

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 205
Ways and Means

(Delegate Kaiser, *et al.*)

Education, Health, and Environmental Affairs

Election Law - Campaign Funds - Investments

This bill authorizes a campaign finance entity to invest funds the entity receives in a certificate of deposit with a term of one year or less or a United States Treasury bill.

The bill takes effect December 1, 2011.

Fiscal Summary

State Effect: The bill does not directly affect State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Unless otherwise expressly authorized by law, all campaign finance activity for an election governed by State law must be conducted through a campaign finance entity. An individual must establish, or cause to be established, an authorized political committee (campaign finance entity) before filing a certificate of candidacy.

Each campaign finance entity must designate one or more campaign accounts. A campaign finance entity must deposit all funds received in a designated campaign account and generally may not directly or indirectly make a disbursement except by check from a designated campaign account, with certain exceptions. A campaign account must be in a financial institution and registered in a manner that identifies it as the account of the campaign finance entity.

Background: The Federal Deposit Insurance Corporation (FDIC) describes a certificate of deposit (CD) as a special type of deposit account with a bank or thrift institution that typically offers a higher interest rate than a regular savings account, involving investment of a fixed amount of money for a fixed period of time. According to FDIC, if a CD is redeemed before it matures, a penalty may have to be paid or a portion of the earned interest forfeited. FDIC currently insures deposit accounts, including CDs, up to \$250,000 for each depositor in each bank or thrift institution.

A U.S. Treasury bill is a short-term investment of a year or less and is a debt obligation of the U.S. Government, backed by its full faith and credit.

The State Board of Elections' (SBE) *Summary Guide to Candidacy and Campaign Finance Laws* indicates, with respect to campaign bank accounts:

“Besides the required checking account, the only other permissible account is a savings account. As a general rule, campaign funds must be maintained only in accounts where the principal is not at risk, e.g. in FDIC or state-insured bank accounts. Mutual funds, the stock market, and/or other investment arrangements where the principal is at risk are prohibited. Furthermore, the treasurer must be able to withdraw all of the funds immediately. If the campaign funds are invested in a manner where withdrawal at anytime incurs a penalty, e.g. certificates of deposit, this is also prohibited.”

SBE also recently adopted similar regulations.

The subject of investment of campaign funds was addressed by the Maryland Attorney General's Advisory Committee on Campaign Finance formed in the fall of 2010. In its January 4, 2011 report, the committee noted that the Election Law Article is silent on whether campaign funds may be invested after being deposited in a campaign account and discussed, among other things, the fact that federal campaign finance regulation, along with campaign finance laws in a number of other states (according to a 2002 Federal Election Commission survey), is more flexible regarding investment of campaign funds. The committee also noted that investment of funds is not restricted in many other contexts in which the law requires prudent management of donated funds to carry out the purpose of the donors. The committee recommended that SBE “amend its regulations to permit temporary investment of campaign funds in prudent investment vehicles and specify types of permissible investments.”

Additional Information

Prior Introductions: HB 692 of 2010 passed the House and received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. SB 512 of 2009 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Cross File: None.

Information Source(s): State Board of Elections, Federal Deposit Insurance Corporation, U.S. Department of Treasury (Treasury Direct), Maryland Attorney General's Advisory Committee on Campaign Finance, Department of Legislative Services

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mc/hlb

Analysis by: Scott D. Kennedy

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