

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1086

(Delegate Bartlett, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

Election Law - Campaign Advertisements - Closed Captioning

This bill requires a campaign finance entity of a candidate for Governor, Lieutenant Governor, Attorney General, or Comptroller to include closed captioning for deaf or hard of hearing viewers in any campaign advertisement distributed by the campaign finance entity by broadcast or cable television, or on its web site. Alternatively, a transcript of the spoken content of the campaign advertisement may be included on the campaign finance entity's web site. The bill also requires a campaign finance entity of a candidate for Governor, Lieutenant Governor, Attorney General, or Comptroller to post a transcript of the spoken content of any campaign advertisement distributed by a campaign finance entity by broadcast or cable radio on the campaign finance entity's web site. The bill includes provisions allowing a campaign finance entity to be exempted from these requirements by the State Board of Elections. The bill exempts violations of the bill's provisions committed without knowledge of their illegality from being considered a civil offense and being subject to a civil penalty under existing penalty provisions.

The bill takes effect January 1, 2011.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: State election law does not contain requirements relating to access to the spoken content of campaign advertisements by individuals who are deaf or hard of hearing. State election law requirements with respect to campaign material generally ensure that information identifying those responsible for the material is included. For example, campaign material published or distributed by a campaign finance entity generally must contain the name and address of the treasurer of each campaign finance entity responsible for the material as well as the name(s) of the campaign finance entity or entities, though certain exceptions apply. A copy of campaign material must be kept by a campaign finance entity for at least one year after the general election next following the date when the material was published or distributed.

Except as otherwise provided for specific offenses, a person who knowingly and willfully violates a provision of Title 13 of the Election Law Article (within which the bill's provisions are included) is guilty of a misdemeanor and is subject to a fine of up to \$25,000 and/or imprisonment for up to one year. An unknowing violation is subject to a civil penalty of up to \$5,000. The Secretary of State may also seek an immediate injunction against a violation of Title 13.

Background: Federal Communications Commission rules include closed captioning requirements for television programming, but the requirements do not apply to advertisements of five minutes or less, including political advertisements. Florida, Minnesota, and Rhode Island are states that have closed captioning requirements and/or requirements that transcripts of radio or television content be provided for political advertisements. In Florida, the law applies to all candidates, while in Minnesota and Rhode Island the laws only apply to candidates who accept public funding. Under federal law, candidates for president and vice president who take public funds must use closed captioning in their commercials. An official with the Federal Communications Commission, Disability Rights Office indicated in 2009 that most campaigns will include closed captioning with advertisements, since they otherwise would not reach a significant number of voters.

Maryland's population of deaf and hard of hearing persons was just under 500,000 in 2000.

State Fiscal Effect: While a person could be subject to criminal penalties for a campaign finance entity's knowing and willful failure to comply with the bill's requirements, it is assumed the number of prosecutions for such violations will be minimal at most. Therefore, the bill is not expected to materially affect State finances. The bill also allows for alternative manners of compliance.

Additional Information

Prior Introductions: SB 97 of 2009, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken on the bill.

Cross File: SB 102 (Senator Stone) - Education, Health, and Environmental Affairs.

Information Source(s): Governor's Office of the Deaf and Hard of Hearing, State Board of Elections, Federal Communications Commission, Department of Legislative Services

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