancy on the Commission shall be filled for the remainder of the unexpired term and in the same manner in which the original appointment was made.

“(g) Commission members may continue to serve after the expiration of their term until a successor is designated. The term of the successor shall be deemed to have commenced upon the expiration of the term of the previous member.

“(h) A majority of the number of Commission members serving shall constitute a quorum for the conduct of business.

“(i) As soon as practicable after appointment of a majority of its members, the Commission shall adopt bylaws, and may adopt guidelines, rules, and procedures for the governance of its affairs and the conduct of its business.

“(j) Commission members shall serve without compensation, but may receive travel, per diem, and other actual, reasonable, and necessary expenses incurred in the performance of their official duties as Commission members to the same extent as employees of the District government classified at a Grade 15, Step 1 of the District Service Salary Schedule for Nonunion Employees. In no event shall a Commission member receive more than \$1,000 per year. Such reimbursement shall be paid from the Fund as described in section 18(d) and shall be reported in the semiannual report described in section 21.

“(k) The Commission may recruit honorary members based on criteria the Commission shall determine. The honorary members shall have no vote on the administration of the Fund or operation of the Commission.

“Sec. 14. Meetings of the Commission.

“(a) Upon notice to the public, the Commission shall meet at a place in the District of Columbia open and accessible to the public at the times specified in the bylaws, which shall not be less than quarterly each year, and at other times at the call of the Chairman or as additionally provided in the bylaws. Notwithstanding any other District law or rule to the contrary, the Commission may meet by any electronic means; provided, that:

“(1) Each Commissioner may speak, hear, and be heard by the other Commission members; and

“(2) At least one Commission member is physically located in a site in the District of Columbia which is accessible and open to the public, and that reasonable steps have been taken to allow the public to hear the discussion and deliberation of the Commission.

“(b) All meetings of the Commission at which official action is to be taken shall be open to the public, as provided in section 742 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 831; D.C. Official Code § 1-207.42), except for any portion of a meeting when there is discussion of specific potential donors.

“(c) The books and records of the Commission shall be open to the public, as provided in Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), except that documents regarding specific potential donors shall not be available for public inspection or copying.

“Sec. 15. Officers and employees.

“(a) The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), shall not apply to employees of the Commission.

“(b) The semiannual report described in section 21 shall describe the compensation structure and amount for any employees of the Commission.

“(c) No political test or qualification shall be used in selecting, appointing, assigning, promoting, or taking other personnel actions with respect to employees of the Commission.

“(d) In carrying out its duties, the Commission may utilize contract services and, to the maximum extent possible, pro bono services; provided, that such services are itemized in the semiannual report of the Commission described in section 21.

“Sec.16. Limitations on actions; representation by Attorney General of the District of Columbia.

“(a) Any legal action arising from the application of any rule or procedure adopted by or prescribed by, or with respect to any determination of, the Commission pursuant to this title shall be filed within 90 days after the date of the occurrence of the event that is the subject of the legal proceeding.

“(b) In any legal action arising from actions of the Commission, or from the Commission’s failure to act, the Commission shall be represented by the Attorney General of the District of Columbia, or counsel of its choosing.

“Sec. 17. Tax-exempt status.

“The Commission and its income, property, transactions, and right to do business shall be exempt from any taxation, direct or indirect, within the District, including any sales, use, franchise, gross sales or receipts, income, personal property, transfer, or excise tax. Contributions to the Fund shall be tax deductible.

“Sec. 18. Establishment of Statehood Delegation Fund.

“(a) There is established a Statehood Delegation Fund, which shall be operated and maintained by the Commission in accordance with generally accepted accounting principles.

“(b) The Commission shall solicit contributions, appropriations, and grants to and for the benefit of the Fund from public and private sources.

“(c) Except as provided in section 22, all revenues, proceeds, and monies, from whatever source, collected or received by the Commission shall be credited to the Fund and shall not, at any time, be transferred to, lapse into, or be commingled with the General Fund of the District of Columbia, or any other funds or accounts of the District of Columbia.

“(d) The Commission shall pay its expenses from the Fund. Such expenses shall be for administrative purposes, for maintenance of its existence, preparation of reports pursuant to subsection (g) of this section and to section 21, and to raise funds; provided, that the Commission may not expend more than 25% of the Fund on an annual basis for its expenses.

“(e)(1) Quarterly, equal disbursements shall be made from the Fund to the Statehood Fund of each member of the District of Columbia Statehood Delegation. The amount of each disbursement shall be reported in the semiannual report described in section 21.

“(2) Except as provided in subsection (f) of this section or in paragraph (3) of this subsection, each quarter, the 3 equal disbursements under subsection (a) of this section shall total an amount equal to the balance of the Fund after payment of expenses pursuant to subsection (d) of this section.

“(3) The Commission may disburse less than the full balance of the Fund, as provided in paragraph (2) of this subsection, if it determines, by a 2/3 vote of the Commission, that disbursing the full balance would be fiscally imprudent.

“(f) No disbursement shall be made under subsection (e) of this section to a member of the District of Columbia Statehood Delegation who is out of compliance with the filing and disclosure requirements of this title and applicable District or federal law, or who has used funds in violation of section 19, until such time as the violation has been corrected. In this instance, the 1/3 disbursement held back shall become part of the corpus from which the next quarterly disbursement, pursuant to subsection (e)(1) of this section shall be made.

“(g) The Commission shall transmit to the Mayor, the Council, and the Chief Financial Officer quarterly reports summarizing the revenues and expenditures of the Fund.

“(h) All revenues and expenses of the Fund shall be audited annually by the Chief Financial Officer, who shall transmit the audit to the Mayor and the Council. The expenses of the annual audit shall be defrayed by the Fund.

“Sec. 19. Use of funds

“(a) Except as provided in subsection (b) of this section, members of the District of

Columbia Statehood Delegation may use funds provided by the Commission for any expense closely and directly related to the operation of their office.

“(b)(1) Fund monies shall not be used by members of the District of Columbia Statehood Delegation for:

“(A) Campaign expenses related to any election, local or national;

“(B) Any contributions to any candidate for federal or non-federal office;

“(C) Any personal expenses, or travel expenses not closely and directly related to the office the member holds; or

“(D) Any personal salary, or stipend.

“(2) The prohibition in paragraph (1)(D) of this subsection shall not limit the ability of a member of the District of Columbia Statehood Delegation to pay salaries to employees other than the member, or to pay vendors providing services closely and directly related to the office the member holds.

“(c) Semiannually, each District of Columbia Statehood Delegation member shall provide the Commission with an accounting of the expenditures made with the money received from the Commission. The date by which the accounting is due shall be set by the Commission. The accounting shall be reported in the semiannual report described in section 21.

“Sec. 20. Prohibition on political activity.

“The Commission shall not expend funds:

“(1) To influence legislation, other than in connection with testimony by a Commission member, officer, or employee of the Commission before a committee of the Congress or the Council, or in response to a written request from a member of Congress or the Council;

“(2) To influence the outcome of any election, national or local;

“(3) To political parties; or

“(4) To other organizations of any kind to support the lobbying efforts of any group or organization.

“Sec. 21. Reports.

“Semiannually, the Commission shall submit to the Mayor, the Chairman of the Council, and the Chairman of the District of Columbia Board of Election and Ethics, a detailed written report of its activities, revenues, and expenditures (including the full name, home address, occupation, employer, and amount of each contributor of each financial contribution, and the source, value, and form of each other gift, grant, bequest, or appropriation to the Fund), other information required by this title, and any other information deemed appropriate by the Commission. The Commission shall make each report available to the general public upon request.

“Sec. 22. Dissolution; termination of affairs.

“(a) Upon dissolution of the Commission, title to real and personal property of the Commission shall vest in the District. No property, assets, or earnings of the Commission shall

at any time inure to any private person or entity.

“(b) The Commission may be dissolved by a vote of a majority of the Commission and approval by act of the Council; provided, that adequate provision has been made for all debts and obligations of the Commission.”.

TITLE II. TAX CHECK-OFF.

Sec. 201. Short title.

This title may be cited as the “District of Columbia Statehood Delegation Fund Tax Check-off Act of 2004”.

Sec. 202. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase “47-1812.11b. Tax check-off.” and insert the phrase “47-1812.11b. Public Fund for Drug Prevention and Children at Risk tax check-off.” in its place.

(2) Insert the phrase “47-1812.11c. Statehood Delegation Fund tax check-off.” after the phrase “47-1812.11b. Public Fund for Drug Prevention and Children at Risk tax check-off.”.

(b) The title for section 47-1812.11b is amended by striking the word “Tax” and inserting the phrase “Public Fund for Drug Prevention and Children at Risk tax” in its place.

(c) A new section 47-1812.11c is added to read as follows:

“§ 47-1812-11c. Statehood Delegation Fund tax check-off.

“(a) There shall be provided on the District of Columbia individual income tax return a voluntary check-off that indicates an individual may contribute a minimum donation or gift of \$1 to the Statehood Delegation Fund (“Fund”), established by section 18 of the District of Columbia Statehood Constitutional Convention Initiative of 1979, passed on 2nd reading on October 5, 2004 (Enrolled version of Bill 15-575). The contribution shall reduce any refund owed to the individual taxpayer or increase the tax owed by the individual taxpayer on the taxpayer’s tax return. The funds generated from the tax check-off shall be earmarked for the Fund except that any cost incurred by the Mayor in collecting, processing, accounting for, or disbursing the funds generated by the tax check-off shall be reimbursed to the Mayor from the funds generated by the tax check-off.

“(b) The funds generated by the tax check-off established by subsection (a) of this section shall be transferred to the Fund pursuant to rules issued by the Mayor that establish timetables and procedures for transfer of the funds. Check-off funds shall be transferred to the Fund only after the costs to the Mayor described in subsection (a) of this section have been reimbursed.

“(c)(1) Except as provided in paragraph (2) of this subsection, any unpaid District tax liability on an individual income tax return shall render any voluntary tax check-off election void. Any amount paid for the purpose of contributing to the Fund shall be used first to satisfy any

unpaid tax liability, in whole or in part.

“(2) If there is any amount that remains after satisfaction of the unpaid tax liability, the amount shall be transferred to the Fund.

“(d) If on January 1 of any year that begins 3 years after implementation of the tax check-off, the contributions for the previous taxable year fall below \$25,000, this section shall expire.”.

TITLE III

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02©)(3)).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia