

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Elections**
(DLS Control No. 15-216)

Overview and Legal and Fiscal Impact

The regulations impose registration requirements for persons making independent expenditures and require persons making independent expenditures to disclose more information about donations they receive.

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:

Campaign Financing: Independent Expenditure Requirement:
COMAR 33.13.08.02 and .03

Legal Analysis

Background

Chapter 419 of 2013 made many changes to the State's campaign finance laws, implementing many recommendations of the Commission to Study Campaign Finance Law. Among these changes were several modifications to the statutory provisions requiring disclosure of independent expenditures. New registration requirements for persons making independent expenditures and new requirements to disclose donations to persons making independent expenditures were imposed.

Summary of Regulation

The regulations require a person to register with the State Board of Elections within 48 hours after making aggregate independent expenditures of \$5,000 or more in an election cycle for campaign material that is a public communication. The regulations also require a person making independent expenditures to disclose any donations received of \$6,000 or more during the reporting period. Several technical changes are also made to the regulations governing disclosure of independent expenditures.

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 13-306(l) 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 13-306(l) authorizes the State board to adopt regulations to implement the independent expenditure disclosure law.

Although not cited by the State board, § 13-306(b) and (e)(5) of the Election Law Article, as amended by Chapter 419 of 2013, provides additional statutory authority for the regulations. Section 13-306(b) requires a person to register with the State board after making aggregate independent expenditures of \$5,000 or more in an election cycle. Section 13-306(e)(5) requires a person making independent expenditures to report “the identity of each person who made cumulative donations of \$6,000 or more” during the reporting period.

With the addition of § 13-306(b) and (e)(5) 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 expand the cited statutory authority from § 13-306(l) of the Election Law Article to all of § 13-306.

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 by updating independent expenditure reporting requirements. The fiscal and policy note for House Bill 1499 of 2013 (enacted as Chapter 419) did not include any fiscal impact specifically attributed to the independent expenditure provisions which these regulations implement, though it did include an increase in general fund expenditures for modification of the State Board of Elections’ online campaign finance reporting system to account for certain unspecified changes under the bill. 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.

Contact Information

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