

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 537

(Senator Edwards, *et al.*) (Chair, Joint Committee on
Legislative Ethics)

Education, Health, and Environmental Affairs

Rules and Executive Nominations

**General Assembly - Legislative Newsletters - Publication Expenses and Links to
Social Media Accounts**

This bill modifies provisions applicable to a “legislative newsletter” to (1) refer instead to an “unofficial legislative newsletter” and (2) prohibit the use of personal funds for publication expenses of an unofficial legislative newsletter. The bill also establishes a definition of an “official electronic legislative newsletter” and establishes standards applicable to the inclusion of a link in an official electronic legislative newsletter to a social media account of an incumbent member of the General Assembly. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill modifies existing provisions applicable to a “legislative newsletter” by:

- changing references to a “legislative newsletter” to refer instead to an “unofficial legislative newsletter”; and

- (1) repealing the option for the publication expenses of the newsletter to be paid from the personal funds of the incumbent member of the General Assembly or the spouse of the incumbent and (2) prohibiting payment of publication expenses of an unofficial legislative newsletter from the personal funds of any individual.

An “unofficial legislative newsletter” is defined as an unsolicited document used by an incumbent, without supervision by or coordination with the General Assembly, to disseminate information to a constituent, voter, or potential voter about (1) the incumbent’s performance in legislative office or (2) one or more issues of public interest chosen by the incumbent.

The bill also defines an “official electronic legislative newsletter” as a document that (1) is electronically distributed and (2) is used by an incumbent, with supervision by or coordination with the General Assembly, to disseminate information about one or more issues of public interest chosen by the incumbent. The bill establishes that an official electronic legislative newsletter may include a link to a social media account of the incumbent only if the social media account (1) is used to communicate legislative and constituent information; (2) is not primarily used for electoral purposes, as defined in specified State Board of Elections (SBE) regulations; (3) is not used for the personal economic gain of the incumbent; and (4) except for a usual and customary constituent service, is not used for the economic gain of another person.

Under the specified SBE regulations, “electoral purpose” is defined as an action that promotes or enhances the success or defeat of a candidate, a political party, or a question in an election and would not have occurred but for the existence of the candidacy, political party, or question. “Electoral purpose” includes actions that increase the visibility or viability of a candidate, political party, or question, such as (1) appearing on campaign material of a political or advocacy committee or organization or (2) attending charitable or political events.

Current Law: Under provisions governing “legislative newsletters,” a “legislative newsletter” is defined as an unsolicited document used by an incumbent, without supervision by, or coordination with, the General Assembly, to disseminate information to a constituent, voter, or potential voter about (1) the incumbent’s performance in legislative office or (2) one or more issues of public interest chosen by the incumbent.

Under the provisions, publication expenses of a legislative newsletter may not be paid from public funds, but may be paid from:

- a campaign account of a campaign finance entity of the incumbent if the campaign finance entity complies with all other requirements of State campaign finance law regarding expenditures and campaign material; or

- the personal funds of the incumbent or the spouse of the incumbent if, as to each issue, (1) the incumbent has not filed a certificate of candidacy; (2) the legislative newsletter contains a notice that it is disseminated at the personal expense of the incumbent; and (3) within 10 days after the first mailing or distribution of the issue, the incumbent files a campaign finance report with SBE that contains a detailed list of publication expenses and an affidavit that no funds for the legislative newsletter have been solicited or received from any source to supplement the personal funds.

The campaign finance report required to be filed if personal funds are used for publication expenses is subject to late filing fees if overdue.

Background: The Joint Committee on Legislative Ethics’ [2020 Ethics Guide](#) includes guidelines (p. 21) issued by the Presiding Officers of the General Assembly for the use of the General Assembly’s print shop, mail room, email, and electronic newsletters. In general, the guidelines state that:

“[t]he use of governmental resources for printing, mailing, and emailing correspondence or other documents is intended primarily for official legislative business, communications relating directly to a single legislative issue, and responses to constituent inquiries.”

However, the guidelines do allow for certain electronic newsletters:

“A member may send a periodic email newsletter covering multiple legislative and constituent issues using the electronic newsletter system provided by the General Assembly. Except as otherwise authorized in these guidelines, this newsletter must comply with the standards of legislative ethics, opinions issued by the Ethics Committee, the Ethics Guide, and other relevant laws. The newsletter may include notices of constituent events that are not political or campaign related. This newsletter may not be used for political or campaign activity and may not include links to or a referral to a website with political or campaign content.”

The ethics guide states that “[a] periodic email newsletter that is not sent using the electronic newsletter system provided by the General Assembly may not be sent from or, based on the address in the email’s “From” line, appear to be sent from a General Assembly email address.”

Additional Information

Prior Introductions: None.

Designated Cross File: HB 701 (Delegate Dumais)(Chair, Joint Committee on Legislative Ethics) - Rules and Executive Nominations..

Information Source(s): State Board of Elections; State Ethics Commission; Department of Legislative Services

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