

HOUSE BILL 122

G1
HB 442/10 – W&M

11r0442
CF SB 119

By: **Delegates Howard, Aumann, Bates, Braveboy, Cane, Eckardt, Frush, Gaines, Griffith, Haynes, Holmes, Jameson, Nathan-Pulliam, Pena-Melnyk, B. Robinson, Stocksdales, Summers, and Washington**

Introduced and read first time: January 24, 2011
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 24, 2011

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Use of Campaign Funds for Meeting and Conference Expenses**
3 **~~and Other Activities~~**

4 FOR the purpose of including a disbursement to pay the costs for travel, lodging,
5 meals, and registration expenses to attend certain meetings or conferences ~~and~~
6 ~~other activities~~ as an allowable expenditure of funds from a campaign account
7 under the State election law; ~~prohibiting a campaign finance entity from using~~
8 ~~campaign funds for certain personal expenses; requiring the State Board of~~
9 ~~Elections to adopt certain regulations; prohibiting a responsible officer of a~~
10 ~~campaign finance entity from issuing or authorizing an expenditure except as~~
11 ~~authorized by the State election law;~~ and generally relating to the use of
12 campaign funds to pay expenses for a candidate's or an elected official's
13 attendance at certain meetings and conferences ~~and certain other activities.~~

14 BY repealing and reenacting, without amendments,
15 Article – Election Law
16 Section 1-101(o) ~~and 13-218~~
17 Annotated Code of Maryland
18 (2010 Replacement Volume)

19 BY repealing and reenacting, with amendments,
20 Article – Election Law
21 Section 1-101(aa), ~~13-245, and 13-602~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2010 Replacement Volume)

3 Preamble

4 WHEREAS, Campaign contributions regulated by the Maryland State Board of
5 Elections may be used for legally procured goods and services that "... promote or
6 assist in the promotion of the success or defeat of a candidate ..."; i.e., to enhance the
7 electability of the person on whose behalf the campaign finance entity is established;
8 and

9 WHEREAS, State election law does not explicitly specify or limit the categories
10 of expenditures that a campaign finance entity may make from a campaign account to
11 "... promote or assist in the promotion of the success or defeat of a candidate ..."; and

12 WHEREAS, A letter of advice issued July 22, 2009, by the Attorney General of
13 Maryland, Office of Counsel to the General Assembly, advises that campaign funds
14 may not be used to fund a State legislator's travel, lodging, meals, and registration
15 expenses at a legislative conference; and

16 WHEREAS, The purposes of many such meetings and conferences are to: (1)
17 educate participants about the legislative process; (2) inform participants regarding
18 other states' legislative solutions to similar problems that may be impacting
19 Maryland; and (3) engage participants about issues and strategies to address matters
20 emanating from the federal government; now, therefore,

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Election Law**

24 1–101.

25 (o) (1) "Contribution" means the gift or transfer, or promise of gift or
26 transfer, of money or other thing of value to a campaign finance entity to promote or
27 assist in the promotion of the success or defeat of a candidate, political party, or
28 question.

29 (2) "Contribution" includes proceeds from the sale of tickets to a
30 campaign fund-raising event.

31 (aa) ~~(1)~~ "Expenditure" means a gift, transfer, disbursement, or promise of
32 money or a thing of value ~~by or on behalf of a campaign finance entity~~ **IN ORDER** to:

33 ~~(1)~~ ~~(1)~~ promote or assist in the promotion of the success or defeat of
34 a candidate, political party, or question at an election; ~~[or]~~

1 ~~{(2)}~~ ~~(H)~~ pay for the publication expense of a legislative newsletter
2 under Title 13, Subtitle 4 of this article; OR

3 ~~(H)~~ (3) PAY FOR TRAVEL, LODGING, MEALS, AND
4 REGISTRATION EXPENSES OF AN OFFICEHOLDER OR A CANDIDATE ASSOCIATED
5 WITH ATTENDANCE AT MEETINGS OR CONFERENCES FOCUSED ON LEGISLATIVE
6 ISSUES, PROCESS, OR PUBLIC POLICY ANALYSIS PERTINENT TO THE OFFICE
7 THAT THE ELECTED OFFICIAL HOLDS OR THAT THE CANDIDATE SEEKS;

8 ~~(IV) ADVANCE THE PURPOSE OF THE CAMPAIGN FINANCE~~
9 ~~ENTITY OR CANDIDATE BY:~~

10 ~~1. DISSEMINATING INFORMATION TO A VOTER OR~~
11 ~~POTENTIAL VOTER ABOUT AN ISSUE OF PUBLIC INTEREST; OR~~

12 ~~2. PAYING DUES ASSOCIATED WITH MEMBERSHIP~~
13 ~~FOR A LEGISLATIVE CAUCUS OR COMMITTEE, POLITICAL CLUB, OR~~
14 ~~COMMUNITY-BASED ORGANIZATION; OR~~

15 ~~(V) PAY FOR COSTS ASSOCIATED WITH THE SOLICITATION~~
16 ~~OF CONTRIBUTIONS FOR THE CANDIDATE'S CAMPAIGN FINANCE ENTITY.~~

17 ~~(2) "EXPENDITURE" DOES NOT INCLUDE A DIRECT OR AN~~
18 ~~INDIRECT DISBURSEMENT OR PAYMENT FOR:~~

19 ~~(I) PERSONAL USE BY A CANDIDATE, AN OFFICEHOLDER,~~
20 ~~OR A RESPONSIBLE OFFICER OF A CAMPAIGN FINANCE ENTITY; OR~~

21 ~~(II) COSTS ASSOCIATED WITH THE MAINTENANCE AND~~
22 ~~STAFFING OF AN OFFICEHOLDER'S OFFICE.~~

23 ~~13-218.~~

24 ~~(a) All assets received by or on behalf of a campaign finance entity shall be:~~

25 ~~(1) delivered to the treasurer; and~~

26 ~~(2) maintained by the treasurer for the purposes of the campaign~~
27 ~~finance entity.~~

28 ~~(b) (1) Assets of a campaign finance entity may be disbursed only:~~

29 ~~(i) if they have passed through the hands of the treasurer; and~~

30 ~~(ii) in accordance with the purposes of the entity.~~

1 ~~(2) Subject to § 13-220(b)(2) and (c) of this subtitle and except as~~
 2 ~~provided in subsection (d) of this section, the treasurer shall make all disbursements~~
 3 ~~for the campaign finance entity.~~

4 ~~(e) The treasurer of a State or county central committee of a political party~~
 5 ~~may not make any disbursement of the central committee's assets, or incur any~~
 6 ~~liability on its behalf, without authority and direction from the chairman of the central~~
 7 ~~committee.~~

8 ~~(d) (1) If the treasurer of a campaign finance entity is temporarily unable~~
 9 ~~to perform the duties of the office, the chairman of the campaign finance entity may~~
 10 ~~make a disbursement on behalf of the campaign finance entity in the same manner as~~
 11 ~~the treasurer.~~

12 ~~(2) If the chairman makes a disbursement under this subsection,~~
 13 ~~within 7 days after making the disbursement, the chairman shall submit a report to~~
 14 ~~the treasurer for the account book of the campaign finance entity, including:~~

15 ~~(i) a statement of the expenditure made under the authority of~~
 16 ~~the chairman;~~

17 ~~(ii) the name and address of the person to whom the~~
 18 ~~expenditure was made;~~

19 ~~(iii) the purpose for which the expenditure was made; and~~

20 ~~(iv) a copy of the receipt for the expenditure that was made.~~

21 ~~(3) A chairman who is a candidate may not make a disbursement for a~~
 22 ~~campaign finance entity.~~

23 ~~13-245.~~

24 ~~(a) In this section, "walk-around services" means the following activities if~~
 25 ~~performed for money while the polls are open:~~

26 ~~(1) distributing campaign material;~~

27 ~~(2) stationing a person, including oneself, or an object in the path of a~~
 28 ~~voter;~~

29 ~~(3) electioneering or canvassing as described in § 16-206 of this~~
 30 ~~article;~~

31 ~~(4) communicating in any other manner a voting preference or choice;~~
 32 ~~or~~

1 ~~(5) performing any other service as a poll worker or distributor of~~
2 ~~sample ballots.~~

3 ~~(b) This section does not apply to:~~

4 ~~(1) meals, beverages, and refreshments served to campaign workers;~~

5 ~~(2) salaries of regularly employed personnel in campaign~~
6 ~~headquarters;~~

7 ~~(3) media advertising, including newspaper, radio, television,~~
8 ~~billboard, or aerial advertising;~~

9 ~~(4) rent and regular office expenses; or~~

10 ~~(5) the cost of telephoning voters or transporting voters to and from~~
11 ~~polling places.~~

12 ~~(c) (1) A campaign finance entity, or a person acting on its behalf, may~~
13 ~~not at any time, directly or indirectly, pay or incur an obligation to pay, and a person~~
14 ~~may not, directly or indirectly, receive any money or thing of value, for a political~~
15 ~~endorsement.~~

16 ~~(2) (i) A campaign finance entity, or a person acting on its behalf,~~
17 ~~that pays any person for walk-around services shall make all payments by check from~~
18 ~~a campaign account designated under § 13-220(a) of this subtitle.~~

19 ~~(ii) All payments made under subparagraph (i) of this~~
20 ~~paragraph shall be reported in accordance with § 13-304 of this title.~~

21 ~~(3) A CAMPAIGN FINANCE ENTITY MAY NOT DIRECTLY OR~~
22 ~~INDIRECTLY EXPEND CAMPAIGN FUNDS FOR THE PERSONAL USE OF THE~~
23 ~~CANDIDATE OR A RESPONSIBLE OFFICER OF THE CANDIDATE'S CAMPAIGN~~
24 ~~FINANCE ENTITY.~~

25 ~~(4) THE STATE BOARD SHALL ADOPT REGULATIONS TO~~
26 ~~IMPLEMENT THIS SECTION.~~

27 ~~13-602.~~

28 ~~(a) (1) A person may not directly or indirectly give, offer, or promise~~
29 ~~money, aid, a gift, an advantage, a preferment, an emolument, or any other valuable~~
30 ~~thing to another person for the purpose of inducing or procuring that person to vote or~~
31 ~~refrain from voting for or against.~~

1 ~~(i) an individual, question, or measure at an election or political~~
2 ~~convention; or~~

3 ~~(ii) the election of an officer by the General Assembly.~~

4 ~~(2) A person may not directly or indirectly receive, accept, request, or~~
5 ~~solicit money, aid, a gift, an advantage, a preferment, an emolument, or any other~~
6 ~~valuable thing from another person for the purpose of inducing or procuring a third~~
7 ~~person to vote or refrain from voting for or against an individual, question, or measure~~
8 ~~at an election or political convention.~~

9 ~~(3) A person may not vote or refrain from voting for or against an~~
10 ~~individual, question, or measure at an election or a political convention, in~~
11 ~~consideration of money, aid, a gift, an advantage, a preferment, an emolument, or any~~
12 ~~other valuable thing paid, received, accepted, or promised to the advantage of that~~
13 ~~person or of another person.~~

14 ~~(4) (i) A person, to defray the costs of a campaign finance entity,~~
15 ~~may not directly or indirectly pay, give, or promise money or any other valuable thing~~
16 ~~to any person other than a campaign finance entity.~~

17 ~~(ii) Subparagraph (i) of this paragraph does not apply to:~~

18 ~~1. dues regularly paid for membership in a political club~~
19 ~~if all of the money that is spent by that political club in connection with any campaign~~
20 ~~finance activity is paid through a treasurer as provided in this title;~~

21 ~~2. an individual volunteering the individual's time or~~
22 ~~personal vehicle in accordance with § 13-232 of this title;~~

23 ~~3. an employer's accumulation of employee contributions~~
24 ~~in accordance with § 13-242 of this title; or~~

25 ~~4. advertising costs or other expenses incident to the~~
26 ~~expression of personal views in accordance with § 13-102 of this title.~~

27 ~~(5) A person may not directly or indirectly pay or promise to pay a~~
28 ~~campaign finance entity in a name other than the person's name.~~

29 ~~(6) A responsible officer of a campaign finance entity may not~~
30 ~~knowingly receive a payment or promise of payment and enter it or cause it to be~~
31 ~~entered in an account book in a name that the responsible officer knows is not the~~
32 ~~name of the person that made the payment or the promise to pay.~~

33 ~~(7) An employer who pays employees in envelopes may not mark on or~~
34 ~~enclose in the envelopes a political motto, device, or argument that contains express or~~

1 ~~implied threats intended to influence the political opinions or actions of those~~
2 ~~employees.~~

3 ~~(8) During the 90 days before an election, an employer may not exhibit~~
4 ~~in the employer's workplace:~~

5 ~~(i) a threat, a notice, or information that, on the election or~~
6 ~~defeat of a particular ticket or candidate:~~

7 ~~1. work will cease, wholly or partly;~~

8 ~~2. the workplace will close; or~~

9 ~~3. employees' wages will be reduced; or~~

10 ~~(ii) any other threat, expressed or implied, intended to influence~~
11 ~~the political opinions or actions of the employer's employees.~~

12 ~~(9) A person may not publish or distribute, or cause to be published or~~
13 ~~distributed, campaign material that violates § 13-401 of this title.~~

14 ~~(10) A candidate may not make a payment, contribution, or~~
15 ~~expenditure, or incur a liability to pay, contribute, or expend, from the candidate's~~
16 ~~personal funds any money or valuable thing in a manner not authorized by § 13-230 of~~
17 ~~this title.~~

18 ~~(11) An individual may not sign the name of any other individual on~~
19 ~~any form or other document under this title, without the authority of the individual~~
20 ~~whose name is signed.~~

21 ~~**(12) A RESPONSIBLE OFFICER OF A CAMPAIGN FINANCE ENTITY**~~
22 ~~**MAY NOT ISSUE OR AUTHORIZE A PAYMENT, DISBURSEMENT, TRANSFER, OR**~~
23 ~~**PROMISE OF MONEY FOR AN EXPENDITURE EXCEPT AS EXPRESSLY AUTHORIZED**~~
24 ~~**UNDER THIS ARTICLE.**~~

25 ~~(b) A person who violates this section is guilty of a misdemeanor and on~~
26 ~~conviction is:~~

27 ~~(1) subject to a fine not exceeding \$1,000 or imprisonment not~~
28 ~~exceeding 1 year or both; and~~

29 ~~(2) ineligible to hold any public or party office for 4 years after the~~
30 ~~date of the offense.~~

31 ~~(c) (1) The State Prosecutor may prosecute, in any jurisdiction of the~~
32 ~~State, a person that the State Prosecutor believes to be guilty of a willful violation of~~
33 ~~this section.~~

1 (2) ~~A State's Attorney may prosecute a person that the State's~~
 2 ~~Attorney believes to be guilty of a willful violation of this section in the county in~~
 3 ~~which the State's Attorney serves.~~

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 5 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.