

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Elections**
(DLS Control No. 15-212)

Overview and Legal and Fiscal Impact

The regulations place certain restrictions on the campaign finance activity of gubernatorial tickets that participate in the State's public campaign financing system. The regulations also define the treatment of in-kind contributions to a participating gubernatorial ticket.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Elections:

Administration of Public Financing Act: Limitations on Campaign Expenditures:
COMAR 33.14.03.04, .05, .06, .07, and .08

Legal Analysis

Background

The State's system of public campaign financing for gubernatorial tickets was utilized in the 2014 election after a long period of dormancy. The Public Financing Fund, the special fund used to finance the system, was depleted at the conclusion of the election cycle. This depletion led the General Assembly to approve Chapter 312 of 2015, an Administration bill restoring the income tax checkoff that was the primary source of revenue for the fund. Chapter 312 includes additional provisions that place certain restrictions on the campaign finance activity of publicly funded gubernatorial tickets, including (1) prohibiting gubernatorial tickets that receive public funds from being a member of a slate or making a transfer to another political committee; (2) prohibiting a gubernatorial ticket from soliciting contributions for any other political committee or entity that makes political expenditures; and (3) prohibiting the members of a gubernatorial ticket from engaging in campaign finance activity after the election until a final campaign finance report has been filed and any leftover public contribution has been repaid.

Summary of Regulations

The regulations prohibit a publicly funded gubernatorial ticket from being a member of a slate, except for the gubernatorial ticket campaign committee. Transfers from the gubernatorial ticket campaign committee to any other political committee are prohibited. In-kind contributions to a gubernatorial ticket are counted toward the expenditure limit that applies to the ticket under the Public Financing Act. In-kind contributions include services, property, or a coordinated expenditure on behalf of the ticket that are provided for free or a reduced price. Volunteer activities by individuals are not considered in-kind contributions. Expenditures by a gubernatorial ticket begin to be counted toward the expenditure limit when the ticket begins raising contributions that the ticket seeks to have matched with public funds. A gubernatorial ticket may not, after filing a notice of intent to qualify for public financing, solicit contributions or engage in any fundraising activities for another political committee or any other entity that makes political expenditures. Prohibited fundraising activities include allowing the use of the names or images of the members of the ticket to solicit funds, appearing as a featured guest or speaker at a fundraising event, or sharing a list of donors. The members of a gubernatorial ticket may not raise funds after the election until the gubernatorial ticket committee files a final campaign finance report and repays any unspent portion of public funds.

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board of Elections cites §§ 2-102(b)(4) and 15-109(b) as statutory authority for the regulations. Section 2-102(b)(4) grants the State board broad authority to adopt regulations to implement its powers and duties. Section 15-109(b) authorizes the State board to adopt “comprehensive regulations” to implement the Public Financing Act, including regulations relating to in-kind contributions.

Although not cited by the State board, §§ 15-104.1 and 15-107 of the Election Law Article provide additional statutory authority for the regulations. Section 15-104.1, implements the provisions the provisions of Chapter 312 of 2015 discussed above. As amended by Chapter 312, § 15-107 prohibits an eligible gubernatorial ticket from making a transfer from the gubernatorial ticket campaign committee to any other political committee.

With the addition of §§ 15-104.1 and 15-107 of the Election Law Article, this authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to a suggestion from the Department of Legislative Services, the State board agrees to add §§ 15-104.1 and 15-107 of the Election Law Article as statutory authority for the regulations.

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 in part implement Chapter 312 of 2015 by establishing restrictions on the actions of a gubernatorial ticket (and its campaign committee) participating in the public campaign financing program. The fiscal and policy note for House Bill 485 of 2015 (enacted as Chapter 312) did not include a fiscal impact associated with provisions restricting actions of a gubernatorial ticket (and its campaign committee) participating in the public campaign financing program. 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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