

SENATE BILL 111

G1

(PRE-FILED)

3lr0656
CF HB 441

By: **Senator Kagan**

Requested: November 1, 2022

Introduced and read first time: January 11, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2023

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Campaign Finance – Draft Committees and Exploratory**
3 **Committees**

4 FOR the purpose of applying certain campaign finance requirements for a political
5 committee to draft committees and exploratory committees; establishing
6 requirements and prohibitions for draft committees and exploratory committees
7 relating to the establishment of the committees, receipt of funds, and permissible
8 disbursements; requiring an authorized candidate campaign committee that results
9 from the draft committee or exploratory committee to make any equipment
10 purchases from the draft committee or exploratory committee at the fair market
11 value of the equipment; requiring a draft committee or an exploratory committee to
12 dispense of remaining funds in a certain manner in a certain time frame;
13 establishing that a draft committee or an exploratory committee is not subject to any
14 contribution limit; and generally relating to draft committees and exploratory
15 committees.

16 BY repealing and reenacting, without amendments,
17 Article – Election Law
18 Section 1–101(a), (l), and (gg)
19 Annotated Code of Maryland
20 (2022 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Election Law

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.



Section 1–101(k)
Annotated Code of Maryland
(2022 Replacement Volume and 2022 Supplement)

BY adding to
Article – Election Law
Section 13–107
Annotated Code of Maryland
(2022 Replacement Volume and 2022 Supplement)

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

Article – Election Law

1–101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

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

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

(ii) relates to a candidate, a [prospective] POTENTIAL candidate, or the approval or rejection of a question or prospective question; and

(iii) is published, distributed, or disseminated.

(2) “Campaign material” includes:

(i) a qualifying paid digital communication;

(ii) any other material transmitted by or appearing on the Internet or other electronic medium;

(iii) an oral commercial campaign advertisement; and

(iv) an automated or prerecorded oral communication.

(l) (1) “Candidate” means an individual who files a certificate of candidacy for a public or party office.

(2) “Candidate” includes:

(i) an incumbent judge of the Court of Appeals or Court of Special Appeals at an election for continuance in office; and

(ii) an individual, prior to that individual filing a certificate of candidacy, if a campaign finance entity has been established on behalf of that individual.

(gg) "Political committee" means a combination of two or more individuals that has as its major purpose promoting the success or defeat of a candidate, political party, question, or prospective question submitted to a vote at any election.

13-107.

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

(2) (I) "DONATION" MEANS THE GIFT OR TRANSFER, OR PROMISE OF GIFT OR TRANSFER, OF MONEY OR OTHER THING OF VALUE TO A PERSON THAT MAKES DISBURSEMENTS FOR A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE.

(II) "DONATION" DOES NOT INCLUDE ANY AMOUNT OF MONEY OR ANY OTHER THING OF VALUE:

1. RECEIVED BY A PERSON IN THE ORDINARY COURSE OF ANY TRADE OR BUSINESS CONDUCTED BY THE PERSON, WHETHER FOR PROFIT OR NOT FOR PROFIT, OR IN THE FORM OF INVESTMENTS IN THE PERSON'S BUSINESS; OR

2. A. THAT THE DONOR AND THE PERSON RECEIVING THE MONEY OR THING OF VALUE EXPRESSLY AGREE IN WRITING MAY NOT BE USED FOR A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE; AND

B. IN THE CASE OF A MONETARY DONATION, IS DEPOSITED IN A SEPARATE BANK ACCOUNT THAT IS NEVER USED FOR A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE.

~~(2)~~ (3) "DRAFT COMMITTEE" MEANS AN ENTITY THAT IS ORGANIZED TO ENCOURAGE A POTENTIAL CANDIDATE TO RUN FOR OFFICE BUT IS NOT AUTHORIZED BY THE POTENTIAL CANDIDATE.

~~(3)~~ (4) ~~(H)~~ "EXPLORATORY COMMITTEE" MEANS AN ENTITY ESTABLISHED BY A POTENTIAL CANDIDATE FOR A PUBLIC OFFICE TO DETERMINE THE POTENTIAL CANDIDATE'S VIABILITY FOR THAT PUBLIC OFFICE.

~~(H) "EXPLORATORY COMMITTEE" DOES NOT INCLUDE A POLITICAL COMMITTEE.~~

(B) EXCEPT AS OTHERWISE PROVIDED IN ~~THIS SECTION~~ §§ 13-220.1 AND 13-220.2 OF THIS TITLE AND SUBTITLE 2, PART V OF THIS TITLE, ALL PROVISIONS OF THIS TITLE THAT APPLY TO A POLITICAL COMMITTEE ALSO APPLY TO A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE.

(C) A PERSON MAY ESTABLISH A DRAFT COMMITTEE FOR A PUBLIC OFFICE FOR AN INDIVIDUAL ONLY IF:

(1) THE DRAFT COMMITTEE IS NOT ESTABLISHED IN COORDINATION OR COOPERATION WITH THE INDIVIDUAL IT INTENDS TO ENCOURAGE TO SEEK PUBLIC OFFICE; AND

(2) THE INDIVIDUAL THE DRAFT COMMITTEE INTENDS TO ENCOURAGE TO SEEK PUBLIC OFFICE IS NOT A CANDIDATE FOR THAT PUBLIC OFFICE.

(D) AN INDIVIDUAL WHO IS A CANDIDATE MAY NOT ESTABLISH A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE FOR A PUBLIC OFFICE.

(E) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE FOR AN INDIVIDUAL MAY RECEIVE FUNDS AND MAKE DISBURSEMENTS TO DETERMINE THE INDIVIDUAL'S VIABILITY FOR A PUBLIC OFFICE.

(F) A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE MAY MAKE A DISBURSEMENT ONLY FOR THE FOLLOWING ACTIVITIES:

(1) CONDUCTING SURVEYS OR POLLS REGARDING VIABILITY OF THE POTENTIAL CANDIDATE FOR A PUBLIC OFFICE;

(2) DIRECT MAILINGS AND OTHER COMMUNICATIONS TO POTENTIAL VOTERS;

(3) EMPLOYING STAFF; ~~AND~~

(4) ESTABLISHING A WEBSITE;

(5) A QUALIFYING PAID DIGITAL COMMUNICATION;

(6) RENTING OR LEASING OFFICE SPACE; AND

(7) PURCHASING ELECTRONIC EQUIPMENT, INCLUDING COMPUTERS AND TELEPHONES.

(G) A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE MAY NOT PAY ANY EXPENSE IN ADVANCE FOR GOODS OR SERVICES TO BE USED BY THE POLITICAL COMMITTEE OF THE POTENTIAL CANDIDATE ONCE THE POTENTIAL CANDIDATE REGISTERS AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE.

(H) IF AN AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE RESULTS FROM THE DRAFT COMMITTEE OR EXPLORATORY COMMITTEE, ANY PURCHASES MADE BY THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF EQUIPMENT FROM THE DRAFT COMMITTEE OR EXPLORATORY COMMITTEE SHALL BE MADE AT THE FAIR MARKET VALUE OF THE EQUIPMENT.

(I) (1) A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE SHALL RETURN ANY REMAINING FUNDS RECEIVED UNDER SUBSECTION (E) OF THIS SECTION IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION WITHIN 120 DAYS AFTER:

(I) A POTENTIAL CANDIDATE OR AN INDIVIDUAL A DRAFT COMMITTEE ENCOURAGED TO SEEK PUBLIC OFFICE:

1. TIMELY FILING A CERTIFICATE OF CANDIDACY FOR A PUBLIC OFFICE UNDER TITLE 5, SUBTITLE 3 OF THIS ARTICLE; OR

2. PUBLICLY ANNOUNCING THAT THE INDIVIDUAL HAS DECLINED TO FILE A CERTIFICATE OF CANDIDACY FOR PUBLIC OFFICE; OR

(II) THE DEADLINE FOR FILING A CERTIFICATE OF CANDIDACY UNDER TITLE 5, SUBTITLE 3 OF THIS ARTICLE HAS PASSED.

(2) A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE SHALL RETURN FUNDS UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) PRO RATA TO THE CONTRIBUTORS; OR

(II) PAY THE REMAINING FUNDS TO:

1. IF THE POTENTIAL CANDIDATE OR INDIVIDUAL THE DRAFT COMMITTEE ENCOURAGED TO SEEK PUBLIC OFFICE IS A MEMBER OF A POLITICAL PARTY:

A. THE STATE CENTRAL COMMITTEE OF THE POLITICAL PARTY; OR

B. A LOCAL CENTRAL COMMITTEE OF THE POLITICAL PARTY;

1 2. IF THE POTENTIAL CANDIDATE OR INDIVIDUAL THE
2 DRAFT COMMITTEE ENCOURAGED TO SEEK PUBLIC OFFICE ESTABLISHES AN
3 AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE, SUBJECT TO § 13-226 OF THIS
4 TITLE, THE AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE;

5 3. A NONPROFIT ORGANIZATION EXEMPT FROM
6 TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; OR

7 4. THE FAIR CAMPAIGN FINANCING FUND
8 ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

9 (J) A DONATION TO A DRAFT COMMITTEE OR AN EXPLORATORY COMMITTEE
10 IS NOT SUBJECT TO ANY LIMITS.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.