

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 400 (Delegate O'Donnell)
Ways and Means

State Government - Use of Public Resources - Reimbursement by Elected Officials

This bill requires a State elected official to report to the State Board of Elections (SBE) regarding the use of a public resource in connection with a campaign event for another office and to reimburse the State for the cost of the public resource used. Failure to do so is subject to a specified fine.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: General fund revenues may increase annually beginning in FY 2016 due to any reimbursement of costs or fines paid. General fund expenditures increase by \$20,000 in FY 2016 for one-time programming costs. To the extent State elected officials forego any use of public resources due to the bill, State expenditures decrease annually, potentially reducing or offsetting the one-time computer programming costs in FY 2016. The extent of any increase in revenues or decrease in expenditures cannot be reliably estimated.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Within 30 days after a public resource is used in connection with a campaign event for another office, a State elected official must (1) submit specified documentation to SBE regarding the use of the public resource and (2) reimburse the

State for the cost of the public resource used. If SBE finds that a State elected official has failed to comply with these requirements, the State elected official is subject to a fine of twice the amount of the public resource used. If the official fails to pay the fine, SBE must refer the violation to the Office of the State Prosecutor.

The bill applies whether or not the State elected official has formally declared as a candidate for another office.

“State elected official” includes the Governor, the Lieutenant Governor, the Attorney General, the Comptroller, a member of the Maryland Senate, or a member of the House of Delegates.

“Campaign event” means an event that:

- directly relates to or includes any activity or function related to a campaign for elected office or issues related to the campaign; and
- is not directly and exclusively related to the performance of the duties of the State elected official, even though part of the event includes the performance of official duties.

“Campaign event” includes a fundraiser, a press or media event, a speech, or a television appearance.

“Public resource” means the executive aircraft, a State building, a security detail that comprises State personnel, a State employee who is assigned to the staff of a State elected official, State-owned motor vehicles, a State police driver, or any other resource paid for and provided to a State elected official by the State by virtue of the office.

Current Law/Background: A January 2013 State Ethics Commission memorandum on political activity states that “[g]enerally, the Public Ethics Law and other State laws have been interpreted to allow State employees and officials to run for public office provided they do not use State time, facilities, equipment, or otherwise misuse their State position or confidential information.” Among other provisions, the memorandum refers to § 15-506 of the Public Ethics Law (State Government Article – Title 15), which states that “[a]n official or employee may not intentionally use the prestige of office or public position for that official’s or employee’s private gain or that of another.”

Section 2-108 of the State Government Article states that public resources may be used by members of the General Assembly only for public purposes, but incidental use of public resources for nonpublic purposes is not prohibited. An opinion of the Joint Committee on Legislative Ethics (Ethics Opinion #12) indicates that “campaign rallies, campaign-related press conferences, and distribution of campaign materials may not take

place inside the buildings of the legislative complex.” Similarly, the opinion indicates that General Assembly letterhead, email, computers, phones, and fax machines must not be used for purposes related to a political campaign, with limited exceptions for incidental use in some cases.

State Revenues: General fund revenues may increase to the extent State elected officials reimburse the State for use of public resources in connection with an event that relates to a campaign for another elected office or issues related to the campaign, or if fines are imposed. For the purposes of this fiscal and policy note, it is assumed that any reimbursements from State elected officials, and any fines collected, are deposited in the general fund. The extent of any increase in revenues cannot be reliably estimated.

State Expenditures: General fund expenditures increase by \$20,000 in fiscal 2016 only for one-time computer programming by SBE to incorporate a report regarding use of public resources in connection with a campaign event for another office into the State’s online campaign finance reporting system. This increase in general fund expenditures may be reduced or offset in fiscal 2016, and State expenditures may decrease in future years, to the extent the bill causes State elected officials to forego otherwise allowable uses of public resources in connection with events that relate to a campaign for another elected office or issues related to the campaign; the extent of any such decrease in expenditures cannot be reliably estimated.

Additional Information

Prior Introductions: HB 942 of 2014 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Budget and Management, Maryland State Board of Elections, State Ethics Commission, Governor’s Office, Comptroller’s Office, Department of State Police, State Prosecutor’s Office, Maryland Department of Transportation, Department of Legislative Services

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