

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Board of Elections
(DLS Control No. 14-196)**

Overview and Legal and Fiscal Impact

These regulations require that, for each electronic financial disclosure statement filed with the State Board of Elections (SBE) by a person “doing public business,” as prescribed under Title 14 of the Election Law Article, the person also include an electronic signature on the accompanying statement of contributions. Further, the regulation requires that the filer use any SBE-approved password generated by the person doing public business after the person or business has registered with SBE.

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:
COMAR 33.20.03.01 and .02

Legal Analysis

Background

Under Chapter 419 of 2013, disclosure requirements of Title 14 (“Disclosure by Persons Doing Public Business”) of the Election Law Article were revised to clarify the disclosure requirements pertaining to campaign contributions made by certain persons doing public business with certain governmental entities. The revisions take effect January 1, 2015. Under § 14-101 of the article, a person is deemed to be “doing public business” by “(1) making, during any 12-month period, one or more contracts with one or more governmental entities involving cumulative consideration of at least \$100,000,” but not by “(2) receiving a salary from a governmental entity.”

Under the law, a person deemed to be “doing public business” is required to file an initial statement with SBE to disclose applicable contributions in the cumulative amount of \$500 or more that the person made to certain campaign finance entities within the preceding 24 months and thereafter file semi-annual statements to disclose any additional applicable contributions made to certain campaign finance entities for so long as performance of the contract remains uncompleted.

Summary of Regulations

The regulations require that, for each electronic financial disclosure statement filed by a person “doing public business,” the person also include an electronic signature on the accompanying statement of contributions. Further, the regulation requires that the filer use any SBE-approved password generated by the person doing public business after the person or business has registered with SBE.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

SBE cites §§ 2-102(b)(4) and 14-109 of the Election Law Article and § 21-117(a) of the Commercial Law Article as authority for the regulations. Section 2-102(b)(4) grants SBE broad authority to adopt regulations. Section 14-109 grants SBE specific authority to adopt regulations to implement Title 14 of the Election Law Article. Finally, § 21-117 of the Commercial Law Article requires each governmental agency (except as otherwise provided by law) to “determine whether, and the extent to which, it will send and receive electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.”

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

SBE 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. While the fiscal and policy note for HB 1499 of 2013 (enacted as Chapter 419) identified additional costs and penalty/fee revenues associated with implementing various parts of the bill, these regulations implement only one part of the bill (electronic disclosure of contributions by person(s) doing public business) and, regardless, should not have any fiscal impact independent of the impacts 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

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

Contact Information

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