

SENATE BILL 446

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SB 543/10 – EHE

11r0433

By: **Senators Frosh, Brochin, Conway, Dyson, Gladden, Madaleno, Manno, Montgomery, Pinsky, Raskin, Rosapepe, and Young**
Introduced and read first time: February 4, 2011
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Independent Expenditures – Reporting and Disclosure**
3 **Requirements**

4 FOR the purpose of requiring a business entity or nonprofit organization that makes
5 certain independent expenditures to file an independent expenditures report at
6 times and locations required by certain provisions of law; requiring the report to
7 include certain information and be signed by a certain individual; requiring the
8 business entity or nonprofit organization to file the report by certain filing
9 deadlines; requiring the report to cover certain reporting periods; applying
10 certain sanctions to a business entity or nonprofit organization that fails to file
11 a certain report; clarifying that the requirement for a certain authority line
12 applies to a person that makes an independent expenditure for campaign
13 material; defining a certain term; and generally relating to requirements for
14 independent expenditures made by business entities or nonprofit organizations.

15 BY renumbering

16 Article – Election Law
17 Section 13–301
18 to be Section 13–302
19 Annotated Code of Maryland
20 (2010 Replacement Volume)

21 BY adding to

22 Article – Election Law
23 Section 13–301
24 Annotated Code of Maryland
25 (2010 Replacement Volume)

26 BY repealing and reenacting, with amendments,
27 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Section 13–304, 13–309, 13–312, 13–316, 13–327, and 13–401
2 Annotated Code of Maryland
3 (2010 Replacement Volume)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That Section(s) 13–301 of Article – Election Law of the Annotated Code
6 of Maryland be renumbered to be Section(s) 13–302.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article – Election Law**

10 **13–301.**

11 **IN THIS SUBTITLE, “BUSINESS ENTITY” MEANS A CORPORATION, GENERAL**
12 **OR LIMITED PARTNERSHIP, LIMITED LIABILITY CORPORATION, OR REAL ESTATE**
13 **INVESTMENT TRUST.**

14 13–304.

15 (a) (1) From the date of its organization until its termination under the
16 provisions of this title, a campaign finance entity, except a political club, shall file a
17 campaign finance report at the State Board at the times and for the periods required
18 by §§ 13–309, 13–312, and 13–316 of this subtitle.

19 (2) A campaign finance report submitted using an electronic format
20 shall:

21 (i) be made under oath or affirmation;

22 (ii) require an electronic signature from the treasurer at the
23 time of the filing of the campaign finance report; and

24 (iii) be made subject to the penalties for perjury.

25 (b) A campaign finance report filed by a campaign finance entity under
26 subsection (a) of this section shall include the information required by the State Board
27 with respect to all contributions received and all expenditures made by or on behalf of
28 the campaign finance entity during the designated reporting period.

29 (c) A campaign finance report prescribed by this subtitle for the campaign
30 finance entity of a candidate is required whether or not:

31 (1) the candidate files a certificate of candidacy;

1 (2) the candidate withdraws, declines a nomination, or otherwise
2 ceases to be a candidate;

3 (3) the candidate's name appears on the primary ballot; or

4 (4) the candidate is successful in the election.

5 **(D) (1) A BUSINESS ENTITY OR NONPROFIT ORGANIZATION THAT**
6 **MAKES INDEPENDENT EXPENDITURES FOR CAMPAIGN MATERIAL SHALL FILE**
7 **AN INDEPENDENT EXPENDITURES REPORT AT THE STATE BOARD AT THE TIMES**
8 **AND FOR THE PERIODS REQUIRED BY §§ 13-309, 13-312, AND 13-316 OF THIS**
9 **SUBTITLE.**

10 **(2) THE INDEPENDENT EXPENDITURES REPORT FILED UNDER**
11 **PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

12 **(I) INCLUDE THE SAME INFORMATION THAT IS REQUIRED**
13 **BY THE STATE BOARD UNDER SUBSECTION (B) OF THIS SECTION TO BE**
14 **REPORTED ON A CAMPAIGN FINANCE REPORT REGARDING CAMPAIGN FINANCE**
15 **ENTITY EXPENDITURES; AND**

16 **(II) BE SIGNED BY THE CHIEF EXECUTIVE OFFICER OF THE**
17 **BUSINESS ENTITY OR THE EXECUTIVE DIRECTOR OF THE NONPROFIT**
18 **ORGANIZATION.**

19 13-309.

20 (a) Subject to other provisions of this subtitle, a campaign finance entity
21 shall file campaign finance reports as follows:

22 (1) except for a ballot issue committee, on or before the fourth Tuesday
23 immediately preceding each primary election except a presidential primary election;

24 (2) except for a ballot issue committee, on or before the second Friday
25 immediately preceding a primary election;

26 (3) for a ballot issue committee only, on or before the fourth Friday
27 immediately preceding a general election;

28 (4) on or before the second Friday immediately preceding a general
29 election; and

30 (5) on or before the third Tuesday after a general election.

1 (b) (1) A campaign finance entity is subject to subsection (a) of this
2 section and this subsection only as to the election in which the entity designates that it
3 will participate.

4 (2) In addition to the campaign finance reports required under
5 subsection (a) of this section, but subject to paragraph (4) of this subsection, a
6 campaign finance entity shall file campaign finance reports on the third Wednesday in
7 January.

8 (3) (i) If subsequent to the filing of its declaration under §
9 13-208(c)(3) of this title, a campaign finance entity participates in an election in which
10 it was not designated to participate, the campaign finance entity shall file all
11 campaign reports prescribed under subsection (a) of this section for that election.

12 (ii) A violation of subparagraph (i) of this paragraph constitutes
13 a failure to file by the campaign finance entity, and the responsible officer is guilty of a
14 misdemeanor and on conviction is subject to the penalties prescribed under Part VII of
15 this subtitle.

16 (4) If a campaign finance entity has neither a cash balance nor an
17 outstanding obligation at the end of a reporting period, a campaign finance report for
18 that period, clearly marked as “final”, shall be filed on or before the due date, and no
19 further report is required.

20 (c) In addition to the campaign reports required under subsection (a) of this
21 section, a continuing political committee shall file a campaign finance report on the
22 third Wednesday in January of each year the committee is in existence.

23 **(D) A BUSINESS ENTITY OR NONPROFIT ORGANIZATION SHALL FILE**
24 **INDEPENDENT EXPENDITURES REPORTS, AS DESCRIBED UNDER § 13-304(D) OF**
25 **THIS SUBTITLE, BY THE SAME FILING DEADLINES AS REQUIRED FOR:**

26 **(1) THE CAMPAIGN FINANCE REPORTS OF CAMPAIGN FINANCE**
27 **ENTITIES UNDER SUBSECTION (A) OF THIS SECTION; AND**

28 **(2) THE CAMPAIGN FINANCE REPORT OF A CONTINUING**
29 **POLITICAL COMMITTEE UNDER SUBSECTION (C) OF THIS SECTION.**

30 13-312.

31 (a) Campaign finance reports filed under § 13-304 of this subtitle shall cover
32 the following reporting periods:

33 (1) the first campaign finance report shall cover the period from the
34 date of organization of the campaign finance entity through the day specified in item
35 (3) of this subsection;

1 (2) each subsequent campaign finance report shall cover the period
2 from the closing date of the previous campaign finance report through the day
3 specified in item (3) of this subsection;

4 (3) (i) except as provided in item (ii) of this item, each campaign
5 finance report shall cover the period that includes the seventh day before the day the
6 campaign finance report is due; but

7 (ii) the campaign finance report that is required on or before the
8 second Friday immediately preceding an election shall cover the period through and
9 including the preceding Sunday; and

10 (4) if no contribution is received and no expenditure is made during
11 the period covered by a campaign finance report, the campaign finance entity shall file
12 a campaign finance report or an affidavit under § 13-305 of this subtitle to that effect.

13 (b) A campaign finance report preceded by an affidavit filed in accordance
14 with this subtitle shall cover the period from the closing date of the previous campaign
15 finance report or date of organization of the campaign finance entity through the day
16 specified in subsection (a)(3) of this section.

17 **(C) AN INDEPENDENT EXPENDITURES REPORT FILED UNDER § 13-304**
18 **OF THIS SUBTITLE SHALL COVER THE FOLLOWING REPORTING PERIODS:**

19 **(1) THE FIRST INDEPENDENT EXPENDITURES REPORT SHALL**
20 **COVER THE PERIOD FROM THE DATE THE BUSINESS ENTITY OR NONPROFIT**
21 **ORGANIZATION FIRST MAKES AN INDEPENDENT EXPENDITURE THROUGH THE**
22 **DAY SPECIFIED IN SUBSECTION (A)(3) OF THIS SECTION;**

23 **(2) EACH SUBSEQUENT INDEPENDENT EXPENDITURES REPORT**
24 **SHALL COVER THE PERIOD FROM THE CLOSING DATE OF THE PREVIOUS**
25 **INDEPENDENT EXPENDITURES REPORT THROUGH THE DAY SPECIFIED IN**
26 **SUBSECTION (A)(3) OF THIS SECTION; AND**

27 **(3) IF NO INDEPENDENT EXPENDITURES HAVE BEEN MADE**
28 **DURING THE PERIOD COVERED BY AN INDEPENDENT EXPENDITURES REPORT,**
29 **THE BUSINESS ENTITY OR NONPROFIT ORGANIZATION SHALL FILE AN**
30 **INDEPENDENT EXPENDITURES REPORT TO THAT EFFECT.**

31 13-316.

32 A campaign finance report **OR INDEPENDENT EXPENDITURES REPORT**
33 required by § 13-304 of this subtitle shall be filed with the State Board.

34 13-327.

1 (a) A campaign finance entity that fails to file a campaign finance report or
2 affidavit required by this subtitle is subject to the sanctions provided in Part VII of
3 this subtitle.

4 (b) The failure to provide on a campaign finance report required by § 13–304
5 of this subtitle all of the information required of the campaign finance entity by the
6 State Board under this subtitle is deemed a failure to file and renders the campaign
7 finance report overdue, only if:

8 (1) the State Board notifies the responsible officers in writing of the
9 particular deficiencies; and

10 (2) the responsible officers fail to file a properly corrected campaign
11 finance report within 30 days after service of the notice.

12 **(C) THE SANCTIONS THAT APPLY TO A CAMPAIGN FINANCE ENTITY**
13 **UNDER SUBSECTION (A) OF THIS SECTION ALSO APPLY TO A BUSINESS ENTITY**
14 **OR NONPROFIT ORGANIZATION THAT FAILS TO FILE AN INDEPENDENT**
15 **EXPENDITURES REPORT AS REQUIRED BY THIS SUBTITLE.**

16 13–401.

17 (a) (1) Except as otherwise provided in this section, each item of
18 campaign material shall contain, set apart from any other message, an authority line
19 that states:

20 (i) as to campaign material published or distributed by a
21 campaign finance entity:

22 1. the name and address of the treasurer of each
23 campaign finance entity responsible for the campaign material; and

24 2. as to each treasurer named under item 1 of this item,
25 the name of each campaign finance entity for which the treasurer is acting; and

26 (ii) as to campaign material published or distributed by any
27 other person, **INCLUDING A PERSON THAT MAKES AN INDEPENDENT**
28 **EXPENDITURE FOR THE CAMPAIGN MATERIAL**, the name and address of the person
29 responsible for the campaign material.

30 (2) The authority line may omit an address that is on file with the
31 State Board or a local board.

32 (3) If the campaign material is too small to include all the information
33 specified in paragraph (1) of this subsection in a legible manner, the authority line
34 need only contain the name and title of the treasurer or other person responsible for it.

1 (4) The authority line for campaign material that is a commercial
2 advertisement need only contain the information specified in paragraphs (1) and (2) of
3 this subsection for one campaign finance entity or other person responsible for the
4 advertisement.

5 (b) Campaign material that is published or distributed in support of or in
6 opposition to a candidate, but is not authorized by the candidate, shall include the
7 following statement:

8 “This message has been authorized and paid for by (name of payor or any
9 organization affiliated with the payor), (name and title of treasurer or president). This
10 message has not been authorized or approved by any candidate.”

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2011.