

Sponsor Testimony, HB 93.pdf

Uploaded by: Jen Terrasa

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

January 21, 2022

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

From: Delegate Jen Terrasa
District 13, Howard County

Re: Sponsor Testimony in Support of HB 93, Candidates for Offices of
Municipalities and Common Ownership Communities - Reports of
Donations and Disbursements

Dear Chair Atterbeary, Vice Chair Washington, and members of the Ways & Means Committee,

Thank you for the opportunity to present HB 93, which brings transparency to campaign financing on the local level.

HB 93 requires that candidates running for office in municipalities and large common ownership communities (HOAs, co-ops, condominiums), report who contributed to their campaigns and how much. It applies to common ownership communities (known as COCs) with 2000 or more lots. It also applies to municipalities. Note, as drafted, the bill applies only to municipalities with more than 5000 people. However, our understanding is that there is a state constitution issue prohibiting the treatment of municipalities differently by size, so I will be offering an amendment to make HB 93 applicable to all cities in the state.

How does this work? HB 93 has two different options for localities. The municipality or COC can set up its own process for campaign finance disclosure, which can be as simple or as complicated as the locality chooses. If not, candidates would have to follow state campaign finance laws. As you know, the state system requires a candidate to set up a campaign committee, find a treasurer, open a bank account, and follow the state's reporting system. The state system might seem complicated for a local race if the typical candidate only raises \$200 or \$500 or even \$1000, but might make more sense if they are running a \$30,000 campaign. The way HB 93 works is that the local governing body can set up different rules for larger and smaller donations or they can set up a hybrid system where candidates with larger dollar donations have to follow the

state, and the smaller dollar campaigns follow a process as simple as filling out one page with all donors plus the amount of the donation, and another with all their expenditures. This legislation gives the locals the option to set up as simple or as complex a system as they want.

So why is this bill so important? It's about transparency. It's about informed voters participating in a democracy. This committee knows the importance of this type of transparency in your own elections because you just finished filing your own campaign finance reports. But why should this be expanded to municipalities? As you know, municipal governments run everything from local police departments and fire departments to transportation, public works, recreation/parks, planning/zoning, and they also own land. Municipal officials and their employees negotiate and decide large municipal contracts. Municipal elections are very important.

Currently, there is no Maryland law requiring reporting of campaign financing in municipalities. Some municipalities have their own requirements, and under Maryland law, if they do, candidates have to forward copies of whatever they file with the municipality to the state so that all reports can be found in one place. However, only 12 out of 157 municipalities in Maryland require candidates to file campaign finance reports in a municipal election (Laurel, Bowie, Gaithersburg, Rockville, Annapolis, Frederick, Salisbury, Aberdeen, College Park, Hagerstown, Brunswick, and Takoma Park). As amended, this bill would provide this transparency to voters in the other 145 municipalities and would require all candidates on the local level to report donations and expenditures just like anyone else running for office in the state.

So you might be wondering though, why would anyone want to contribute to candidates running for election in a common ownership community or COC? From my experience as an HOA president, a member of our larger HOA ("village") board, a county council member, and a member of the Housing and Real Property subcommittee of ENT, I can tell you that COCs do a lot of important things. Notably, COCs own land and manage large contracts. In some cases, they even have large security forces. However, I did not necessarily expect to see a lot of money pouring into a COC election until our master HOA elections in 2021. Typically, these elections had no financing or were financed in the range of \$50-\$500. Last year, though, it became clear that much more money was being invested in this local election. I have heard accounts that somewhere between \$50k-100k were spent on these races. I can't give you an exact dollar amount because no reporting system mandate currently exists. However, what I can tell you is I received 4 mailers in the mail in my area, and some areas received up to 6 mailers. This huge jump in funds spent in a COC election, I believe, highlights the need for a reporting requirement in these local elections.

HB93 makes sure that candidates in municipalities and large HOAs report who is contributing to them and what they are spending their money on – just like we do. In the end, it's all about transparency.

I urge a favorable report.

HB 93 - Candidates for Offices of Municipalities a

Uploaded by: Joanne Antoine

Position: FAV

January 25, 2022

Testimony on HB 93
Candidates for Offices of Municipalities and Common Ownership Communities - Reports of Donations and Disbursements
Ways & Means

Position: Favorable

Common Cause Maryland supports HB 93, which would strengthen campaign finance reporting requirements for municipalities and establish similar regulations for cooperative housing corporations, condominiums, and homeowners associations.

While there are a number of municipalities that require reporting for candidates, HB 93 expands to cover those that do not have processes in place. The proposed legislation makes a small but important change to campaign finance law. It does not require that these municipalities to establish a process. It instead simply ensures that candidates in these municipalities file their reports with the State Board of Elections.

This change is important for public access to campaign data. In almost every election year, Common Cause handles a surprising number of questions from the public about access to municipal campaign reports. This confusion has grown as certain municipal reports are being posted by the State Board leaving those in other municipalities in search of information. This is an issue during municipal elections, when the public wants to easily find out who is donating to campaigns. It is also an issue as a local official runs for higher office, where the record of their previous fundraising efforts is not available in the same location as their state level campaign reports.

HB 93 also goes a step further by establishing the same requirements for cooperative housing corporations, condominiums, and homeowners associations where developers spend a great deal of time influencing these races.

This is a small but important change for transparency in campaign finance laws. We request a favorable report on HB 93.

HB 93 FAV

Uploaded by: Patricia Thomas

Position: FAV

**Candidates for Offices of Municipalities and Common Ownership
Communities – Reports of Donations and Disbursements**

Patricia Thomas

palthomas@comcast.net

410-953-6085

House Bill 0093 Favorable

**I am Patricia Thomas a resident in a condominium community in
Columbia, Howard County, MD.**

**I am in favor of this bill that curtails the abilities of those trying to
wield influence and power by putting money into our local
community elections. In the villages of my city our local elections are
becoming a preying ground to target residents forming their
campaigns by providing large contributions and in-kind donations.**

**All financial disclosures and in-kind donations should be as
transparent as they are for federal disclosures. We cannot leave this
process unchecked in these communities and municipalities. Keep the
process open and fair for all.**

Thank you for your consideration of this bill

HB 93 - Candidates for Common Ownership Communitie

Uploaded by: Joel Hurewitz

Position: FWA

HB 93 Candidates for Offices of Municipalities and Common Ownership Communities– Reports of Donations and Disbursements

Favorable with (Major) Amendments/Unfavorable

Testimony of Joel Hurewitz
Ways and Means Committee
January 25, 2022

Last spring, a deep-pocketed outside entity, The Rouse Project, LLC, seeking to elect its candidates, pumped large sums of money into the normally quiet elections in Columbia for the Columbia Council Representatives who are in turn appointed, and not legally elected, to the Columbia Association Board. They ran a campaign much akin to that for one running to be a delegate with mass mailings and professional campaign signs. People in the various of the 10 Columbia villages started discussions about the need for campaign finance disclosure in Columbia's elections. While I support the concept of campaign finance reporting for large, community-wide homeowners associations, HB 93 has numerous practical, legal, and drafting flaws and should not be passed in its current form. While Delegate Terrasa envisions a simple reporting system, the requirement that the State Board of Elections will regulate an area, of which they have no expertise, is anything but simple. Many people have expressed concerns that the bill will chill the ability of common ownership communities and small municipalities to find candidates interested in serving their communities.

Generally, the broad purposes of disclosure can be fulfilled a bill that is much shorter and simpler:

Notwithstanding the association's governing documents, the governing body of a homeowners association with more than 2000 units shall create rules regarding campaign expenditures and timely reporting for the election by its members for candidates of its governing body or such other individuals who are elected by its members as may be specified in the association's governing documents. The reports shall be posted on the association's website with a prominent link from the association's home page. The association shall maintain the information on its website for five years or twice the length of the term of office, whichever is greater.

There is a separate and very important tangential issue of how to ensure disclosure of independent expenditures from outside entities such as The Rouse Project, but this will substantially address the issue of campaign expenditures by the candidates themselves.

I therefore, hope that the Committee will work with Delegate Terrasa to craft appropriate legislation to solve the problem of getting transparency in community elections without having many unintended, detrimental consequences.

HB 93_FWA_MML.pdf

Uploaded by: Justin Fiore

Position: FWA



Maryland Municipal League

The Association of Maryland's Cities and Towns

TESTIMONY

January 25, 2022

Committee: House Ways and Means Committee

Bill: HB 93 – Candidates for Offices of Municipalities and Common Ownership Communities – Reports of Donations and Disbursements

Position: Support with Amendment

Reason for Position:

The Maryland Municipal League supports HB 93 with amendments. As introduced, the bill would require municipalities to either establish an internal process for candidates to report donations and disbursements or use the State Board of Election's procedures.

Among our members, there appears to already be a natural evolution in response to candidate spending. That is, when significant sums of money are spent, people notice, and local laws are adopted ensure the public is aware. But very few municipal elections see any meaningful spending and the vast majority of those already have financial reporting laws in place.

The League is concerned that the State process will dissuade candidates from running for office in small municipalities, in turn limiting the choices residents have at the polls. To lower the burden and attract more candidates, local governments will have to expend money outside of their current budgets adopting and administering their own reporting programs.

We understand and appreciate the intent of the sponsor's population threshold, but that method of dividing municipalities (by population) has been statutorily barred since 1957. Instead, we propose an amendment that would require candidates in municipalities that do not already have donation and disbursement requirements to use the State Board of Elections process if they raise or spend \$25,000 or more.

The \$25,000 threshold is the same one the IRS uses for local candidates to report their status and would ensure that meaningful spending is reported regardless of the population size of the municipality.

Therefore, the League respectfully requests that this committee provide HB 93 with a favorable report with the following amendments.

FOR MORE INFORMATION CONTACT:

| | |
|------------------|--------------------------------------|
| Scott A. Hancock | Executive Director |
| Angelica Bailey | Director, Government Relations |
| Bill Jorch | Director, Research & Policy Analysis |
| Justin Fiore | Manager, Government Relations |

Suggested Amendment Language for House Bill 93

1) On page 3, strike lines 26-27.

2) On page 4, line 2, add (1) after “(D)”

3) On page 4, after line 6, insert:

(2) A candidate that reasonably expects its donations or disbursements to be less than \$25,000 is exempt from the requirements of (B)(1).

(3) A candidate that has not filed a report under (B) (1) because it did not reasonably expect its donations or disbursement to be less than \$25,000 must file an initial report within 30 days of reaching \$25,000 of either activity.

(The language in the suggested (B)(2) and (3) is modified from the IRS 8871 filing instructions.)

MBIA Letter HB93.pdf

Uploaded by: Lori Graf

Position: FWA

January 25, 2022

The Honorable Vanessa Atterbeary
Ways & Means Committee
House Office Building, Room 131,
6 Bladen St., Annapolis, MD, 21401

RE: HB 93 Candidates for Offices of Municipalities and Common Ownership Communities - Reports of Donations and Disbursements- Support with Amendment

Dear Chair Atterbeary:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **HB 93 Candidates for Offices of Municipalities and Common Ownership Communities - Reports of Donations and Disbursements. MBIA Supports the Act with Amendment.**

This bill would require that Homeowners Associations, Housing Corporations, and Condominiums file reports of donations and disbursements to the State Board of elections. MBIA respectfully opposes this measure. These organizations are private organizations and have the right to conduct themselves according to their own rules. Since these positions are not public offices, the State Board of Elections has not vested interest in the oversight of these organizations. Setting the precedent that the State may regulate how private entities conduct themselves and choose their leadership sets a dangerous precedent. This bill would also require that if individuals wished to receive private donations, they are forced to put together an election committee including a requirement to appoint a treasurer, which forces additional time and cost on private individuals not engaged with public affairs.

It is difficult to get volunteers to serve on the Board of Directors of Common Ownership Communities. This will just add another layer to dissuade people from running and being active in their community. We would support this bill if the provisions regarding Common Ownership Communities were removed.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the House ways and Means Committee

hb 93 signed.pdf

Uploaded by: Renee DuBois

Position: FWA



January 21, 2022

Delegate Vanessa Atterbeary
House Ways and Means Committee
6 Bladen Street
Annapolis, Maryland 21401

Re: Support of HB 93

Ms. Atterbeary,

At the meeting of the River Hill Community Association (RHCA) Board of Directors on January 18, 2022, the Board voted by unanimous consent to support House Bill 93, *Candidates for Offices of Municipalities and Common Ownership Communities - Reports of Donations and Disbursements*. The Board of Directors appreciates the flexibility this legislation would allow in the design of a campaign finance system, either at the local level or in conjunction with existing state election statutes. This legislation represents an important first step in making large Common Ownership Community elections more transparent to its members.

During the April 2021 Columbia Association election cycle, outside, third-party interests spent a significant amount of money in an attempt to influence the election to the Columbia Association Board of Directors, which is comprised of a CA Representative from each of the ten villages. This was highly unusual as previous elections had almost no campaign spending.

The RHCA Board of Directors would like the House Ways and Means Committee to add text to further strengthen the legislation as follows: "When a candidate raises monetary or in-kind contributions in excess of a one-thousand-dollar threshold, the candidate will be required to follow the state campaign finance system." The state system imposes stricter requirements on candidates including the establishment of a campaign committee and appointment of a separate treasurer, to ensure the integrity of highly funded campaigns. Ensuring transparency in the election of volunteer members of the Columbia Association Board of Directors and the ten Villages' (Community Associations) Boards of Directors should be the objective of everyone who believes in Jim Rouse's original vision for Columbia, "a garden for the growing of people" in which "individual citizens seek the truth and communicate it."

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Levine", is written over a thin, curved line that extends from the signature towards the right margin of the page.

Matthew Levine

River Hill Community Association
Chair

2022-01-25 HB0093 (Oppose).pdf

Uploaded by: Hannibal Kemerer

Position: UNF

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