

Chapter 575

(House Bill 93)

AN ACT concerning

Election Law – Independent Expenditures and Electioneering Communications – Reporting

FOR the purpose of altering the definition of “independent expenditure” ~~to include independent expenditures relating to ballot issues;~~ authorizing the State Board of Elections to audit certain independent expenditure reports and certain electioneering communication reports; requiring a person to file an independent expenditure or electioneering communication report on a certain date when the person makes aggregate independent expenditures of more than a certain amount in an election cycle on campaign material that is a public communication certain communications; requiring a person who files an independent expenditure or electioneering communication report to file an additional independent expenditure report on a certain date when the person makes aggregate independent expenditures of more than a certain amount on campaign material that is a public communication certain communications following the closing date of the person’s previous independent expenditure or electioneering communication report; requiring an independent expenditure or electioneering communication report to cover certain periods; requiring an independent expenditure or electioneering communication report to include certain information; providing that a person is considered to have made an independent expenditure or disbursement for electioneering communications if the person has executed a contract to make an independent expenditure, expenditure or disbursement for electioneering communications; *clarifying that a person who makes a certain contribution may not be considered to have made a disbursement for electioneering communications because of the contribution;* requiring that certain costs of creating and disseminating campaign material be considered in making a certain determination under this Act; requiring the ~~highest ranking official of~~ treasurer or other individual designated by an entity required to file an independent expenditure or electioneering communication report to sign the report and be responsible for filing the report; subjecting an individual who fails to file properly an independent expenditure or electioneering communication report to certain sanctions; requiring an entity that files an independent expenditure or electioneering communication report to include certain information concerning independent expenditures or electioneering communications in any regular, periodic report it submits to its shareholders, members, or donors on its finances or activities; requiring an entity that files an independent expenditure report to post a certain report distributed to certain individuals or post a certain hyperlink on any Internet site ~~it~~ the entity maintains to the Internet site where the entity’s independent

~~expenditure report information is publicly available for a certain period of time; requiring a person required to file an independent expenditure or electioneering communication report under this Act to keep certain records for a certain period of time; authorizing the State Board of Elections to adopt regulations as necessary to implement this Act; providing for the application of this Act, a delayed effective date; providing that only independent expenditures or disbursements for electioneering communications made after the effective date of this Act shall be considered for certain purposes; making the provisions of this Act severable; defining certain terms; and generally relating to reporting of independent expenditures and electioneering communications.~~

BY repealing and reenacting, without amendments,

Article – Election Law
Section 1–101(k)
Annotated Code of Maryland
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Election Law
Section 1–101(bb) and 2–102(b)(5)
Annotated Code of Maryland
(2010 Replacement Volume)

BY adding to

Article – Election Law
Section 13–306 and 13–307
Annotated Code of Maryland
(2010 Replacement Volume)

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

Article – Election Law

1–101.

- (k) (1) “Campaign material” means any material that:
- (i) contains text, graphics, or other images;
 - (ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question; and
 - (iii) is published or distributed.
- (2) “Campaign material” includes:

(i) material transmitted by or appearing on the Internet or other electronic medium; and

(ii) an oral commercial campaign advertisement.

(bb) **(1)** ~~“Independent expenditure” means an expenditure by a person to aid or promote~~ **EXPRESSLY ADVOCATING** the success or defeat of a **CLEARLY IDENTIFIED** candidate **OR BALLOT ISSUE** if the expenditure is not made in coordination with, or at the request or suggestion of, [the] A candidate, a campaign finance entity of [the] A candidate, [or] an agent of [the] A candidate, **OR A BALLOT ISSUE COMMITTEE.**

(2) FOR PURPOSES OF THIS SUBSECTION, “CLEARLY IDENTIFIED” MEANS:

(I) THE NAME OF THE CANDIDATE APPEARS;

(II) A PHOTOGRAPH OR DRAWING OF THE CANDIDATE APPEARS; OR

(III) THE IDENTITY OF THE CANDIDATE OR BALLOT ISSUE IS APPARENT BY UNAMBIGUOUS REFERENCE.

2-102.

(b) In exercising its authority under this article and in order to ensure compliance with this article and with any requirements of federal law, the State Board shall:

(5) receive, and in its discretion audit, campaign finance reports, INDEPENDENT EXPENDITURE REPORTS FILED UNDER § 13-306 OF THIS ARTICLE, AND ELECTIONEERING COMMUNICATION REPORTS FILED UNDER § 13-307 OF THIS ARTICLE;

13-306.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) ~~“CONTRIBUTION DONATION”~~ MEANS THE GIFT OR TRANSFER, OR PROMISE OF GIFT OR TRANSFER, OF MONEY OR OTHER THING OF VALUE TO A PERSON THAT IS MADE FOR THE PURPOSE OF FURTHERING INDEPENDENT EXPENDITURES.

(3) “MASS MAILING” MEANS A MAILING BY UNITED STATES MAIL OR FACSIMILE OF MORE THAN 500 PIECES OF MAIL MATTER OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY 30-DAY PERIOD.

(4) (I) “PERSON” INCLUDES AN INDIVIDUAL, A PARTNERSHIP, A COMMITTEE, AN ASSOCIATION, A CORPORATION, A LABOR ORGANIZATION, OR ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

(II) “PERSON” DOES NOT INCLUDE A CAMPAIGN FINANCE ENTITY ORGANIZED UNDER SUBTITLE 2, PART II OF THIS TITLE.

(5) (I) “PUBLIC COMMUNICATION” MEANS A COMMUNICATION BY MEANS OF ANY BROADCAST, CABLE, OR SATELLITE COMMUNICATION, NEWSPAPER, MAGAZINE, OUTDOOR ADVERTISING FACILITY, MASS MAILING, OR TELEPHONE BANK TO THE GENERAL PUBLIC, OR ANY OTHER FORM OF GENERAL PUBLIC POLITICAL ADVERTISING.

(II) “PUBLIC COMMUNICATION” DOES NOT INCLUDE:

1. A NEWS STORY, A COMMENTARY, OR AN EDITORIAL DISSEMINATED BY A ~~BONA FIDE NEWS MEDIA ORGANIZATION~~ BROADCASTING STATION, INCLUDING A CABLE TELEVISION OPERATOR, PROGRAMMER, OR PRODUCER, SATELLITE TELEVISION OR RADIO PROVIDER, WEB SITE, NEWSPAPER, MAGAZINE, OR OTHER PERIODICAL PUBLICATION, INCLUDING ANY INTERNET OR ELECTRONIC PUBLICATION, THAT IS NOT CONTROLLED BY A CANDIDATE OR POLITICAL PARTY; OR

2. A CANDIDATE DEBATE OR FORUM.

(6) “TELEPHONE BANK” MEANS MORE THAN 500 TELEPHONE CALLS OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY 30-DAY PERIOD.

(B) ~~A PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT AS REQUIRED IN THIS SECTION FOLLOWING THE DATE ON WHICH THE~~ AFTER A PERSON MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$10,000 OR MORE IN AN ELECTION CYCLE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION, THE PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT AS REQUIRED IN THIS SECTION.

(C) (1) IF THE CAMPAIGN MATERIAL RELATES TO A CANDIDATE, THE PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT WITH THE STATE

BOARD ON THE NEXT DATE A CAMPAIGN FINANCE ENTITY OF A CANDIDATE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS SUBTITLE.

(2) IF THE CAMPAIGN MATERIAL RELATES TO A BALLOT ISSUE, THE PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT WITH THE STATE BOARD ON THE NEXT DATE A BALLOT ISSUE COMMITTEE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS SUBTITLE.

(3) AN INDEPENDENT EXPENDITURE REPORT FILED UNDER THIS SUBSECTION SHALL INCLUDE THE INFORMATION REQUIRED BY SUBSECTION (E) OF THIS SECTION FOR THE PERIOD FROM THE BEGINNING OF THE ELECTION CYCLE THROUGH THE LAST DAY OF THE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE THAT PRECEDES THE REPORT FILING DATE.

(D) (1) A PERSON WHO FILES AN INDEPENDENT EXPENDITURE REPORT UNDER SUBSECTION (C) OF THIS SECTION SHALL FILE AN ADDITIONAL INDEPENDENT EXPENDITURE REPORT FOLLOWING ~~EACH~~ A DATE ON WHICH THE PERSON MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$10,000 OR MORE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION FOLLOWING THE CLOSING DATE OF THE PERSON'S PREVIOUS INDEPENDENT EXPENDITURE REPORT.

(2) AN INDEPENDENT EXPENDITURE REPORT UNDER THIS SUBSECTION SHALL:

(I) BE FILED WITH THE STATE BOARD ON THE DATE SPECIFIED IN SUBSECTION (C)(1) AND (2) OF THIS SECTION; AND

(II) INCLUDE THE INFORMATION REQUIRED BY SUBSECTION (E) OF THIS SECTION FOR THE PERIOD FROM THE CLOSING DATE OF THE PREVIOUS INDEPENDENT EXPENDITURE REPORT THROUGH THE LAST DAY OF THE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE THAT PRECEDES THE REPORT FILING DATE.

(E) AN INDEPENDENT EXPENDITURE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(1) THE IDENTITY OF THE PERSON MAKING THE INDEPENDENT EXPENDITURES AND OF ANY PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON MAKING THE INDEPENDENT EXPENDITURES;

(2) THE BUSINESS ADDRESS OF THE PERSON MAKING THE INDEPENDENT EXPENDITURES;

(3) THE AMOUNT AND DATE OF EACH INDEPENDENT EXPENDITURE DURING THE PERIOD COVERED BY THE REPORT AND THE PERSON TO WHOM THE EXPENDITURE WAS MADE;

(4) THE CANDIDATE OR BALLOT ISSUE TO WHICH THE INDEPENDENT EXPENDITURE RELATES AND WHETHER THE INDEPENDENT EXPENDITURE SUPPORTS OR OPPOSES THAT CANDIDATE OR BALLOT ISSUE; AND

(5) THE IDENTITY OF EACH PERSON WHO MADE ~~A CONTRIBUTION DONATION~~ CUMULATIVE DONATIONS IN EXCESS OF \$51 TO THE PERSON MAKING THE INDEPENDENT EXPENDITURES DURING THE PERIOD COVERED BY THE REPORT.

(F) FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE CONSIDERED TO HAVE MADE AN INDEPENDENT EXPENDITURE IF THE PERSON HAS EXECUTED A CONTRACT TO MAKE AN INDEPENDENT EXPENDITURE.

(G) THE COST OF CREATING AND DISSEMINATING CAMPAIGN MATERIAL, INCLUDING ANY DESIGN AND PRODUCTION COSTS, SHALL BE CONSIDERED IN DETERMINING THE AGGREGATE AMOUNT OF INDEPENDENT EXPENDITURES MADE BY A PERSON FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION UNDER THIS SECTION.

~~(G)~~ (H) ~~THE HIGHEST-RANKING OFFICIAL OF~~ TREASURER OR OTHER INDIVIDUAL DESIGNATED BY AN ENTITY REQUIRED TO FILE AN INDEPENDENT EXPENDITURE REPORT UNDER THIS SECTION:

(1) SHALL SIGN EACH INDEPENDENT EXPENDITURE REPORT; AND

(2) IS RESPONSIBLE FOR FILING INDEPENDENT EXPENDITURE REPORTS IN FULL AND ACCURATE DETAIL.

~~(H)~~ (I) (1) AN INDIVIDUAL IS SUBJECT TO THE SANCTIONS THAT APPLY TO THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY UNDER PART VII OF THIS SUBTITLE FOR FAILURE TO FILE PROPERLY AN INDEPENDENT EXPENDITURE REPORT.

(2) THE FAILURE TO PROVIDE ON AN INDEPENDENT EXPENDITURE REPORT ALL OF THE INFORMATION REQUIRED BY THIS SECTION

IS DEEMED A FAILURE TO FILE AND RENDERS THE REPORT OVERDUE AS PROVIDED IN § 13-327(B) OF THIS SUBTITLE.

~~(I)~~ **(J)** (1) AN ENTITY REQUIRED TO FILE AN INDEPENDENT EXPENDITURE REPORT UNDER THIS SECTION ~~THAT SUBMITS REGULAR, PERIODIC REPORTS TO ITS SHAREHOLDERS, MEMBERS, OR DONORS ON ITS FINANCES OR ACTIVITIES SHALL~~ SHALL DO AT LEAST ONE OF THE FOLLOWING, UNLESS NEITHER ARE APPLICABLE TO THE ENTITY:

(I) ~~INCLUDE IN EACH~~ IF THE ENTITY SUBMITS REGULAR, PERIODIC ~~REPORT~~ REPORTS TO ITS SHAREHOLDERS, MEMBERS, OR DONORS, INCLUDE IN EACH REPORT, IN A CLEAR AND CONSPICUOUS MANNER, THE INFORMATION SPECIFIED IN SUBSECTION (E)(3) THROUGH (5) OF THIS SECTION FOR EACH INDEPENDENT EXPENDITURE MADE DURING THE PERIOD COVERED BY THE REPORT THAT MUST BE INCLUDED IN AN INDEPENDENT EXPENDITURE REPORT; ~~AND OR~~

(II) IF THE ENTITY MAINTAINS AN INTERNET SITE, POST ON THAT INTERNET SITE A HYPERLINK FROM ITS HOMEPAGE TO THE INTERNET SITE WHERE THE ENTITY'S INDEPENDENT EXPENDITURE REPORT INFORMATION IS PUBLICLY AVAILABLE.

(2) AN ENTITY SHALL POST THE HYPERLINK REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION WITHIN 24 HOURS OF THE ENTITY'S INDEPENDENT EXPENDITURE REPORT INFORMATION BEING MADE PUBLICLY AVAILABLE ON THE INTERNET, AND THE HYPERLINK SHALL REMAIN POSTED ON THE ENTITY'S INTERNET SITE UNTIL THE END OF THE ELECTION CYCLE DURING WHICH THE ENTITY FILED AN INDEPENDENT EXPENDITURE REPORT.

(K) (1) A PERSON REQUIRED TO FILE AN INDEPENDENT EXPENDITURE REPORT UNDER THIS SECTION SHALL KEEP DETAILED AND ACCURATE RECORDS OF:

(I) ALL INDEPENDENT EXPENDITURES MADE BY THE PERSON FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION; AND

(II) ALL DONATIONS RECEIVED BY THE PERSON THAT ARE FOR THE PURPOSE OF FURTHERING INDEPENDENT EXPENDITURES FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION.

(2) RECORDS REQUIRED TO BE KEPT UNDER THIS SUBSECTION SHALL BE PRESERVED FOR 2 YEARS AFTER THE END OF THE ELECTION CYCLE

IN WHICH THE PERSON FILED THE INDEPENDENT EXPENDITURE REPORT TO WHICH THE RECORDS RELATE.

~~(H)~~ (L) THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

13-307.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DONATION” MEANS THE GIFT OR TRANSFER, OR PROMISE OF GIFT OR TRANSFER, OF MONEY OR OTHER THING OF VALUE TO A PERSON THAT IS MADE FOR THE PURPOSE OF FURTHERING ELECTIONEERING COMMUNICATIONS.

(3) (i) “ELECTIONEERING COMMUNICATION” MEANS A BROADCAST, CABLE, OR SATELLITE COMMUNICATION THAT:

1. REFERS TO A CLEARLY IDENTIFIED CANDIDATE OR BALLOT ISSUE;

2. IS MADE WITHIN 60 DAYS OF AN ELECTION DAY ON WHICH THE CANDIDATE OR BALLOT ISSUE IS ON THE BALLOT; ~~AND~~

3. IS CAPABLE OF BEING RECEIVED BY 50,000 OR MORE INDIVIDUALS IN THE CONSTITUENCY WHERE THE CANDIDATE OR BALLOT ISSUE IS ON THE BALLOT; ~~AND~~

4. IS NOT MADE IN COORDINATION WITH, OR AT THE REQUEST OR SUGGESTION OF, A CANDIDATE, A CAMPAIGN FINANCE ENTITY OF A CANDIDATE, AN AGENT OF A CANDIDATE, OR A BALLOT ISSUE COMMITTEE.

(ii) “ELECTIONEERING COMMUNICATION” DOES NOT INCLUDE:

1. AN INDEPENDENT EXPENDITURE;

2. A NEWS STORY, A COMMENTARY, OR AN EDITORIAL DISSEMINATED BY A BROADCASTING STATION, INCLUDING A CABLE TELEVISION OPERATOR, PROGRAMMER, OR PRODUCER, OR SATELLITE TELEVISION OR RADIO PROVIDER THAT IS NOT CONTROLLED BY A CANDIDATE OR POLITICAL PARTY;

3. A CANDIDATE DEBATE OR FORUM; OR

4. A COMMUNICATION THAT PROPOSES A COMMERCIAL TRANSACTION.

(III) FOR PURPOSES OF THIS PARAGRAPH, "CLEARLY IDENTIFIED" MEANS:

1. THE NAME OF A CANDIDATE APPEARS;

2. A PHOTOGRAPH OR DRAWING OF A CANDIDATE APPEARS; OR

3. THE IDENTITY OF A CANDIDATE OR BALLOT ISSUE IS APPARENT BY UNAMBIGUOUS REFERENCE.

(4) (I) "PERSON" INCLUDES AN INDIVIDUAL, A PARTNERSHIP, A COMMITTEE, AN ASSOCIATION, A CORPORATION, A LABOR ORGANIZATION, OR ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

(II) "PERSON" DOES NOT INCLUDE A CAMPAIGN FINANCE ENTITY ORGANIZED UNDER SUBTITLE 2, PART II OF THIS TITLE.

(B) AFTER A PERSON MAKES AGGREGATE DISBURSEMENTS OF \$10,000 OR MORE IN AN ELECTION CYCLE FOR ELECTIONEERING COMMUNICATIONS, THE PERSON SHALL FILE AN ELECTIONEERING COMMUNICATION REPORT AS REQUIRED IN THIS SECTION.

(C) (1) IF THE ELECTIONEERING COMMUNICATIONS RELATE TO A CANDIDATE, THE PERSON SHALL FILE AN ELECTIONEERING COMMUNICATION REPORT WITH THE STATE BOARD ON THE NEXT DATE A CAMPAIGN FINANCE ENTITY OF A CANDIDATE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS SUBTITLE.

(2) IF THE ELECTIONEERING COMMUNICATIONS RELATE TO A BALLOT ISSUE, THE PERSON SHALL FILE AN ELECTIONEERING COMMUNICATION REPORT WITH THE STATE BOARD ON THE NEXT DATE A BALLOT ISSUE COMMITTEE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS SUBTITLE.

(3) AN ELECTIONEERING COMMUNICATION REPORT FILED UNDER THIS SUBSECTION SHALL INCLUDE THE INFORMATION REQUIRED BY SUBSECTION (E) OF THIS SECTION FOR THE PERIOD FROM THE BEGINNING OF

THE ELECTION CYCLE THROUGH THE LAST DAY OF THE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE THAT PRECEDES THE REPORT FILING DATE.

(D) (1) A PERSON WHO FILES AN ELECTIONEERING COMMUNICATION REPORT UNDER SUBSECTION (C) OF THIS SECTION SHALL FILE AN ADDITIONAL ELECTIONEERING COMMUNICATION REPORT FOLLOWING A DATE ON WHICH THE PERSON MAKES AGGREGATE DISBURSEMENTS OF \$10,000 OR MORE FOR ELECTIONEERING COMMUNICATIONS FOLLOWING THE CLOSING DATE OF THE PERSON'S PREVIOUS ELECTIONEERING COMMUNICATION REPORT.

(2) AN ELECTIONEERING COMMUNICATION REPORT UNDER THIS SUBSECTION SHALL:

(I) BE FILED WITH THE STATE BOARD ON THE DATE SPECIFIED IN SUBSECTION (C)(1) AND (2) OF THIS SECTION; AND

(II) INCLUDE THE INFORMATION REQUIRED BY SUBSECTION (E) OF THIS SECTION FOR THE PERIOD FROM THE CLOSING DATE OF THE PREVIOUS ELECTIONEERING COMMUNICATION REPORT THROUGH THE LAST DAY OF THE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE THAT PRECEDES THE REPORT FILING DATE.

(E) AN ELECTIONEERING COMMUNICATION REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(1) THE IDENTITY OF THE PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS AND OF ANY PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON MAKING THE DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS;

(2) THE BUSINESS ADDRESS OF THE PERSON MAKING THE DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS;

(3) THE AMOUNT AND DATE OF EACH DISBURSEMENT FOR ELECTIONEERING COMMUNICATIONS DURING THE PERIOD COVERED BY THE REPORT AND THE PERSON TO WHOM THE DISBURSEMENT WAS MADE;

(4) THE CANDIDATE OR BALLOT ISSUE TO WHICH THE ELECTIONEERING COMMUNICATIONS RELATE;

(5) THE IDENTITY OF EACH PERSON WHO MADE ~~A DONATION~~ CUMULATIVE DONATIONS IN EXCESS OF \$51 TO THE PERSON MAKING THE

DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS DURING THE PERIOD COVERED BY THE REPORT.

(F) (1) FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE CONSIDERED TO HAVE MADE A DISBURSEMENT FOR AN ELECTIONEERING COMMUNICATION IF THE PERSON HAS EXECUTED A CONTRACT TO MAKE A DISBURSEMENT FOR AN ELECTIONEERING COMMUNICATION.

(2) A PERSON WHO MAKES A CONTRIBUTION TO A CAMPAIGN FINANCE ENTITY MAY NOT BE CONSIDERED TO HAVE MADE A DISBURSEMENT FOR ELECTIONEERING COMMUNICATIONS UNDER THIS SECTION BECAUSE OF THE CONTRIBUTION.

(G) THE COST OF CREATING AND DISSEMINATING ELECTIONEERING COMMUNICATIONS, INCLUDING ANY DESIGN AND PRODUCTION COSTS, SHALL BE CONSIDERED IN DETERMINING THE AGGREGATE AMOUNT OF DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS MADE BY A PERSON UNDER THIS SECTION.

(H) THE TREASURER OR OTHER INDIVIDUAL DESIGNATED BY AN ENTITY REQUIRED TO FILE AN ELECTIONEERING COMMUNICATION REPORT UNDER THIS SECTION:

(1) SHALL SIGN EACH ELECTIONEERING COMMUNICATION REPORT; AND

(2) IS RESPONSIBLE FOR FILING ELECTIONEERING COMMUNICATION REPORTS IN FULL AND ACCURATE DETAIL.

(I) (1) AN INDIVIDUAL IS SUBJECT TO THE SANCTIONS THAT APPLY TO THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY UNDER PART VII OF THIS SUBTITLE FOR FAILURE TO FILE PROPERLY AN ELECTIONEERING COMMUNICATION REPORT.

(2) THE FAILURE TO PROVIDE ON AN ELECTIONEERING COMMUNICATION REPORT ALL OF THE INFORMATION REQUIRED BY THIS SECTION IS DEEMED A FAILURE TO FILE AND RENDERS THE REPORT OVERDUE AS PROVIDED IN § 13-327(B) OF THIS SUBTITLE.

(J) (1) AN ENTITY REQUIRED TO FILE AN ELECTIONEERING COMMUNICATION REPORT UNDER THIS SECTION SHALL DO AT LEAST ONE OF THE FOLLOWING, UNLESS NEITHER ARE APPLICABLE TO THE ENTITY:

(I) IF THE ENTITY SUBMITS REGULAR, PERIODIC REPORTS TO ITS SHAREHOLDERS, MEMBERS, OR DONORS, INCLUDE IN EACH REPORT IN A CLEAR AND CONSPICUOUS MANNER, THE INFORMATION SPECIFIED IN SUBSECTION (E)(3) THROUGH (5) OF THIS SECTION FOR EACH DISBURSEMENT FOR ELECTIONEERING COMMUNICATIONS MADE DURING THE PERIOD COVERED BY THE REPORT THAT MUST BE INCLUDED IN AN ELECTIONEERING COMMUNICATION REPORT; OR

(II) IF THE ENTITY MAINTAINS AN INTERNET SITE, POST ON THAT INTERNET SITE A HYPERLINK FROM ITS HOMEPAGE TO THE INTERNET SITE WHERE THE ENTITY'S ELECTIONEERING COMMUNICATION REPORT INFORMATION IS PUBLICLY AVAILABLE.

(2) (I) AN ENTITY SHALL POST THE HYPERLINK REQUIRED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION WITHIN 24 HOURS OF THE ENTITY'S ELECTIONEERING COMMUNICATION REPORT INFORMATION BEING MADE PUBLICLY AVAILABLE ON THE INTERNET.

(II) THE HYPERLINK SHALL REMAIN POSTED ON THE ENTITY'S INTERNET SITE UNTIL THE END OF THE ELECTION CYCLE DURING WHICH THE ENTITY FILED AN ELECTIONEERING COMMUNICATION REPORT.

(K) (1) A PERSON REQUIRED TO FILE AN ELECTIONEERING COMMUNICATION REPORT UNDER THIS SECTION SHALL KEEP DETAILED AND ACCURATE RECORDS OF:

(I) ALL DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS MADE BY THE PERSON; AND

(II) ALL DONATIONS RECEIVED BY THE PERSON THAT ARE FOR THE PURPOSE OF FURTHERING ELECTIONEERING COMMUNICATIONS.

(2) RECORDS REQUIRED TO BE KEPT UNDER THIS SUBSECTION SHALL BE PRESERVED UNTIL 2 YEARS AFTER THE END OF THE ELECTION CYCLE IN WHICH THE PERSON FILED THE ~~INDEPENDENT EXPENDITURE~~ ELECTIONEERING COMMUNICATION REPORT TO WHICH THE RECORDS RELATE.

(L) THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to independent expenditures made on or after January 1, 2011.~~

SECTION 2. AND BE IT FURTHER ENACTED, That only independent expenditures or disbursements for an electioneering communication made after the effective date of this Act shall be considered in determining whether a person has made the aggregate amount of independent expenditures or disbursements for electioneering communications that subjects the person to the requirements of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ December 1, 2011.

Approved by the Governor, May 19, 2011.