

**HB0761/185665/1**

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 761

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Contested Elections**” and substitute “**Postelection Procedures**”; strike beginning with “prohibiting” in line 3 down through “circumstances;” in line 6; in line 7, after “recount;” insert “providing that certain provisions of this Act apply only to persons that accept public campaign financing under certain provisions of law;”; in line 10, after “committee” insert “at any time”; and strike beginning with “establishing” in line 15 down through “limits;” in line 22 and substitute “prohibiting certain persons from soliciting or accepting donations on behalf of a contested election committee in excess of certain contribution limits;”.

On page 2, in line 23, after “penalties;” insert “requiring that certain unspent public contributions be repaid to a certain government entity; providing that certain private contributions are treated as spent before certain public contributions for the purpose of making a certain calculation;”; in line 27, strike “requiring” and substitute “providing”; strike beginning with “allow” in line 28 down through “establish” in line 29 and substitute “may include public financing of”; strike beginning with “provide” in line 31 down through “candidate;” in line 33 and substitute “allow a publicly financed candidate to transfer any amount of funds from the candidate’s campaign finance entity to the candidate’s contested election committee; requiring the State Administrator of Elections to convene a Risk-Limiting Audits Workgroup; requiring the Workgroup to consist of certain persons selected by the State Administrator; requiring the State Administrator, or the State Administrator’s designee, to serve as chair of the Workgroup; requiring that the first meeting of the Workgroup be held on or before a certain date; requiring the Workgroup to draft a plan to conduct a risk-limiting audit of certain contests after each statewide election and proposed legislation for consideration by the General Assembly that would enact the plan; requiring the plan for conducting risk-limiting audits drafted by the Workgroup to include certain”.

(Over)

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requirements and certain elements; requiring the Workgroup to submit its plan for conducting risk-limiting audits and its proposed legislation that would enact the plan to certain committees of the General Assembly on or before a certain date;"; in line 34, after "correction;" insert "altering certain definitions;"; strike beginning with "contested" in line 34 down through "elections" in line 35 and substitute "postelection procedures"; after line 35, insert:

"BY repealing and reenacting, without amendments,

Article – Election Law

Section 1-101(a)

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)";

in line 38, after "Section" insert "1-101(o) and (aa)."; and in the same line, strike "12-101(a), 12-103(a)."

AMENDMENT NO. 2

On page 3, after line 4, insert:

"1-101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(o) (1) "Contribution" means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to:

(I) promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question; AND

(II) ASSIST IN THE PAYMENT OF EXPENSES ASSOCIATED WITH CONTESTING AN ELECTION UNDER TITLE 12 OF THIS ARTICLE.

(2) "Contribution" includes:

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(i) proceeds from the sale of tickets to a campaign fund-raising event; and

(ii) a coordinated expenditure as defined in § 13-249 of this article.

(3) “Contribution” does not include the costs associated with the establishment, administration, or solicitation of voluntary contributions to a political action committee established by a corporation, limited liability company, general partnership, limited partnership, membership organization, trade association, cooperative, or corporation without capital stock as long as the political action committee only solicits contributions from employees of the organization that established the political action committee, or members of the organization that established the political action committee, and the employees or members are participating in a payroll deduction program established by the employer of the employee or member.

(aa) “Expenditure” means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to:

(1) promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question at an election; [or]

**(2) PAY EXPENSES ASSOCIATED WITH CONTESTING AN ELECTION UNDER TITLE 12 OF THIS ARTICLE; OR**

**[(2)] (3) pay for the publication expense of a legislative newsletter under Title 13, Subtitle 4 of this article.”;**

and strike in their entirety lines 5 through 22, inclusive.

**AMENDMENT NO. 3**

On page 4, in line 6, strike “0.1%” and substitute “**0.25%**”; in line 13, after “**(B)**” insert “**(1)**”; in lines 14 and 15, strike “**(1)**” and “**(2)**”, respectively, and substitute “**(I)**” and “**(II)**”, respectively; after line 15, insert:

(Over)

**“(2) “CONTESTED ELECTION” INCLUDES AN ELECTION THAT MAY BE SUBJECT TO A RECOUNT UNDER SUBTITLE 1 OF THIS TITLE, BUT FOR WHICH A RECOUNT DOES NOT OCCUR BECAUSE NEITHER CANDIDATE FILES A FORMAL RECOUNT PETITION OR INITIATES A JUDICIAL ACTION.”;**

after line 19, insert:

**“(A) THIS SUBTITLE APPLIES ONLY TO A PERSON THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER:**

**(1) TITLE 15 OF THIS ARTICLE; OR**

**(2) § 13-505 OF THIS ARTICLE.”;**

in line 20, before “A” insert “**(B)**”; and in line 26, after “COMMITTEE” insert “**AT ANY TIME**”.

On page 5, strike in their entirety lines 13 through 28, inclusive; after line 28, insert:

**“(A) (1) A PERSON THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER TITLE 15 OF THIS ARTICLE MAY NOT SOLICIT OR ACCEPT A DONATION ON BEHALF OF A CONTESTED ELECTION COMMITTEE IN EXCESS OF THE CONTRIBUTION LIMITS ESTABLISHED UNDER TITLE 15 OF THIS ARTICLE.**

**(2) A PERSON THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER § 13-505 OF THIS ARTICLE MAY NOT SOLICIT OR ACCEPT A DONATION ON BEHALF OF A CONTESTED ELECTION COMMITTEE IN EXCESS OF THE**

CONTRIBUTION LIMITS ESTABLISHED IN LAW BY THE GOVERNING BODY OF THE COUNTY IN ACCORDANCE WITH § 13-505 OF THIS ARTICLE.”;

and in line 29, strike “(E)” and substitute “(B)”.

On page 11, after line 14, insert:

“(A) (1) ANY PART OF A PUBLIC CONTRIBUTION MADE TO A CONTESTED ELECTION COMMITTEE THAT IS NOT SPENT SHALL BE REPAID TO THE APPROPRIATE GOVERNMENT ENTITY.

(2) IN COMPUTING WHETHER PART OF A PUBLIC CONTRIBUTION IS NOT SPENT, ALL PRIVATE CONTRIBUTIONS TO THE PERSON SHALL BE TREATED AS SPENT BEFORE THE EXPENDITURE OF ANY PUBLIC CONTRIBUTION.”;

in line 15, strike “BEFORE” and substitute:

“(B) AFTER REPAYING REMAINING PUBLIC CONTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION AND BEFORE”;

in line 26, after “(a)” insert “IN THIS SECTION, “CONTESTED ELECTION COMMITTEE” MEANS A CONTESTED ELECTION COMMITTEE ESTABLISHED UNDER TITLE 12, SUBTITLE 3 OF THIS ARTICLE.

(B)”;

after line 28, insert:

(Over)

“(2) A SYSTEM OF PUBLIC FINANCING ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE PUBLIC FINANCING OF A CONTESTED ELECTION COMMITTEE.”;

and in line 29, strike “(2)” and substitute “(3)”.

On page 12, in line 5, strike “(b)” and substitute “(C)”; in the same line, strike “(a)” and substitute “(B)”; in line 26, strike the brackets; strike in their entirety lines 27 through 29, inclusive; in line 30, strike the brackets; and in the same line, strike “(8)”.

On page 13, in line 1, strike “(c)” and substitute “(D)”; in the same line, strike “(a)” and substitute “(B)”; in line 7, after “Article;” insert “AND”; and strike beginning with “(3)” in line 8 down through “CANDIDATE” in line 12 and substitute:

“(3) ALLOW A PUBLICLY FINANCED CANDIDATE TO TRANSFER ANY AMOUNT OF FUNDS FROM THE CANDIDATE’S CAMPAIGN FINANCE ENTITY TO THE CANDIDATE’S CONTESTED ELECTION COMMITTEE”.

AMENDMENT NO. 4

On page 13, after line 12, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Electronic count” means the vote totals produced by the voting system.
- (3) “Manual count” means inspection of voter-verifiable paper records by hand and eye to obtain vote totals in a contest.
- (4) “Risk limit” means the small, predetermined maximum chance that a risk-limiting audit will not require a full manual count of voter-verifiable paper

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records in an audited contest if a full manual count of the voter-verifiable paper records would find a different outcome than the outcome determined by the electronic count.

(5) “Risk-limiting audit” means a postelection audit procedure that employs statistical methods to ensure a large, predetermined minimum chance of requiring a full manual count of voter-verifiable paper records in an audited contest if a full manual count of the voter-verifiable paper records would find a different outcome than the outcome determined by the electronic count.

(6) “State Administrator” means the State Administrator of Elections.

(7) “State Board” means the State Board of Elections.

(8) “Voter-verifiable paper record” has the meaning stated in § 9-102 of the Election Law Article.

(b) (1) The State Administrator shall convene a Risk-Limiting Audits Workgroup.

(2) The Workgroup shall consist of the following persons selected by the State Administrator:

(i) experts in the theory and practice of risk-limiting audits;

(ii) at least one representative of the voting system vendor; and

(iii) local election officials.

(3) The State Administrator, or the State Administrator’s designee, shall serve as chair of the Workgroup.

(4) The first meeting of the Workgroup shall be held on or before June 10, 2021.

(5) The Workgroup shall:

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(i) draft a plan to conduct a risk-limiting audit of at least one statewide contest and at least one countywide or other local contest in each county after each statewide election;

(ii) draft proposed legislation for consideration by the General Assembly during the 2022 regular session that would enact the plan for conducting risk-limiting audits after each statewide election; and

(iii) meet periodically thereafter to make recommendations to the State Board to revise and improve the risk-limiting audit process as appropriate.

(c) The plan for conducting risk-limiting audits drafted by the Workgroup shall:

(1) require manual examination of randomly chosen individual voter-verifiable paper records or batches of voter-verifiable paper records until the maximum chance of a full manual count finding a different outcome than the outcome determined by the electronic count is no larger than the risk limit, or until there has been a full manual count;

(2) require a risk-limiting audit to:

(i) be completed before certification of the election results; and

(ii) be observable by the public to the maximum extent practicable;

(3) require that, if a risk-limiting audit finds that the election outcome determined by the electronic count is incorrect, the official result of the election be altered to match the outcome determined by the risk-limiting audit;

(4) require that a public report concerning the risk-limiting audit process and the results of the risk-limiting audit be released after each statewide election; and

(5) include:

(i) criteria for determining the contests to be audited;

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(ii) the risk limit; and

(iii) the audit method.

(d) On or before December 17, 2021, the Risk-Limiting Audits Workgroup shall submit its plan for conducting risk-limiting audits and its proposed legislation that would enact the plan to the Senate Education, Health, and Environmental Affairs Committee and the Committee on Ways and Means in accordance with § 2-1257 of the State Government Article.”;

in line 13, strike “2.” and substitute “3.”; and in line 14, strike “October” and substitute “June”.