

HOUSE BILL 93

G1

11r0398

By: **Delegates Cardin, Rosenberg, Barkley, Bobo, Carr, Frick, Healey, Hixson, Howard, Ivey, Kaiser, Lafferty, Lee, Luedtke, Morhaim, Stein, and F. Turner**

Introduced and read first time: January 24, 2011

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Independent Expenditures – Reporting**

3 FOR the purpose of altering the definition of “independent expenditure” to include
4 independent expenditures relating to ballot issues; requiring a person to file an
5 independent expenditure report on a certain date when the person makes
6 aggregate independent expenditures of more than a certain amount in an
7 election cycle on campaign material that is a public communication; requiring a
8 person who files an independent expenditure report to file an additional
9 independent expenditure report on a certain date when the person makes
10 aggregate independent expenditures of more than a certain amount on
11 campaign material that is a public communication following the closing date of
12 the person’s previous independent expenditure report; requiring an independent
13 expenditure report to cover certain periods; requiring an independent
14 expenditure report to include certain information; providing that a person is
15 considered to have made an independent expenditure if the person has executed
16 a contract to make an independent expenditure; requiring the highest ranking
17 official of an entity required to file an independent expenditure report to sign
18 the report and be responsible for filing the report; subjecting an individual who
19 fails to file properly an independent expenditure report to certain sanctions;
20 requiring an entity that files an independent expenditure report to include
21 certain information concerning independent expenditures in any regular,
22 periodic report it submits to its shareholders, members, or donors on its
23 finances or activities; requiring an entity that files an independent expenditure
24 report to post a hyperlink on any Internet site it maintains to the Internet site
25 where the entity’s independent expenditure report information is publicly
26 available for a certain period of time; authorizing the State Board of Elections to
27 adopt regulations as necessary to implement this Act; providing for the
28 application of this Act; defining certain terms; and generally relating to
29 reporting of independent expenditures.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Election Law
3 Section 1–101(k)
4 Annotated Code of Maryland
5 (2010 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article – Election Law
8 Section 1–101(bb)
9 Annotated Code of Maryland
10 (2010 Replacement Volume)

11 BY adding to
12 Article – Election Law
13 Section 13–306
14 Annotated Code of Maryland
15 (2010 Replacement Volume)

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

18 **Article – Election Law**

19 1–101.

20 (k) (1) “Campaign material” means any material that:

21 (i) contains text, graphics, or other images;

22 (ii) relates to a candidate, a prospective candidate, or the
23 approval or rejection of a question; and

24 (iii) is published or distributed.

25 (2) “Campaign material” includes:

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

28 (ii) an oral commercial campaign advertisement.

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

1 **13-306.**

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

4 (2) "CONTRIBUTION" MEANS THE GIFT OR TRANSFER, OR
5 PROMISE OF GIFT OR TRANSFER, OF MONEY OR OTHER THING OF VALUE TO A
6 PERSON THAT IS MADE FOR THE PURPOSE OF FURTHERING INDEPENDENT
7 EXPENDITURES.

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

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

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

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

21 (II) "PUBLIC COMMUNICATION" DOES NOT INCLUDE:

22 1. A NEWS STORY, A COMMENTARY, OR AN
23 EDITORIAL DISSEMINATED BY A BONA FIDE NEWS MEDIA ORGANIZATION THAT
24 IS NOT CONTROLLED BY A CANDIDATE OR POLITICAL PARTY; OR

25 2. A CANDIDATE DEBATE OR FORUM.

26 (6) "TELEPHONE BANK" MEANS MORE THAN 500 TELEPHONE
27 CALLS OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY
28 30-DAY PERIOD.

29 (B) A PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT AS
30 REQUIRED IN THIS SECTION FOLLOWING THE DATE ON WHICH THE PERSON
31 MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$10,000 OR MORE IN AN

1 ELECTION CYCLE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC
2 COMMUNICATION.

3 (C) (1) IF THE CAMPAIGN MATERIAL RELATES TO A CANDIDATE, THE
4 PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT WITH THE STATE
5 BOARD ON THE NEXT DATE A CAMPAIGN FINANCE ENTITY OF A CANDIDATE IS
6 REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS
7 SUBTITLE.

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

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

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

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

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

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

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

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

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

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

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

13 (5) THE IDENTITY OF EACH PERSON WHO MADE A CONTRIBUTION
14 TO THE PERSON MAKING THE INDEPENDENT EXPENDITURES DURING THE
15 PERIOD COVERED BY THE REPORT.

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

19 (G) THE HIGHEST RANKING OFFICIAL OF AN ENTITY REQUIRED TO FILE
20 AN INDEPENDENT EXPENDITURE REPORT UNDER THIS SECTION:

21 (1) SHALL SIGN EACH INDEPENDENT EXPENDITURE REPORT; AND

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

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

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

32 (I) (1) AN ENTITY REQUIRED TO FILE AN INDEPENDENT
33 EXPENDITURE REPORT UNDER THIS SECTION THAT SUBMITS REGULAR,

1 PERIODIC REPORTS TO ITS SHAREHOLDERS, MEMBERS, OR DONORS ON ITS
2 FINANCES OR ACTIVITIES SHALL:

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

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

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

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

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 June 1, 2011.