

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 119 (Senator Kelley, *et al.*)
Education, Health, and Environmental Affairs

Election Law - Use of Campaign Funds for Meeting and Conference Expenses and Other Activities

This bill expands the statutory definition of “expenditure” under the Election Law Article to include payment of (1) costs associated with attendance at specified meetings or conferences by an officeholder or a candidate; (2) costs of dissemination of specified information to voters or potential voters and membership dues of specified entities or organizations in order to advance the purpose of a campaign finance entity or candidate; and (3) costs associated with solicitation of contributions for the candidate’s campaign finance entity. Disbursements or payments for personal use by a candidate, officeholder, or responsible officer of a campaign finance entity and costs associated with the maintenance and staffing of an officeholder’s office are excluded from the definition of “expenditure.” The bill prohibits personal use of campaign funds and prohibits a responsible officer of a campaign finance entity from making expenditures except as expressly authorized by the Election Law Article. A person who violates these provisions is subject to existing civil/criminal penalties.

Fiscal Summary

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

Local Effect: The civil/criminal penalty provisions of this bill do not have a material impact on local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the statutory definition of “expenditure” under the Election Law Article to include a gift, transfer, disbursement, or promise of money or a thing of value in order to:

- pay for travel, lodging, meals, and registration expenses of an officeholder or a candidate associated with attendance at meetings or conferences focused on legislative issues, process, or public policy analysis pertinent to the office that the elected official holds or the candidate seeks;
- advance the purpose of the campaign finance entity or candidate by disseminating information to a voter or potential voter about an issue of public interest or paying membership dues for a legislative caucus or committee, political club, or community-based organization; or
- pay for costs associated with the solicitation of contributions for the candidate’s campaign finance entity.

The bill specifies that the term “expenditure” does not include a direct or an indirect disbursement or payment for:

- personal use by a candidate, an officeholder, or a responsible officer of a campaign finance entity; or
- costs associated with the maintenance and staffing of an officeholder’s office.

The bill also explicitly prohibits a campaign finance entity from directly or indirectly expending campaign funds for the personal use of the candidate or a responsible officer of the candidate’s campaign finance entity. The bill requires the State Board of Elections to adopt regulations related to the prohibition.

Lastly, the bill prohibits a responsible officer of a campaign finance entity from issuing or authorizing a payment, disbursement, transfer, or promise of money for an expenditure except as expressly authorized under the Election Law Article.

A person who violates these prohibitions is subject to existing civil/criminal penalties.

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. All assets received by or on behalf of a campaign finance entity must be delivered to and maintained by the treasurer for the purposes of the campaign finance entity. Assets may be disbursed only if they have passed through the hands of the treasurer and only in accordance with the purposes of the entity.

The term “expenditure” is used in a number of contexts under State campaign finance laws, including recordkeeping requirements of campaign finance entities, which specify, among other things, that the treasurer of a campaign finance entity must keep a detailed and accurate account book of all assets received, expenditures made, and obligations incurred by or on behalf of the entity. Campaign finance reports filed by campaign finance entities also must include information with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during the designated reporting period.

“Expenditure” is defined as a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, or question at an election, or to pay for the publication expense of a legislative newsletter.

Background: The issue of permitted and prohibited uses of campaign funds was 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 reviewed past applications of the governing “electoral purpose” test (that campaign expenditures by a campaign finance entity must serve an “electoral purpose”) to different types of expenditures and noted that a more relaxed standard may be warranted.

The committee indicated that the federal government and many other states approach the issue differently by prohibiting campaign funds from being converted to the personal use of a candidate and specifically defining “personal use” in statutes and regulations. Believing that this approach would provide a clearer standard and would arguably more narrowly target misuse of campaign funds amounting to political corruption, the committee recommended that legislation be enacted following this model, giving candidates the discretion to use campaign funds as they deem best for their electoral purposes but prohibiting personal use of the funds.

Additional Information

Prior Introductions: SB 185 of 2010, a similar bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 442 of 2010, also a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: HB 122 (Delegate Howard, *et al.*) – Ways and Means.

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

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