

HOUSE BILL 383

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HB 394/01 - CGM

2002 Regular Session
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CF 2r1614

By: **Delegates Glassman, Dembrow, Bobo, Elliott, Getty, Hubers, James,
Kopp, Mandel, Parrott, Riley, and Stull**

Introduced and read first time: January 28, 2002
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 18, 2002

CHAPTER _____

1 AN ACT concerning

2 **Campaign Finance Law - State Officeholders - Reporting Requirement**
3 **Requirements Following Convening of the Legislative Session**

4 FOR the purpose of ~~requiring the Governor, Lieutenant Governor, Attorney General,~~
5 ~~Comptroller, and members of the General Assembly, and affiliated campaign~~
6 ~~fund raising entities, to report by a certain date following the convening of a~~
7 ~~regular legislative session a statement of contributions and transfers received~~
8 ~~during a prescribed time frame prior to the session if the amount of~~
9 ~~contributions and transfers exceeds a specified sum; requiring the report of~~
10 ~~contributions and transfers to be filed electronically as specified by the State~~
11 ~~Board of Elections; providing for the application of this Act; altering the filing~~
12 ~~deadlines for certain campaign finance reports; eliminating the requirement~~
13 ~~that certain political committees must file certain campaign finance reports;~~
14 ~~providing for the effective date of certain provisions of this Act; providing for the~~
15 ~~termination of certain provisions of this Act; and generally relating to the~~
16 ~~reporting by State officeholders following the convening of the legislative~~
17 ~~session of contributions and transfers received immediately preceding the start~~
18 ~~of the legislative session campaign finance reporting requirements.~~

19 BY repealing and reenacting, with amendments,
20 Article 33 - Election Code
21 Section 13-401
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2001 Supplement)

24 BY adding to

1 Article - Election Law
 2 Section ~~13-307~~ 13-305 and 13-309
 3 Annotated Code of Maryland
 4 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
 5 2002)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **~~Article - Election Law~~**

9 ~~13-307.~~

10 (A) ~~THIS SECTION APPLIES TO:~~

11 (1) ~~THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE ATTORNEY~~
 12 ~~GENERAL, THE COMPTROLLER, AND A MEMBER OF THE GENERAL ASSEMBLY; AND~~

13 (2) ~~ANY CAMPAIGN FUND-RAISING ENTITY AFFILIATED WITH AN~~
 14 ~~OFFICEHOLDER LISTED IN ITEM (1) OF THIS SUBSECTION.~~

15 (B) ~~ON OR BEFORE THE THIRD MONDAY FOLLOWING THE CONVENING OF A~~
 16 ~~REGULAR SESSION OF THE GENERAL ASSEMBLY, AN OFFICEHOLDER AND~~
 17 ~~FUND-RAISING ENTITY SHALL FILE A STATEMENT OF CONTRIBUTIONS AND~~
 18 ~~TRANSFERS RECEIVED BY THAT PERSON THAT COVERS THE PERIOD SINCE THE END~~
 19 ~~OF THE PERIOD ENCOMPASSED BY THE LAST PRECEDING REPORT FILED UNDER~~
 20 ~~THIS TITLE AND CONTINUING THROUGH, BUT NOT INCLUDING, THE FIRST DAY OF~~
 21 ~~THE REGULAR LEGISLATIVE SESSION IF THE OFFICEHOLDER OR FUND-RAISING~~
 22 ~~ENTITY RECEIVED AGGREGATE CONTRIBUTIONS AND TRANSFERS IN EXCESS OF~~
 23 ~~\$5,000 SINCE THE PERIOD COVERED BY THE LAST REPORT FILED UNDER THIS TITLE.~~

24 (C) ~~THE REPORT FILED IN SUBSECTION (B) OF THIS SECTION IS IN ADDITION~~
 25 ~~TO ANY REPORT REQUIRED UNDER § 13-304 OR § 13-309 OF THIS SUBTITLE.~~

26 (D) ~~A STATEMENT OF CONTRIBUTIONS AND TRANSFERS REQUIRED UNDER~~
 27 ~~SUBSECTION (B) OF THIS SECTION SHALL BE ELECTRONICALLY FILED IN A FORMAT~~
 28 ~~SPECIFIED BY THE STATE BOARD.~~

29 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the additional reporting~~
 30 ~~requirement imposed under § 13-307 of the Election Law Article as enacted by this~~
 31 ~~Act shall take effect with the commencement of the General Assembly term that~~
 32 ~~begins on January 8, 2003.~~

33 **Article 33 - Election Code**

34 13-401.

35 (a) A candidate for nomination or election to public or party office, including
 36 write-in candidates, and the treasurer designated by that candidate shall file the

1 report or statement of contributions and expenditures as prescribed in accordance
2 with § 13-402 of this subtitle with the board at which the candidate filed his
3 certificate of candidacy. All reports or statements of contributions and expenditures
4 shall be filed in duplicate except those filed with the State Board. Election reports as
5 specified below are required by all candidates for public or party office whether or not
6 the candidate's name appears on the primary ballot, or the candidate withdraws
7 subsequent to filing his certificate of candidacy, or the candidate is unsuccessful in
8 the election. Each report filed shall contain all contributions received and
9 expenditures made in furtherance of the candidate's nomination or election by the
10 candidate himself or, with the knowledge of the candidate, by any other person or
11 groups of persons, which shall be complete, except as otherwise provided in this
12 section through and including the seventh day immediately preceding the day by
13 which that report is to be filed. The initial report filed shall contain all contributions
14 so received and expenditures so made since the date of the last preceding election to
15 fill the office for which he is a candidate. Each subsequent report shall contain all
16 contributions so received and expenditures so made since the end of the period for
17 which the last preceding report is filed. Even if no contributions or expenditures have
18 been made since the end of the period for which the last preceding report was filed, a
19 statement to that effect must be filed on the forms prescribed pursuant to § 13-402 of
20 this subtitle under the circumstances and at the times specified in this section. The
21 initial and subsequent reports shall be consecutively filed as follows:

22 (1) No later than the fourth Tuesday immediately preceding any primary
23 election; and

24 (2) No later than the second Friday immediately preceding any election
25 which shall be complete through and including the preceding Sunday; and

26 (3) No later than the third Tuesday after the general election; and

27 (4) [If a cash balance exists or if any unpaid bills or deficits remain to be
28 paid as of the end of the period for which the report or statement in paragraph (3) of
29 this subsection is filed, six months after the general election; and

30 (5) If a cash balance exists or if any unpaid bills or deficits remain to be
31 paid as of the end of the period for which the report or statement in paragraph (4) of
32 this subsection is filed, one year after the general election; and

33 (6)] If a cash balance exists or if any unpaid bills or deficits remain to be
34 paid as of the end of the period for which the report or statement in [paragraph (5)]
35 PARAGRAPH (3) of this subsection or any subsequent report or statement is filed,
36 annually on [the anniversary of the general election] THE THIRD WEDNESDAY IN
37 JANUARY until no cash balance, unpaid bill, or deficit remains; and

38 [(7)] (5) If a cash balance or outstanding debts or deficits were reflected
39 on the last preceding report, but have all been eliminated by the date on which the
40 next report is due, then a report clearly marked as "final" shall be filed on or before
41 such date showing all transactions since the last report; and

1 ~~[(8)]~~ (6) If a candidate does not intend to receive contributions or make
2 expenditures of \$1,000 or more, exclusive of his filing fee, he and his treasurer may
3 jointly execute an affidavit to that effect on a form prescribed by the State Board. If
4 he does not in fact receive contributions or make expenditures of \$1,000 or more, no
5 further reports need be filed pursuant to this section. The affidavit shall be filed not
6 later than the date by which the first report is due. If at any time the cumulative
7 contributions to or expenditures by a candidate who has filed such an affidavit equal
8 or exceed \$1,000, he and his treasurer shall thereafter file all reports required by this
9 section and failure to do so constitutes a failure to file and the commission of a
10 misdemeanor subject to the penalties prescribed in § 13-603 of this title.

11 (a-1) (1) This subsection applies to an individual who:

12 (i) Is not an officeholder or a candidate for election to public or
13 party office, and each political committee affiliated with that individual; and

14 (ii) After payment of all outstanding debts or deficits in connection
15 with an election campaign, has a balance of surplus funds in a campaign account.

16 (2) An individual described in paragraph (1) of this subsection shall file a
17 final report under this section to close out the campaign accounts of the individual,
18 and each political committee affiliated with the individual, by the expiration of the
19 eighth year following the latter of:

20 (i) The end of the individual's most recent term of office;

21 (ii) The date of the election in which the individual last was a
22 candidate; or

23 (iii) The extinguishment of every debt or the deficit incurred in
24 connection with the campaign that is payable from the account.

25 (3) Prior to filing the final campaign report required under paragraph
26 (1) of this subsection, a person subject to paragraph (1) of this subsection shall dispose
27 of any funds in accordance with § 13-206(d) of this title.

28 (a-2) (1) Notwithstanding subsection (a-1) of this section, the State Board
29 may close a campaign account upon a determination that good cause exists and that:

30 (i) An officer affiliated with the campaign account would be able to
31 close the campaign account except for outstanding obligations that are more than 5
32 years old;

33 (ii) There are no current officers appointed and serving in
34 connection with the campaign account; or

35 (iii) Other extenuating circumstances exist to justify closing the
36 account.

1 (2) The closing of a campaign account by action of the State Board does
2 not limit the right of:

3 (i) The State Board or the State Prosecutor to pursue enforcement
4 action against former officers or the candidate affiliated with the campaign account;
5 or

6 (ii) A creditor to bring an action against a former officer or the
7 candidate affiliated with the campaign account.

8 (b) (1) Except as provided in paragraph (2) of this subsection, the candidate
9 and treasurer, or, in the case of a political committee, the chairman and treasurer, of
10 an entity subject to the reporting requirements of this section and which is not
11 designated as a continuing committee, as that term is defined by the State Board,
12 also shall file an annual report of contributions and expenditures at the place
13 designated under this section on [November 8] THE THIRD WEDNESDAY IN JANUARY
14 of each year.

15 (2) The annual report required under paragraph (1) of this subsection
16 need not be filed in any year in which the entity is required to file reports in
17 accordance with the schedule prescribed under subsection (a) of this section.

18 (c) It is the responsibility of the candidate and treasurer, jointly and severally,
19 if it is the statement of a candidate, and the chairman and treasurer, jointly and
20 severally, if it is the statement of a committee, to file all reports or statements in full
21 and accurate detail.

22 (d) (1) The chairman and the treasurer of any central committee and the
23 chairman and the treasurer of any political committee which continues in existence
24 from year to year, excluding the chairmen and treasurers of political clubs, shall file
25 the report or statement of contributions and expenditures as prescribed in accordance
26 with § 13-402 of this subtitle with the State Board at each of the times and for the
27 respective periods specified in subsection (a)(1), (2), and (3) of this section [and, in a
28 year in which a general election is not held, on the anniversary of the date of the last
29 general election] ON THE THIRD WEDNESDAY IN JANUARY OF EACH YEAR THE
30 COMMITTEE IS IN EXISTENCE.

31 (2) (i) In any election year, on or before the dates specified in
32 subsection (a) of this section, in lieu of the scheduled reports required to be filed
33 under that subsection, a political committee which continues in existence from year to
34 year may file an affidavit stating that since the date covered by the last report the
35 committee has not been involved in raising or spending, and does not intend to raise
36 or spend, money for that election.

37 (ii) [A political committee which continues in existence from year
38 to year that files an affidavit under this paragraph shall also file an annual report on
39 the anniversary date of the last general election giving a statement of all
40 contributions received and expenditures made since the end of the period for which
41 the last preceding report is filed, as prescribed in § 13-402 of this subtitle, with the
42 State Board.

1 (iii) If, subsequent to the filing of the affidavit provided in this
2 paragraph, a political committee which continues in existence from year to year
3 receives contributions or makes expenditures in connection with the election for
4 which it filed the affidavit, the committee shall notify the State Board in writing
5 within 14 days after the receipt of the contributions or the making of the expenditures
6 that the committee has resumed receiving contributions or making expenditures, and
7 thereafter shall file all scheduled reports on the dates specified in subsection (a) of
8 this section. If the committee fails to file the notice required by this subparagraph, or
9 thereafter fails to file the scheduled reports on the dates specified in subsection (a) of
10 this section, the candidate and the treasurer of the committee are subject to the
11 penalties prescribed in §§ 13-402 and 13-403 of this subtitle.

12 [(iv)] (III) The State Administrator shall establish by regulations
13 the form of the affidavit to be filed under this paragraph.

14 (e) The chairmen and the treasurers of all other committees shall file the
15 report or statement of contributions and expenditures, as prescribed in accordance
16 with § 13-402 of this subtitle, at each of the times and for the respective periods
17 specified in subsection (a) of this section. Each report, filed in accordance with
18 paragraphs (1) and (2) of this subsection, shall be filed in duplicate. This report or
19 statement shall be filed with:

20 (1) The local board of the county or Baltimore City at which a candidate
21 supported or opposed by a committee has filed his certificate of candidacy; and

22 (2) The local board of the county or Baltimore City in which the
23 committee has promoted the success or defeat of a local principle or local proposition
24 submitted to a vote at an election only in that county or Baltimore City; and

25 (3) The State Board if a candidate supported or opposed by a committee
26 has filed his certificate of candidacy with the State Board; and

27 (4) The State Board if the committee has promoted the success or defeat
28 of a political party, statewide principle, statewide proposition, or other principle or
29 proposition submitted to a vote at an election in a county or Baltimore City and all or
30 part of another county or counties; and

31 (5) The local board of the county or Baltimore City and the State Board if
32 the committee supported or opposed candidates filing their certificates of candidacy
33 with both the local board and the State Board; and

34 (6) The local board and the State Board if the committee has promoted
35 the success or defeat of a local principle or local proposition submitted to a vote at an
36 election in that county or Baltimore City and has promoted the success or defeat of a
37 political party, statewide principle, statewide proposition, or other principle or
38 proposition submitted to a vote at an election in more than one county or Baltimore
39 City.

40 (f) Each candidate, the treasurer of each candidate, and the chairman and
41 treasurer of each committee shall be notified by the elections board with which that

1 person files reports under this section, by first-class mail and no more than 20 nor
2 less than 10 days prior to the applicable filing date, of each report that person is
3 required to file. The notice shall include the filing date, the place for filing, the
4 penalty for failure to file a timely report, and the telephone number and business
5 hours of the office where the report is to be filed.

6 (g) (1) Any report received after the filing deadline shall be considered
7 timely:

8 (i) Regardless of when it is received, if a United States Postal
9 Service postmark or receipt verifies that the report was mailed on or before the filing
10 deadline; or

11 (ii) If it is received by the State Board or the appropriate local
12 board within 3 days after the filing deadline and a private postal meter postmark or
13 receipt by a private carrier verifies that the report was mailed or delivered to the
14 private carrier on or before the filing deadline.

15 (2) Unless a report is mailed, the boards and the State Board shall
16 provide a receipt for each report received.

17 (h) The provisions of this section shall apply to all committees and treasurers
18 for candidates for public or party office located outside of the geographic boundaries of
19 the State with respect to all expenditures of funds within the State of Maryland.

20 (i) For purposes of this section, the failure to provide all of the information
21 required by the forms prescribed in accordance with § 13-402 of this subtitle, to the
22 extent applicable, is a failure to file.

23 (j) Within 10 days after the deadline for the filing of any report which is
24 required to be filed with the State Board, the State Board shall compile a list of every
25 candidate or committee which failed to file the report and shall distribute the list to
26 the appropriate local election boards. Within 10 days after the deadline for the filing
27 of any report which is required to be filed with a local election board, the local board
28 shall compile a list of every candidate or committee which failed to file the report and
29 shall send the list to the State Board.

30 (k) The provisions of this section are not applicable to a candidate or
31 candidates for election or elected to a public office of the United States. This
32 candidate or candidates shall file all reports and statements according to federal laws
33 or regulations.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
35 read as follows:

36 Article - Election Law

37 13-305.

1 (a) (1) Subject to paragraph (2) of this subsection, a campaign finance entity
2 that is a personal treasurer is not required to file the campaign finance reports
3 prescribed by § 13-304 of this subtitle if the responsible officers file an affidavit:

4 (i) on or before the day when the first campaign finance report is
5 due; and

6 (ii) stating that the personal treasurer account does not intend
7 either to raise contributions in the cumulative amount of \$1,000 or more or, exclusive
8 of the filing fee, make expenditures in the cumulative amount of \$1,000 or more.

9 (2) If the personal treasurer account receives cumulative contributions of
10 \$1,000 or more or makes cumulative expenditures of \$1,000 or more, the personal
11 treasurer account shall file all subsequent campaign finance reports prescribed by
12 this subtitle.

13 (3) A violation of paragraph (2) of this subsection constitutes a failure to
14 file by the campaign finance entity, and the responsible officers are guilty of a
15 misdemeanor and on conviction are subject to the penalties prescribed under Part VII
16 of this title.

17 (b) (1) Subject to paragraph (2) of this subsection, in an election year a
18 continuing political committee is not required to file the campaign finance reports
19 prescribed by § 13-304 of this subtitle if the responsible officers file an affidavit:

20 (i) on or before the day when the first campaign finance report is
21 due; and

22 (ii) stating that the continuing political committee, with respect to
23 each election to be held in that year:

24 1. has not received contributions or made expenditures since
25 the closing date of its last campaign finance report; and

26 2. does not intend to receive contributions or make
27 expenditures.

28 (2) [The continuing political committee shall file the campaign finance
29 report required under § 13-309(a)(3) of this subtitle.

30 (3)] If the continuing political committee receives contributions or makes
31 expenditures in connection with an election in that year, the continuing political
32 committee shall:

33 (i) notify the State Board in writing within 14 days; and

34 (ii) file all subsequent campaign finance reports prescribed by this
35 subtitle.

1 [(4)] (3) A violation of [paragraph (3)] PARAGRAPH (2) of this subsection
2 is a failure to file by the campaign finance entity, and the responsible officers are
3 guilty of a misdemeanor and on conviction are subject to the penalties prescribed
4 under Part VII of this subtitle.

5 13-309.

6 (a) Subject to other provisions of this subtitle, a campaign finance entity shall
7 file campaign finance reports as follows:

8 (1) except for a ballot issue committee, on or before the fourth Tuesday
9 immediately preceding a primary election;

10 (2) except for a ballot issue committee, on or before the second Friday
11 immediately preceding an election; and

12 (3) on or before the third Tuesday after a general election.

13 (b) (1) This subsection does not apply to a continuing political committee.

14 (2) A campaign finance entity is subject to subsection (a) of this section
15 and this subsection only as to the election for which the entity was formed.

16 (3) In addition to the campaign finance reports required under
17 subsection (a) of this section, but subject to paragraph (4) of this subsection, a
18 campaign finance entity shall file campaign finance reports [as follows:

19 (i) on or before the day that is 6 months after the general election;

20 (ii) on or before the day that is 1 year after the general election; and

21 (iii) annually on the Tuesday after the first Monday in November]
22 ON THE THIRD WEDNESDAY IN JANUARY.

23 (4) If a campaign finance entity has neither a cash balance nor an
24 outstanding obligation at the end of a reporting period, a campaign finance report for
25 that period, clearly marked as "final", shall be filed on or before the due date, and no
26 further report is required.

27 (c) In addition to the campaign reports required under subsection (a) of this
28 section, a continuing political committee, in a year without a statewide general
29 election, shall file a campaign finance report on [or before the Tuesday after the first
30 Monday in November] THE THIRD WEDNESDAY IN JANUARY OF EACH YEAR THE
31 COMMITTEE IS IN EXISTENCE.

32 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
33 shall take effect on the taking effect of Chapter (S.B. 1) of the Acts of the General
34 Assembly of 2002. If Section 2 of this Act takes effect, Section 1 of this Act shall be
35 abrogated and of no further force and effect.

1 SECTION ~~3.4.~~ AND BE IT FURTHER ENACTED, That, subject to the
2 provisions of Section 2 of this Act, this Act shall take effect ~~January 1, 2003~~ October 1,
3 2002.