

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 633

(Senator Kagan)

Education, Energy, and the Environment

Ways and Means

Campaign Finance - Political Organizations - Disclosures on Solicitations (Stop Scam PACs Act)

This bill requires certain persons that solicit for the benefit of a candidate or a political party and use the candidate's name, image, or likeness in the solicitation to include a specified disclaimer on the solicitation. The bill also requires certain persons that solicit for what appears to be an electoral or political purpose to disclose on each solicitation (1) specified recipients of expenditures or disbursements made by the person and (2) the total amount of expenditures or disbursements made to each recipient. The State Administrator of Elections is authorized to investigate potential violations and the State Board of Elections (SBE) may prohibit a violator from soliciting contributions or donations for a period of time or impose a civil penalty. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by \$106,800 in FY 2026 and by ongoing amounts in future years. Special fund revenues may increase annually, beginning in FY 2026.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
SF Revenue	-	-	-	-	-
GF Expenditure	\$106,800	\$96,900	\$101,200	\$105,800	\$110,300
Net Effect	(\$106,800)	(\$96,900)	(\$101,200)	(\$105,800)	(\$110,300)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Solicitation Disclaimer and Disclosure

The bill establishes that if a person solicits for the benefit of a candidate or a political party and uses a candidate's name, image, or likeness in the solicitation, the person must clearly and conspicuously include on the solicitation the following disclaimer or a substantially similar disclaimer:

"The (name, image, or likeness) of (name of candidate or political party) on this solicitation is included without the knowledge or permission of (name of candidate or political party) and does not imply authorization or approval by (name of candidate or political party)."

If a person solicits for what appears to be an electoral or a political purpose, the person must disclose in a clear and conspicuous manner on each solicitation disseminated by the person (1) the five recipients to which the person made the largest expenditures or disbursements during the immediately preceding calendar quarter and (2) the total amount of expenditures or disbursements made to each recipient.

Applicability

The bill applies to persons that make independent expenditures or disbursements for electioneering communications, or participating organizations that make political disbursements, in amounts that require them to file reports with SBE. The bill also applies to a political action committee that (1) is not affiliated with a corporation or labor organization and (2) exclusively makes independent expenditures or disbursements for electioneering communications.

Enforcement Provisions and Implementing Regulations

The bill gives the State Administrator of Elections (or the administrator's designee) specified authority (including subpoena authority) to investigate potential violations of the bill's provisions. At the conclusion of an investigation, SBE must issue a public report of its findings and may (1) prohibit a person who violated the bill's provisions from soliciting contributions or donations for a period of time determined by SBE or (2) impose a civil penalty of up to \$10,000. The civil penalty is assessed in a manner specified under existing provisions, which, among other things, distribute penalty revenues to the Fair Campaign Financing Fund (FCFF) (which holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act).

Violations of the bill are not subject to existing civil or criminal penalties, or investigation by the State Prosecutor.

SBE may adopt regulations to carry out the bill.

Current Law:

Campaign Finance Entities (Political Committees)

Unless otherwise expressly authorized by law, all campaign finance activity for an election under the Election Law Article must be conducted through a campaign finance entity (defined as a political committee established under Title 13 of the Election Law Article). An individual may not file a certificate of candidacy or a declaration of intent until the individual establishes, or causes to be established, an authorized candidate campaign committee (a campaign finance entity authorized by the candidate to promote the candidate's candidacy).

“Political committee” is defined as 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 committee” is defined as a political committee that is not a political party, a central committee, a slate, a legislative party caucus committee, an authorized candidate campaign committee, or a ballot issue committee.

Whether establishing and filing with SBE as an authorized candidate campaign committee or other campaign finance entity, a political committee must include with the filing a statement of organization that includes a statement of purpose specifying (1) each candidate or ballot question, if any, that the political committee was formed to promote or defeat; (2) the identity of each special interest, including any business or occupation, that the organizers of or contributors to the political committee have in common; and (3) whether the political committee will participate in presidential, gubernatorial, Baltimore City, or multiple elections.

For each election in which a campaign finance entity participates, it generally must file campaign finance reports at various times prior to and after the primary and general elections, as well as an annual report. The reports must contain information required by SBE with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period.

Subject to certain exceptions, a person may not make aggregate contributions of more than \$6,000 to any one campaign finance entity in a four-year election cycle, and a campaign

finance entity may not make transfers in a cumulative amount of more than \$6,000 to any one other campaign finance entity in a four-year election cycle.

Independent Expenditures and Electioneering Communications

Independent expenditures in general – political spending by individuals or organizations without coordination with a candidate – cannot be limited or prohibited, pursuant to the 2010 Supreme Court decision *Citizens United v. FEC*. Requirements for disclosure of independent expenditures, however, have been upheld by courts. Under Maryland’s disclosure requirements, independent expenditures are expenditures for public communications that are not made in coordination with a candidate or campaign finance entity and that expressly advocate the success or defeat of a clearly identified candidate or ballot question. Electioneering communications, on the other hand, do not expressly advocate the success or defeat of a candidate or ballot question, but refer to a clearly identified candidate or ballot question, are made within 60 days of an election, are capable of being received by a certain amount of individuals (with the amount depending on the type of communication) in the constituency where the candidate or ballot question is on the ballot, and are not made in coordination with a candidate or campaign finance entity.

Within 48 hours after a person makes aggregate independent expenditures or disbursements for electioneering communications of \$5,000 or more in an election cycle, the person must file a registration form with SBE. Within 48 hours after a day on which a person makes aggregate independent expenditures or disbursements for electioneering communications of \$10,000 or more in an election cycle, the person must file a report with SBE providing information on the person, the expenditures or disbursements, and persons who made cumulative donations of \$6,000 or more to the person during the period covered by the report. Further, a person who files an independent expenditure or electioneering communication report must file an additional report within 48 hours after a day on which the person makes aggregate independent expenditures or disbursements for electioneering communications of \$10,000 or more following the closing date of the person’s previous report.

Participating Organizations

A “participating organization” is an entity that is organized under § 501(c)(4) or (6) or § 527 of the Internal Revenue Code and makes political disbursements (contributions to a campaign finance entity, disbursements to persons making independent expenditures or disbursements for electioneering communications in the State, or disbursements to out-of-state political committees that make a disbursement in the State).

Participating organizations that make aggregate political disbursements of more than \$6,000 in a four-year election cycle must file a registration form with SBE within 48 hours

and are subject to reporting/disclosure requirements after spending \$10,000 or more. The reports filed must include the amount and date of each political disbursement made in the State or to influence a State election and the identity of each person that made cumulative donations of \$10,000 or more to the participating organization.

Political Action Committees That Only Engage in Independent Spending

Consistent with legal authority on the issue, SBE indicates, in [Chapter 5](#) of its *Summary Guide to Maryland Candidacy and Campaign Finance Laws* that it does not interpret the limits applicable to contributions to most campaign finance entities to apply to contributions or donations to political action committees that make only independent expenditures or disbursements for electioneering communications (commonly referred to as “Super PACs”). SBE regulations establish that a person may make an unlimited contribution to a political action committee that is registered to make exclusively independent expenditures, disbursements for electioneering communications, or both.

A political action committee that exclusively makes independent expenditures or disbursements for electioneering communications, in addition to filing campaign finance reports required of all campaign finance entities, must file a disclosure report within 48 hours after a day on which the political action committee makes aggregate expenditures of \$10,000 or more on campaign material during the reporting period covered by its next campaign finance report, and must file additional disclosures for each subsequent \$10,000 or more spent on campaign material. A disclosure report must include information required by SBE with respect to all contributions received and all expenditures made by or on behalf of the political action committee during the reporting period.

Campaign Material

“Campaign material” means 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, distributed, or disseminated. “Campaign material” includes (1) a qualifying paid digital communication; (2) any other material transmitted by or appearing on the Internet or other electronic medium; (3) an oral commercial campaign advertisement; and (4) an automated or prerecorded oral communication. [Chapter 12](#) of SBE’s *Summary Guide to Maryland Candidacy and Campaign Finance Laws* confirms that solicitations are campaign material.

Each item of campaign material generally must contain an authority line that states (1) as to campaign material published, distributed, or disseminated 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, distributed, or disseminated

by any other person, the name and address of the person responsible for the campaign material. The authority line may omit an address that is on file with SBE or a local board.

Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, must include the statement “This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate.”

SBE is authorized to impose a civil penalty of up to \$1,000 for a failure to include an authority line on campaign material. A person who violates the authority line requirements is also guilty of a misdemeanor and (1) subject to a fine of up to \$1,000 and/or imprisonment for up to one year and (2) ineligible to hold any public or party office for four years after the date of the offense.

State Expenditures: General fund expenditures increase by \$106,766 in fiscal 2026, which accounts for the bill’s July 1, 2025, effective date. This estimate reflects the costs for SBE to hire one program administrator to conduct investigations of violations of the bill’s provisions, produce the required public reports, and administer penalties. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$99,121
Operating Expenses	<u>7,645</u>
Total FY 2026 State Expenditures	\$106,766

Future year expenditures reflect a salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

State Revenues: Special fund FCFF revenues increase, beginning in fiscal 2026, to the extent civil penalties are collected for violations of the bill’s provisions.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 906 (Delegate Palakovich Carr) - Ways and Means.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland State Board of Elections; Department of Legislative Services

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