

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 97 (Senator Stone)
Education, Health, and Environmental Affairs

Election Law - Campaign Advertisements - Closed Captioning

This bill requires that closed captioning for deaf or hard of hearing viewers be included in any campaign advertisement distributed by a campaign finance entity by broadcast or cable television, or on its web site. Alternatively, a transcript of the spoken content of the campaign advertisement may be included on the campaign finance entity's web site. The bill also requires that a transcript of the spoken content of any campaign advertisement distributed by a campaign finance entity by broadcast or cable radio be posted on the campaign finance entity's web site. The bill includes provisions allowing a campaign finance entity to be exempted from these requirements by the State Board of Elections.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: State election law does not contain requirements relating to access to the spoken content of campaign advertisements by individuals who are deaf or hard of hearing. State election law requirements with respect to campaign material generally ensure that information identifying those responsible for the material is included. For example, campaign material published or distributed by a campaign finance entity generally must contain the name and address of the treasurer of each campaign finance entity responsible for the material as well as the name(s) of the campaign finance entity

or entities. A copy of campaign material must be kept by a campaign finance entity for at least one year after the general election next following the date when the material was published or distributed.

Except as otherwise provided for specific offenses, a person who knowingly and willfully violates a provision of Title 13 of the Election Law Article (within which the bill's provisions are included) is guilty of a misdemeanor and is subject to a fine of up to \$25,000 and/or imprisonment for up to one year. An unknowing violation is subject to a civil penalty of up to \$5,000. The Secretary of State may also seek an immediate injunction against a violation of Title 13.

Background: Federal Communications Commission rules include closed captioning requirements for television programming, but the closed captioning requirements do not apply to advertisements of five minutes or less, including political advertisements. Other states that have closed captioning requirements, and/or requirements that transcripts of radio or television content be provided, for political advertisements include Florida, Minnesota, and Rhode Island. In Florida the law applies to all candidates, while in Minnesota and Rhode Island the laws only apply to candidates who accept public funding. Under federal law, candidates for president and vice president who take public funds must use closed captioning in their commercials. An official with the Federal Communications Commission, Disability Rights Office indicates that most campaigns will include closed captioning with advertisements, since they otherwise would not reach a significant number of voters.

The National Association of the Deaf indicates that roughly 10% of Americans are deaf or hard of hearing.

State Fiscal Effect: While a person could be subject to criminal and/or civil penalties for a campaign finance entity's failure to comply with the bill's requirements, it is assumed the number of prosecutions for such violations will be minimal at most. Therefore, the bill is not expected to materially affect State finances. The bill also allows for alternative manners of compliance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office of the Deaf and Hard of Hearing, State Board of Elections, Federal Communications Commission, National Association of the Deaf, Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2009
mcp/hlb

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510