

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Board of Elections
(DLS Control No. 14-030)**

Overview and Legal and Fiscal Impact

These regulations establish administrative procedures and requirements, in accordance with Title 14 of the Election Law Article, for the filing of statements of contributions with the State Board of Elections by persons doing public business.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Board of Elections:

Disclosure by Persons doing Public Business: Statement of Contributions Requirements:
COMAR 33.20.02.01-.04

Legal Analysis

Background

Chapter 419 of 2013 enacted a number of revisions to the State's campaign finance laws that were the result of recommendations proposed after a two-year study by the commission to Study Campaign Finance Law that was established by the General Assembly under Joint Resolution 1 of 2011. Among the commission's recommendations were modifications to Title 14 of the Election Law Article, which regulates the disclosure of campaign contributions by persons doing public business with the State and local governments in the State. Among the changes were (1) to the definition of "doing public business"; (2) only requiring the disclosure of contributions that are made to a candidate for an office of a governmental entity with which the contributor is doing public business; (3) requiring disclosure statements to be filed electronically and to be made publicly available on the Internet; (4) requiring specified records to be kept by persons doing public business; (5) requiring, except with regard to a contract for which notice of award has been posted on eMaryland Marketplace, that a governmental entity obtain certification from a person doing public business that an initial disclosure statement has been filed and that the governmental entity notify the board if a person doing public business with the governmental entity fails to file the initial disclosure statement; (6) authorizing the board to audit disclosure statements and records kept by those filing statements and to impose fees for late filings; and (7) authorizing the board to adopt regulations.

Summary of Regulations

The regulations require persons doing public business to comply with various requirements and procedures, including (1) filing notice with the board within one business day after the award of a contract by a governmental entity; (2) disclosing: (i) the person's identity; (ii) the person's business address; and (iii) the name, mailing address, and email address of various officers and other individuals of the business entity; (iv) the level of the government that awarded the contract; (v) the name of the government entity that awarded the contract; and (vi) the name and relationship of any business entity or person attributed to or affiliated with the person filing the registration notice that was awarded a contract by a government entity; and (3) filing the registration notice electronically.

The regulations also specify the contents of the statement of contributions, among which include (1) the name of the candidate to which the contribution was made; (2) the name of the political committee affiliated with a candidate that received an applicable contribution; (3) the elective office sought (if known) by a candidate that received a contribution; (4) aggregate contributions attributed to the filer over various periods; (5) the method by which the contribution was made; (6) the nature and amount of the contract awarded; (7) the name of the government entity that made the contract; (8) the name of the business entity or person that was awarded the contract; (9) the fair market value of any in-kind contribution that was made; and (10) miscellaneous other requirements.

Finally, the regulations require that the statement of contributions (1) be filed electronically by means of the browser-based software provided by the board; (2) include an attestation by the filer under penalty of perjury that the contents of the electronic filing are complete and accurate; (3) identify (if applicable) the chief executive officer of the business; and (4) include any other information or materials required by the State Administrator of Elections.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The board cites §§ 2-102(b)(4) and 14-109 of the Election Law Article as authority for the regulations. Paragraph 2-102(b)(4) grants the board broad authority to adopt regulations to implement its powers and duties. Section 14-109 grants the board authority to adopt regulations to implement the requirements of Title 14 of the Election Law Article, the provisions of law that govern the disclosure of contributions by persons doing public business. However, § 14-109 does not does not

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Special Notes

The board has agreed that the notice of final adoption to be published in the *Maryland Register* will need to include a delayed effective date of January 1, 2015, consistent with the

effective date of section 2 of Chapter 419 of 2013. The Division of State Documents has been notified regarding the necessary addition.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The State Board of Elections advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs. The regulations partially implement Chapter 419 of 2013. The fiscal and policy note for HB 1499 of 2013 (enacted as Chapter 419) included general fund personnel and programming expenditures and general fund late fee revenues associated with changes regarding disclosure of campaign contributions by persons doing public business. These regulations should not have any fiscal impact independent of the impact identified in the HB 1499 fiscal and policy note.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The State Board of Elections advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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