

**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**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

January 25, 2022

To: The Honorable Vanessa E. Atterbeary  
Chair, Ways and Means Committee

From: Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, Office of the Attorney General

Re: HB 0093 – Candidates for Offices of Municipalities and Common Ownership  
Communities - Reports of Donations and Disbursements – Oppose

---

The Office of Attorney General (the “OAG”) urges this Committee to unfavorably report HB 0093.

House Bill 0093 would introduce campaign finance filing and disclosure requirements for candidates seeking election to municipal office, as well as candidates for election to private organizations such as cooperative boards, condominium boards, and homeowners’ associations. The bill would such disclosures to be made to the State Board of Elections (“SBE”), and would require SBE to establish by regulation a schedule for the filing of such disclosures, a mechanism to enforce these disclosure requirements, and a method for publishing these disclosures. The requirements imposed by HB0093 raise serious constitutional questions and would substantially increase the administrative burden on SBE as to an area – elections to private property associations and boards – that lies far afield from its statutory mission.

First, the bill would require candidates for election to many private boards to publicly disclose any contributions and expenditures associated with their respective candidacies. HB0093 thus would effectively compel certain speech by private individuals seeking to gain election to private organizations. Therefore, in order to satisfy the requirements of the First Amendment (as applied to the State via the Fourteenth Amendment), the compelled speech regulations would need to further a compelling government interest via the least restrictive means of doing so. *See Janus v. American Fed’n of State, County & Mun. Emps.*, 138 S.Ct. 2448, 2463 (2018). It is doubtful that HB 0093 would overcome such a challenge.

Moreover, HB 0093 would direct SBE to manage and publish the disclosures required by the bill, and to establish a regulatory regime to implement and enforce the bill's requirements. SBE is charged with "manag[ing] and supervis[ing] elections in the State and ensur[ing] compliance with the requirements of" the Election Law Article "and any applicable federal law by all persons involved in the elections process." Md. Code Ann., Elec. Law § 2-102(a). "Elections" are defined as "the process by which voters cast votes on one or more contests under the laws of this State or the United States." *Id.* § 1-101(v)(1). To require SBE to oversee and regulate the campaign finance aspects of private, property-association-related elections would take it well outside this motion, and impose significant additional administrative and enforcement burdens on the agency.

For the foregoing reasons, the Office of the Attorney General urges an unfavorable report on House Bill 0093.

cc: Members of the Ways and Means Committee