

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 878

(Delegate Kaiser, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

**Election Law - Campaign Finance Reports - Late Fees and Certificates of
Nomination**

This bill modifies the daily late filing fee amount for a failure to file a campaign finance report, an affidavit, or an amended campaign finance report, providing for increases in the late filing fee amount as time passes beyond the deadline for a report or affidavit. In addition, the maximum fee payable for a report or affidavit is increased and the bill prohibits issuance of a certificate of nomination to a candidate if the candidate has failed to file a report or affidavit or failed to pay a late filing fee by the deadline for declining the nomination (the seventieth day preceding the general election).

Fiscal Summary

State Effect: Special fund revenues are affected, as discussed below. State expenditures are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill modifies the daily late filing fee amount for a failure to file a campaign finance report, an affidavit, or an amended campaign finance report. In place of the current fee of \$10 for each day or part of a day that a report or affidavit is overdue (with an additional fee of \$10 for each of the first six days that a preelection campaign finance report is overdue), the State Board of Elections (SBE) must assess, for each day or part of a day that a report or affidavit is overdue, (1) \$20 for each of the first seven days;

(2) \$35 for each of the following seven days; and (3) \$50 for each day thereafter. The bill also increases the maximum fee payable for a report or affidavit from \$500 to \$1,000.

The bill also prohibits issuance of a certificate of nomination to a candidate if the candidate has failed to, by the deadline for declining the nomination (the seventieth day preceding the general election), (1) file a campaign finance report, an affidavit, or an amended campaign finance report that is due from, or on behalf of, the candidate or (2) pay a late filing fee. A vacancy in nomination that occurs as a result of the prohibition must be filled in accordance with specified existing State law governing filling of vacancies in nomination.

Not later than 20 days before the deadline for declining the nomination, SBE must send a written notice to each candidate who was successful in the primary election and has failed to file a campaign finance report or an affidavit, or pay a late filing fee, that the candidate will be deemed to have declined the nomination if the candidate does not rectify the failure on or before the deadline for declining the nomination.

Current Law:

Campaign Finance Reports

Unless otherwise expressly authorized by law, all campaign finance activity for an election under the Election Law Article of the Annotated Code must be conducted through a campaign finance entity (defined as a political committee established under Title 13 of the Election Law Article). An individual may not file a certificate of candidacy or a declaration of intent until the individual establishes, or causes to be established, an authorized candidate campaign committee (a campaign finance entity authorized by the candidate to promote the candidate's candidacy).

For each election in which a campaign finance entity participates, it generally must file campaign finance reports at various times prior to and after the primary and general elections, as well as an annual report. The reports must contain information required by SBE with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period. An affidavit may be filed in place of a campaign finance report if the campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more since establishing the campaign finance entity or filing the campaign finance entity's last campaign finance report.

Late Filing Fee

SBE must assess a late filing fee for a failure to file a campaign finance report, an affidavit, or an amended campaign finance report. The fee is \$10 for each day or part of a day that a

campaign finance report, an affidavit, or an amended campaign finance report is overdue. An additional fee of \$10 is due for each of the first six days that a preelection campaign finance report is overdue. The maximum fee payable for a report or affidavit is \$500. Continued failure to file and nonpayment of the late filing fee, without cause, can also result in a misdemeanor and referral for prosecution of a responsible officer (chairman and treasurer) of the campaign finance entity.

A late filing fee is paid by the campaign finance entity, unless the campaign finance entity has insufficient funds to pay the late filing fee in a timely manner, in which case it is the joint and several liability of the responsible officers.

An individual who has failed to file a campaign finance report that is due from, or on behalf of, that individual may not, until the individual corrects the failure to file, (1) be deemed to be elected to a public or party office in the State; (2) take the oath or otherwise assume duties of the office; or (3) receive any salary or compensation for the office. An individual also may not become a candidate for any public or party office in the State, or become a treasurer of a campaign finance entity, if there exists a failure to file or failure to pay a late filing fee with respect to any campaign finance report due from, or on behalf of, the individual in the preceding five years.

State Revenues: Special fund revenues are affected by the change in the daily late filing fee amount and maximum fee payable for a report or affidavit. In calendar 2018, SBE collected \$151,000 in late filing fees. SBE indicates that the bill may result in an initial increase in revenues (varying by year, depending in part on the number of candidates subject to filing requirements in a given year), but any increase is likely equivalent to only a fraction of the 2018 total revenue amount. The bill is expected to reduce the duration and number of failures to file, which may eventually result, in future years, in only a minimal increase, or even a decrease, in annual revenues.

Late filing fees are deposited in the Fair Campaign Financing Fund which holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Montgomery, Queen Anne's, and St. Mary's counties; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2019
mm/hlb Third Reader - March 18, 2019
Revised - Amendment(s) - March 18, 2019

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510