Maryland General Assembly
Department of Legislative Services

Proposed Regulations
State Board of Elections

(DLS Control No. 15-218)

Overview and Legal and Fiscal Impact

The regulations: (1) alter definitions; (2) prohibit certain activities related to money order contributions, lump sum contributions, and contributions to slates; and (3) prohibit a political committee from making certain expenditures relating to the necessary and ordinary course of holding elective office.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Elections:
Campaign Financing: Prohibitions: COMAR 33.13.10.01, .02, and .03

Legal Analysis

Summary of Regulations

The State Board of Elections is amending several regulations under COMAR 33.13.10 which governs prohibited activities related to campaign financing.

The regulations amend the definition of "political committee organized in support of a nonfederal candidate" to mean a political action committee whose major purposes is to support or oppose candidates to nonfederal offices, rather than to elect candidates to nonfederal offices and make coordinated expenditures or transfers to a nonfederal candidate.

The regulations also amend Regulation .02, which governs prohibited contributions. As amended, the regulation specifies that the prohibitions related to contributions made by video lottery operation licensees or applicants apply to contributions to a political committee organized in support of a nonfederal candidate, rather than any political committee. Additionally, as amended, the regulation includes several new sections. Section J specifies that a money order contribution is considered a cash contribution and prohibits, in an election cycle, a person from making by one or more money order contribution transactions in excess of $100 to a political committee. Section K prohibits a political committee of a candidate from (1) reporting more than a cumulative amount of $25,000 in lump sum contributions during an election cycle;

(2) reporting more than a cumulative amount of $25,000 in lump sum contributions collected in a manner pursuant to § 13-241 or § 13-242 of the Election Law Article which govern contributions by payroll deductions; (3) reporting a lump sum contribution of more than $1,500 in a 24-hour period from a spin or chance or $2,500 in an election cycle from spins or chances; or (4) selling a spin or chance for more than $2 or a raffle ticket for more than $5 per ticket. If a political committee raises contributions from a spin, chance, or raffle in excess of the reporting and solicitation limits for a lump sum contribution received, the political committee must donate the excess to a charity of its choice or identify in its account book the amount received from each individual who purchased a spin or chance. Section L prohibits, except as provided in Section M, a person from making a contribution to a slate committee if the equally proportioned contribution among the candidate members of the sale would exceed the aggregate contribution limit of the person to a single candidate member of the slate when aggregated with contributions made by the person to the authorized candidate campaign committee of the candidate. Section M allows a person to designate or earmark a contribution to a slate for the exclusive use or benefit of individual candidate members if (1) the designation or earmark is in writing from the person making the contribution; (2) the aggregate contribution limit of the person to the designated or earmarked candidates does not exceed the contribution limits; and (3) the slate committee maintains a copy of the earmark document as part of its account book records.

As amended, Regulation .03B prohibits a political committee from making an expenditure of campaign funds directly or indirectly, in any amount for expenses relating to the necessary and ordinary course of holding elective, rather than political, office except if related to legislative newsletters.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-102(b)(4), 13-218, 13-225, 13-236, 13-237, and 13-245 and Title 13, Subtitle 3 of the Election Law Article as statutory authority for the regulations. More specifically, § 2-102(b)(4) requires the State board to adopt regulations to implement its powers and duties. Section 13-225 states that, except as otherwise provided by law, contributions may be made only in accordance with Title 13, Subtitle 2, Part V of the Election Law Article, which governs limits on contributions. Section 13-237 governs contributions by applicants for and holders of video operation licenses. Title 13, Subtitle 3 of the Election Law Article contains general reporting requirements related to campaign finance activity. The regulations do not conflict with any of those requirements. The remaining cited authority is not relevant for these regulations.

Additionally, although initially omitted by the State board, § 13-240(d) of the Election Law Article provides legal authority for the regulations. More specifically, § 13-240(d) requires the State board to adopt regulations to implement the section which governs contributions received through spins, chances, and raffles.

With the addition of § 13-240(d), the authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, the State board will be making several changes to the regulations. First, in the authority line, "Title 13" will be added before "Subtitle 3." Second, in Regulation .02J(1), the "as" will be removed so that it reads "a money order contribution is considered a cash contribution" rather than "as a cash contribution." Third, in Regulation .02K(c)(ii), the "and" at the end will be changed to an "or." Finally, the State board will include § 13-240(d) of the Election Law Article among its legal 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 419 of 2013 by establishing limits on lump sum contribution reporting. 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 lump sum contribution reporting provisions of the bill, 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.

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