

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 383 (Delegate Ebersole, *et al.*)
 Ways and Means

Campaign Finance Entities - Solicitation Disclosures - Expenditures

This bill requires political action committees (PAC) to include certain disclosures on solicitations for contributions, about the PAC’s spending, and prohibits PACs from spending above fair market value for goods or services provided by specified business entities. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: General fund expenditures may increase by \$31,600 in FY 2019 and by similar amounts in future years. Special fund revenues may increase by an indeterminate amount beginning in FY 2019.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
SF Revenue	-	-	-	-	-
GF Expenditure	\$31,600	\$36,300	\$37,300	\$38,700	\$40,200
Net Effect	(\$31,600)	(\$36,300)	(\$37,300)	(\$38,700)	(\$40,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Solicitation Disclosures

The bill requires a solicitation by or for a PAC to contain a disclosure statement, in writing and displayed conspicuously on a solicitation request, which includes separate statements of:

- the approximate percentage of expenditures of the PAC in the previous calendar year that were paid to any individual or organization for administrative costs of the PAC;
- the approximate percentage of expenditures of the PAC in the previous calendar year that were spent on campaign material; and
- the approximate percentage of expenditures of the PAC in the previous calendar year that were paid to business entities (1) that are owned or controlled by the responsible officers of the PAC or any persons exercising direction or control over the activities of the PAC or (2) in which the responsible officers or any persons exercising direction or control over the activities of the PAC have a specified financial interest.

If a PAC was formed after January 1 of the previous calendar year, the disclosures must cover the period the PAC has been in existence.

The disclosure statement requirement does not apply to solicitations for voluntary campaign contributions to a PAC, from employees, or members of a membership entity, through payroll deductions or other specified means.

A PAC that receives a contribution as a result of a solicitation that does not include the disclosure statement must refund the contribution to the contributor and is subject to a civil penalty of up to \$10,000 (distributed to the Fair Campaign Financing Fund).

Prohibition on Certain Expenditures Above Fair Market Value

The bill prohibits a campaign finance entity from directly or indirectly making an expenditure above fair market value for goods or services provided by a business entity (1) that is owned or controlled by the candidate, responsible officers, or any persons exercising direction or control over the activities of the campaign finance entity or (2) in which the candidate, responsible officers, or any persons exercising direction or control over the activities of the campaign finance entity have a financial interest.

Definition of Campaign Material

The bill clarifies that a solicitation for campaign contributions is included under the definition of “campaign material.”

Current Law:

Political Action Committees

PACs are political committees that are not associated with a candidate or other specific type of campaign finance activity. State law defines “political action committee” as “a political committee that is not (1) a political party; (2) a central committee; (3) a slate; (4) a legislative party caucus committee; (5) an authorized candidate campaign committee; or (6) a ballot issue committee.” A “political committee” is a combination of two or more individuals that has as its major purpose promoting the success or defeat of a candidate, political party, question, or prospective question submitted to a vote at any election.

Political action committees are subject to campaign finance reporting requirements, and those that exclusively make independent expenditures (as opposed to contributions to, or expenditures on behalf of, candidate committees or other committees) are subject to additional reporting requirements.

“Responsible officers” of a political committee are the chairman and treasurer of the committee.

Campaign Material

“Campaign material” is defined as any material that (1) contains text, graphics, or other images; (2) relates to a candidate, a prospective candidate, or the approval or rejection of a question or prospective question; and (3) is published or distributed. “Campaign material” includes (1) material transmitted by or appearing on the Internet or other electronic medium and (2) an oral commercial campaign advertisement.

The State Board of Elections’ [*Summary Guide, Maryland Candidacy & Campaign Finance Laws*](#) (March 2017) considers solicitations to be campaign material.

Campaign material must have an “authority line” identifying those responsible for the production and distribution of the campaign material. The authority line of campaign material distributed by a campaign finance entity (a political committee established under State campaign finance law) must identify generally both the campaign finance entity treasurer(s), and campaign finance entity (or entities), responsible for the campaign material.

Aside from requiring authority line information on campaign material, State election law and State Board of Elections regulations do not otherwise regulate the content of campaign material.

Fair Campaign Financing Fund

The Fair Campaign Financing Fund holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act.

State Expenditures: General fund expenditures may increase by \$31,600 in fiscal 2019, (which accounts for a 90-day start-up delay) and by similar amounts in future years, to the extent the bill results in more than a small amount of violations that must be investigated by the Office of the State Prosecutor (OSP). The estimate reflects the cost of hiring a part-time investigator to investigate violations under the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

While the bill authorizes the State Board of Elections to impose a civil penalty for a violation, a person issued a citation for a violation may elect to stand trial, in which case OSP investigates and prosecutes the violation. OSP indicates that violations of the bill may require relatively complex investigations.

State Revenues: Special fund revenues may increase by an indeterminate amount beginning in fiscal 2019 due to collection of civil penalties under the bill.

Additional Information

Prior Introductions: HB 299 of 2017, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): State Board of Elections; Office of the State Prosecutor; Department of Legislative Services

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