

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 418 (Delegate Hurson)  
Ways and Means

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**Election Law - Campaign Materials - Advertisements That Include an Elected Official**

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This bill applies State campaign finance rules to expenditures on issue advertisements by expanding the definition of “campaign material” to include an advertisement that: (1) includes an elected official; (2) identifies the office held by that official; (3) is directed at the voters represented by that official; and (4) is published or distributed within three months of an election in which that official is a candidate. Additionally, the bill requires campaign material to be paid for by an authorized campaign finance entity only.

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**Fiscal Summary**

**State Effect:** General fund expenditures could increase if the number of campaign finance entities filing with the State Board of Elections (SBE) substantially increase as a result of the bill.

**Local Effect:** General fund expenditures could increase if the number of campaign finance entities filing with local boards substantially increase as a result of the bill.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Campaign material is any published or distributed material that contains text, graphics, or other images and relates to a candidate, prospective candidate, or the approval or rejection of a question including: (1) material transmitted by or appearing on the Internet or other electronic medium; and (2) an oral commercial campaign advertisement.

The Election Law Article generally requires all campaign finance activity for an election to be conducted through a campaign finance entity. However, expenditures of personal funds to purchase campaign material by an individual who is not a candidate for office are excluded from this requirement.

To form a campaign finance entity, the entity must file a statement of organization with the appropriate board of election that provides details about the organization including the committee's name and a statement of purpose specifying each candidate or ballot question, if any, that the committee was formed to promote or defeat. The types of campaign finance entities that can be formed include:

- Personal Treasurer (consists of one candidate and a treasurer only);
- Local Ballot Issue Committee;
- Candidate Committee;
- State Ballot Issue Committee;
- Slate;
- Party Central Committee; and
- Political Action Committee.

A campaign finance entity must file campaign finance reports according to the following schedule:

- except for a ballot issue committee, on or before the fourth Tuesday immediately preceding a primary election;
- except for a ballot issue committee, on or before the second Friday immediately preceding an election;
- on or before the third Tuesday after a general election; and
- on the third Wednesday in January.

**Background:** The bill's provisions are similar to the Bipartisan Campaign Reform Act of 2002 (BCRA) that applies to federal election campaigns. BCRA contains provisions relating to television and radio ads that refer to a clearly identified federal candidate and are distributed or targeted to the relevant electorate within a particular time period before an election. These are often referred to as "issue ads" because they have typically discussed candidates in the context of certain issues without specifically advocating a candidate's election or defeat. Under the new federal rules, these ads are considered "electioneering communications" and individuals or groups who pay for these ads must report their activity and the sources of funds received for those activities if the payments exceed a specific threshold.

Similarly, the bill would consider issue ads as “campaign material” under State law and require that they be paid for through a campaign finance entity. In effect, the bill would suspend the personal independent expenditure exemption in State law during the three months preceding an election, requiring individuals or groups that make expenditures on issue ads that fall within the bill’s definition of campaign material to form a campaign finance entity and file the required reports to the applicable board of election.

**State Fiscal Effect:** The bill requires a previously unregulated set of individuals and groups to form a campaign finance entity and file regular campaign finance reports. The number of persons or groups that would be covered under the bill’s provisions is unknown. SBE currently administers campaign finance laws to approximately 1,500 campaign finance entities. Should this number increase substantially, general fund expenditures would increase accordingly. The amount of the increase would depend on the number of additional filings.

**Local Fiscal Effect:** The bill would require a previously unregulated set of individuals and groups to form a campaign finance entity and file regular campaign finance reports. The number of persons or groups that would be covered under the bill’s provisions is unknown. Local boards currently administer campaign finance laws to approximately 1,500 local campaign finance entities. Should this number increase substantially, general fund expenditures would increase accordingly. The amount of the increase would depend on the number of additional filings.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Board of Elections, Department of Legislative Services

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