

HB 17 - Support to Senate EHEA - March 23.pdf

Uploaded by: Henry Bogdan

Position: FAV

March 23, 2022

Testimony on House Bill 17
Campaign Finance – Recurring Contributions and Donations – Requirements
Senate Education, Health, and Environmental Committee

Position: Favorable

Maryland Nonprofits is a statewide association of more than 1300 nonprofit organizations and institutions. We urge you to support House Bill 17 to improve the fairness and transparency of political fund-raising in Maryland.

This bill deals with a fund-raising practice that received significant attention during the last national election. House Bill 17 requires the candidate to be more transparent with their donors and it seeks to eliminate a corrupt practice of charging donors for a recurring contribution when that may not have been their intention.

By requiring a donor to give an affirmative confirmation that they agreed to a recurring charge and by receiving a receipt for each contribution that the candidate has received from the donor, the practice of soliciting and accepting recurring donations will be much more transparent. Also, by making it easier for the donor to understand what they have agreed to and how to terminate the agreement, it gives the donor more control over their contributions.

We urge you to give House Bill 17 **a favorable report.**

Crossover Testimony HB0017 MCRC 2022.pdf

Uploaded by: Isadora Stern

Position: FAV



Maryland Consumer Rights Coalition

**Testimony to the Senate Education, Health, and Environmental Affairs Committee
HB0017: Campaign Finance – Recurring Contributions and Donations – Requirements
Position: Favorable**

March 23, 2022

The Honorable Paul Pinsky, Chair
Senate Education, Health, & Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401
cc: Members, Education, Health, & Environmental Affairs Committee

Chair Pinsky and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland. We are writing today in support of HB0017.

HB0017 requires the affirmative consent of donors be given before recurring political campaign donations can be accepted, and includes the stipulation that pre-checked boxes online do not count as affirmative consent. The bill also requires that donors be provided with receipts and ways to opt out of recurring donations.

At the federal level, during the 2020 Presidential campaign, 10% of the donations received by the Trump campaign had to be refunded, while 2.2% had to be refunded to donors by the Biden campaign. The average age of those who requested refunds was 65 -66 years of age.¹ Individual Maryland donors contributed more than \$67 million to the 2020 Presidential campaign.²

At the state level, HB0017 will positively impact Maryland voters by allowing them to make informed consent each time they make a donation or contribution to a political campaign. This bill helps Marylanders from being scammed, especially in online spaces where older adults may be less savvy. These issues are not limited to political campaigns. Automatically recurring transactions can create a financial burden for consumers. Contract transparency puts the burden on the financial institution to make sure consumers know what they are paying and how often.³ It is the responsibility of the state to protect its consumers and bill HB0017 is one way to do that.

For all these reasons, we support HB0017 and urge a favorable report.

Best,
Kimberly Snyder
Social Work Intern

¹ <https://www.vox.com/2021/7/11/22572641/dark-patterns-online-fundraising-voters-donate-money-campaigns>

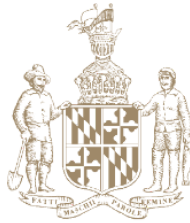
² <https://www.opensecrets.org/states/donors.php?cycle=2020&state=MD>

³ <https://www.nclc.org/images/pdf/cons-protection/rpt-fintech-and-consumer-protection-a-snapshot-march2019.pdf>

HB 17 Delegate Palakovich Carr Senate Testimony FA

Uploaded by: Julie Palakovich Carr

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Testimony in Support of HB 17
Campaign Finance – Recurring Contributions and Donations – Requirements

Consumers shouldn't be tricked into unknowingly giving money to political candidates. Yet, that's what happened in recent elections, when some political candidates repeatedly charged donors who failed to opt-out of recurring contributions.

The dubious practice of requiring contributors to find and uncheck a box to avoid multiple charges resulted in hundreds of thousands of people requesting refunds amounting to over \$64.3 million during President Donald Trump's reelection campaign.¹ This trick especially harmed older, less tech-savvy Americans, leaving them feeling scammed and scrambling to undo the charges.²

The issue drew the attention of the Federal Election Commission, which unanimously recommended that Congress ban these opt-out recurring donation practices.³ In response, legislation has been introduced in Congress to ban this practice in federal elections.⁴

This has also been an issue in state elections.⁵

HB 17 would prohibit state-regulated campaigns and payment processor vendors from opt-out recurring political donations in order to protect Maryland consumers from being caught in these schemes. Campaigns would still be able to raise funds through opt-in recurring contributions.

Affirmative Consent is a Common Business Practice

According to the Attorney General's Office, "The use of negative option offers is a practice that has caused widespread consumer harm and is already widely regulated by the federal

¹ "How Trump Steered Supporters Into Unwitting Donations." The New York Times.
<https://www.nytimes.com/2021/04/03/us/politics/trump-donations.html>

² "How Deceptive Campaign Fund-Raising Ensnarers Older People." The New York Times.
<https://www.nytimes.com/2021/06/26/us/politics/recurring-donations-seniors.html>

³ "F.E.C. Asks Congress to Ban Prechecked Recurring Donation Boxes." The New York Times.
<https://www.nytimes.com/2021/05/06/us/politics/fec-trump-donations.html>

⁴ "S.1786 - Rescuing Every Contributor from Unwanted Recurrences (RECUR) Act." United States Congress.
<https://www.congress.gov/bill/117th-congress/senate-bill/1786>

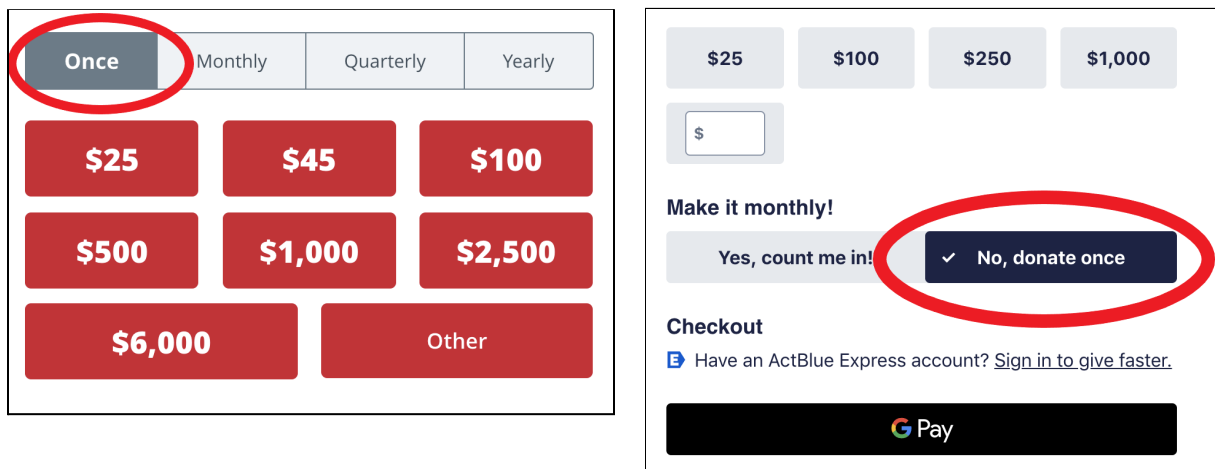
⁵ CA: <https://politi.co/3LaOihb>; PA: <https://bit.ly/3ipVN7o>

government in other consumer transactions...” For instance, when offering an automatically recurring or monthly payment method, utility companies (including BGE and PEPSCO) and internet providers (including Verizon and Comcast) ask for affirmative consent from the customer. Companies that offer subscription services, such as newspapers, also clearly state recurring costs to their subscribers when marketing their products. The same applies to eCommerce platforms and financial institutions that offer an automatic debit or “bill pay” method, like Google Pay, PayPal, and Zelle. Platforms for political contributions should meet the same standards for consumer consent.

What this Bill Does

- Prevents recurring political contributions if the donor has not affirmatively consented. Passive action by the contributor, such as failing to uncheck a pre-checked box, would not meet the requirement of affirmative consent.
 - Allows campaigns to raise funds through recurring contributions so long as they have the affirmative consent of the donor. See Figure 1 below for allowable examples.
- Requires that any campaign entity accepting a recurring contribution must provide a receipt for each recurring contribution that discloses how often and for how long the recurring contributions will occur. The receipt must also include all information needed for the donor to cancel the recurring contributions.
- Requires that any campaign entity accepting a recurring contribution must immediately cancel recurring contributions upon request of the donor and return any illegally obtained contributions.
- Violations of this legislation would be subject to the typical civil penalties for campaign finance violations of up to \$500.
- Would go into effect for the next four-year campaign finance cycle.

Figure 1. Examples of allowable fundraising forms under this bill.



HB 17 - Campaign Finance - Recurring Contributions

Uploaded by: Morgan Drayton

Position: FAV

March 23, 2022

Testimony on HB 17
Campaign Finance - Recurring Contributions and Donations – Requirements
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland is in support of HB 17 which would ban political campaigns from guiding online donors into recurring donations by default, a practice that has led supporters to make unintended gifts that sometimes total in the thousands of dollars.

The bill will amend Maryland campaign finance law to prohibit the practice of enrolling donors in recurring contributions through “pre-checked” boxes without their consent. Under the bill, recurring contributions will only be allowed after a donor affirmatively consents to it. HB 17 provides an extra layer of protection for donors who might opt-in accidentally by requiring campaigns to inform donors of how to cancel recurring contributions, and to make sure that those contributions are canceled immediately upon the donor’s request.

This legislation comes on the heels of last year’s unanimous bipartisan recommendation from the Federal Election Commission that campaigns be barred from automatically opting donors into recurring contributions through pre-checked boxes in solicitations. The Commission has recognized that many donors are unknowingly enrolled in programs that make recurring withdrawals, and their recommendations are an important step towards strengthening campaign finance law and protecting all campaign contributors, regardless of political party.

Donors should feel empowered to make their voices heard by giving as much or as little to a political campaign as they choose, but this is only possible if the donor can trust that they aren’t being taken advantage of through unethical tactics like pre-checked donation boxes.

For the reasons outlined above, we urge a favorable report on HB 17.

HB 17 Campaign Finance – Recurring Contributions a

Uploaded by: Nancy Soreng

Position: FAV



**TESTIMONY TO THE SENATE EDUCATION, HEALTH AND ENVIRONMENTAL
AFFAIRS COMMITTEE**

**HB 17 Campaign Finance – Recurring Contributions and Donations –
Requirements**

POSITION: Support

BY: Nancy Soreng President

Date: March 23, 2022

The League of Women Voters supports campaign finance regulations that enhance political equality for all citizens, ensure transparency, protect representative democracy from distortion by undisclosed contributions and combat corruption. Typically, we testify about campaign finance legislation that requires transparency for the general public to understand the sources and amounts of donations that candidates are receiving. This bill is different in that it requires the candidate to be more transparent with their donors and it seeks to eliminate a corrupt practice of charging donors for a recurring contribution when that may not have been their intention.

By requiring a donor to give an affirmative confirmation that they agreed to a recurring charge and by receiving a receipt for each contribution that the candidate has received from the donor, the practice of soliciting and accepting recurring donations will be much more transparent. Also, by making it easier for the donor to understand what they have agreed to and how to terminate the agreement, it gives the donor more control over their contributing.

We urge a favorable report on HB 17.

HB 17 - CPD - Support - Senate.pdf

Uploaded by: Philip Ziperman

Position: FAV

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

WRITER'S DIRECT DIAL NO.
410-576-6417

March 23 2022

To: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

From: Philip D. Ziperman
Consumer Protection Division

Re: House Bill 17 – Campaign Finance – Recurring Contributions and Donations –
Requirements

(SUPPORT BILL)

The Office of the Attorney General supports House Bill 17 sponsored by Delegate Palakovich Carr. House Bill 17 seeks to prevent a donor from being misled into making recurring donations when the donor only intended to make a one-time donation to the political campaign or organization. The use of negative option offers is a practice that has caused widespread consumer harm and is already widely regulated by the federal government in other consumer transactions¹ and the Attorney General's Consumer Protection Division has also taken action under the Consumer Protection Act to protect against marketers that used negative option offers to deceive consumers.²

Political fundraisers for both major political parties (and in both federal and state elections) have used pre-checked boxes, frequently accompanied by confusing disclaimers, to trap donors into making unintended recurring or additional contributions. During the most recent presidential

¹ See e.g., The Restore Online Shoppers' Confidence Act, 15 U.S.C. §§ 8401-8405, and the Telemarketing Sales Rule, 16 C.F.R. Part 310. The Rule on the Use of Prenotification Negative Option Plans, 16 C.F.R. Part 425, the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693-1693r, and the Postal Reorganization Act (i.e., the Unordered Merchandise Statute), 39 U.S.C. § 3009 also address various aspects of negative option marketing.

² See <https://www.marylandattorneygeneral.gov/press/2015/052615.pdf> - AG Frosh Announces \$11 Million Settlement with Classmates, FTD Companies allegedly allowed third-parties to charge for programs consumers did not want or use.

elections this practice and the harm it has caused consumers was widely reported in the media. *See, e.g.,* Shane Goldmacher, *How Trump Steered Supporters into Unwitting Donations*, NEW YORK TIMES (Apr. 3, 2021), <https://www.nytimes.com/2021/04/03/us/politics/trump-donations.html>; Evie Fordham, *Trump Campaign and Allies Refund \$122M to WinRed Donors: Report*, FOX NEWS (Apr. 4, 2021) <https://www.foxnews.com/politics/trump-campaign-refund-winred-donors-2020>; Jeremy B. White, *California Recall Candidates Use Auto-donation Tactic Trump Made Famous*, POLITICO (May 17, 2021), <https://www.politico.com/states/california/story/2021/05/17/california-recall-candidates-use-auto-donation-tactic-trump-made-famous-1382586>. These reports suggested that pre-checked boxes and other aggressive tactics are most likely to harm older donors. *See* Shane Goldmacher, *How Deceptive Campaign Fund-Raising Ensnarers Older People*, N.Y. TIMES (June 26, 2021), available at <https://www.nytimes.com/2021/06/26/us/politics/recurring-donations-seniors.html>. Maryland residents were harmed by these practices. For example, a U.S. Army veteran and Maryland resident filed an online complaint with the Federal Trade Commission stating that he made three contributions but was “charged . . . ten times befor[e] I found out.” In May 2021, the Federal Election Commission voted unanimously to recommend that Congress pass legislation banning the use of pre-checked boxes when soliciting recurring federal campaign donations.³

HB 17 will help prevent Maryland residents from being misled into making recurring donations or donating more than they intended by requiring fundraisers to obtain their affirmative consent before initiating a recurring donation and banning the use of pre-checked boxes for obtaining that consent. The bill also helps ensure consumers are better informed when they opt to make recurring donations by requiring that they be provided a receipt that informs them of (1) the frequency and duration of their recurring donation, and (2) how to stop their recurring donation.

Accordingly, the Attorney General supports the passage of HB 17, which would help combat the use of misleading fundraising techniques that trick consumers into making recurring donations, and requests the Education, Health, and Environmental Affairs Committee provide a favorable report on the bill.

cc: The Honorable Julie Palakovich Carr
Members, Education, Health, and Environmental Affairs Committee

³ *See* Legislative Recommendations of the Federal Election Commission 2021 (May 6, 2021), <https://www.fec.gov/resources/cms-content/documents/legrec2021.pdf>.