Maryland General Assembly
Department of Legislative Services

Proposed Regulations
State Board of Elections

(DLS Control No. 15-207)

Overview and Legal and Fiscal Impact

The regulations govern waivers of (1) the fees for the late filing of statements of contributions and affidavits of limited applicable contributions; (2) the requirement that initial statements of contributions be filed; and (3) the requirement that contract information be filed.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Elections:

Disclosure by Persons Doing Public Business: Waivers:
COMAR 33.20.07.01, .02, and .03

Legal Analysis

Summary of Regulations

The State Board of Elections is adopting COMAR 33.20.07 to govern waivers of (1) the fees for the late filing of statements of contributions and affidavits of limited applicable contributions; (2) the requirement that initial statements of contributions be filed; and (3) the requirement that contract information be filed.

Regulation .01 governs the waiver of the fees for the late filing of a statement of contributions or an affidavit of limited applicable contributions. First, the regulation authorizes a person doing public business to request a waiver of the late filing fees. Second, the regulation requires that the request be made in writing and filed with the State Administrator of Elections. The request must include (1) the name, address, and telephone number of the person doing public business; (2) a detailed statement of the facts underlying or circumstances surrounding why the person doing public business failed to timely file a statement of contributions; and (3) a history of past compliance activity regarding the filing of statements of contributions. Finally, the regulation authorizes the State Administrator, with approval of the State board, to waive the late filing fee for just cause. The regulation authorizes the State Administrator to reject a waiver request without notice or hearing and requires that the decision on the request be in writing.

Regulation .02 governs the waiver of the requirement to file an initial statement of contributions. First, the regulation authorizes a person doing public business to request a waiver of the requirement. Second, the regulation requires that the request be made in writing and filed with the State Administrator. The request must include (1) the name, address, and telephone number of the person doing public business; (2) a detailed statement of the facts underlying or circumstances surrounding why the person doing public business should not file the initial statement; (3) whether the person has previously filed an initial statement within the last 2 years; (4) whether the person doing public business has made any applicable contributions to a candidate for an office of a governmental entity with which the person is doing public business for the last two years; and (5) a statement explaining how applicable contributions are reported to the chief executive officer of the business entity. Finally, the regulation authorizes the State Administrator, with approval of the State board, to waive the requirement for just cause. The regulation authorizes the State Administrator to reject a waiver request without notice or hearing and requires that the decision on the request be in writing.

Regulation .03 governs the waiver of the requirement to file contract information. First, the regulation authorizes a person doing public business to request a waiver of the requirement. Second, the regulation requires that the request be made in writing and filed with the State Administrator. The request must include (1) the name, address, and telephone number of the person doing public business; (2) a detailed statement of the facts underlying or circumstances surrounding why the person doing public business should not disclose the information; (3) whether the information is subject to any exemption under the Public Information Act; (4) whether the contract with the governmental entity is with a subsidiary of the person doing public business and the percentage of ownership or control that the requestor has over the business entity with the contract; and (5) a statement certifying that the requestor has done public business during the reporting period. Third, the regulation authorizes the State Administrator, with approval of the State board, to waive the requirement for just cause. The regulation authorizes the State Administrator to reject a waiver request without notice or hearing and requires that the decision on the request be in writing. Finally, if the request is approved, the regulation specifies that it is valid for one calendar year.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-102(b)(4) and 14-109 of the Election Law Article as legal authority for the regulations. More specifically, § 2-102(b)(4) requires the State board to adopt regulations to implement its powers and duties. Section 14-109 authorizes the State board to adopt regulations to implement the provisions of law governing disclosures by persons doing public business. The regulations do not conflict with any statutory provisions.

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

Technical Corrections and Special Notes

The Department of Legislative Services contacted the State board regarding Regulation .02, which authorizes a waiver for the filing of an initial statement of contributions. Although § 14-104 of the Election Law Article requires that an initial statement be filed at the time a contract is awarded that causes a person to be doing public business, the State board stated that the intent in adopting the regulation is to avoid duplication of information. The intent is to use the wavier in situations when a person has already filed an initial statement, but receives a contract from another governmental entity that would cause them to file another initial statement for the same reporting period with the same information. Since the State board already has the required information for the same period, there is no need have it filed a second time.

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 (along with other proposed regulations) in part implement Chapter 454 of 2015. The fiscal and policy note for House Bill 769 of 2015 (enacted as Chapter 454) indicated that the bill's changes could be implemented with existing resources, and these regulations should not have any independent fiscal impact.

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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