

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 757

(Senators Kittleman and Raskin)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Electronic Media - Electronic Contributions and Expenditures

This bill allows for contributions to campaign finance entities and disbursements by campaign finance entities to be made by an electronic method that the State Board of Elections (SBE) authorizes by regulation. An electronic method authorized by SBE must ensure that the identity of the person making the contribution or disbursement may be verified, the transaction is secure, and there is an adequate record of the transaction. The bill also requires SBE to adopt specified regulations governing the application of campaign material provisions of the Election Law Article to campaign material transmitted through electronic media.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Methods of Contribution/Disbursement

A person generally may not, in a four-year election cycle, make a contribution of money in excess of \$100 except by check or credit card. A campaign finance entity generally may not directly or indirectly make a disbursement except by check from a designated

campaign account. However, a campaign finance entity or individual authorized by the entity may pay an expense of the entity from funds other than the campaign account if (1) the expense is supported by a receipt provided to the campaign finance entity; and (2) the campaign finance entity reimburses the person who paid the expense by check from the campaign account and reports the expense as an expenditure of the campaign finance entity.

Campaign Material

“Campaign material” is any material that contains text, graphics, or other images; relates to a candidate, a prospective candidate, or the approval or rejection of a question; and is published or distributed. Campaign material includes material transmitted by or appearing on the Internet or other electronic medium.

Each item of campaign material generally must contain an authority line that states (1) as to campaign material published or distributed by a campaign finance entity, the name and address of the treasurer of each campaign finance entity responsible for the campaign material and the name of each campaign finance entity for which each treasurer is acting; and (2) as to campaign material published or distributed by any other person, the name and address of the person responsible for the campaign material.

Each campaign finance entity responsible for, publisher of, and distributor of, an item of campaign material must keep a sample copy of the item for at least one year after the general election next following the date the item was published or distributed.

SBE regulations specify how the above authority line and copy retention requirements apply to specified electronic media, including social media and micro-blogs.

Background: The issues of the use of electronic media in the context of election campaigns and electronic campaign contributions and expenditures were recently addressed by the Maryland Attorney General’s Advisory Committee on Campaign Finance, which was formed in the fall of 2010 to examine and develop recommendations regarding the State’s campaign finance laws.

In its January 4, 2011 report, the committee discussed the use of electronic media such as blogs, Facebook, Twitter, Buzz, and video upload sites such as YouTube by candidates and political groups and the challenges associated with such activity. SBE recently adopted regulations defining how campaign material requirements apply to electronic media, but the committee recommended enacting legislation directing SBE to adopt additional regulations in the area and to make recommendations to clarify how the State’s campaign finance laws apply to new media.

With respect to electronic campaign contributions and expenditures, the committee noted that electronic payment and transaction methods have become increasingly common among the general public. The committee agreed that more flexibility is needed with respect to electronic methods of contributing to campaigns and making campaign disbursements and recommended that State law be amended to allow contributions and expenditures by electronic means, provided the method guarantees the authenticity of the contributor's identity, security of the transaction, and adequate recordkeeping.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections, State Prosecutor's Office, Maryland Attorney General's Advisory Committee on Campaign Finance, Department of Legislative Services

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mc/hlb

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