

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 38

(Senator West)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Campaign Finance Violations - Injunctive Relief

This bill authorizes a candidate to seek an immediate injunction against any violation, by the campaign finance entity supporting the candidacy of any candidate for the same office, of the requirements to file a campaign finance report by the second Friday immediately preceding a primary election and by the second Friday immediately preceding a general election. A person who violates an injunction (1) is in criminal contempt and (2) is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$250 and/or imprisonment of up to 30 days or both. **The bill takes effect January 1, 2021.**

Fiscal Summary

State Effect: The bill is not expected to materially impact State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Campaign Finance Entities

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. 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 filed just prior to the primary and general elections are filed by the second Friday preceding each election.

The reports must contain information required by the State Board of Elections (SBE) with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period.

Campaign Finance Report Late Filing Fees

SBE must assess late filing fees for a failure to file a campaign finance report, an affidavit, or an amended campaign finance report. The fees are assessed for each day or part of a day that a campaign finance report, an affidavit, or an amended campaign finance report is overdue. Pursuant to increases made under Chapter 703 of 2019, the fees are (1) \$20 for each of the first seven days; (2) \$35 for each of following seven days; and (3) \$50 for each day thereafter. The maximum fee payable for a report or affidavit is \$1,000. Continued failure to file and nonpayment of the late filing fee, without cause, can also result in a misdemeanor and referral for prosecution of the responsible officers (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. A candidate may not be issued a certificate of nomination after a primary election if the candidate has failed to file a campaign finance report, affidavit, or amended report, or pay a late filing fee by the deadline for declining the nomination. 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.

Injunction Against a Violation of State Campaign Finance Law

The Secretary of State is authorized to seek an immediate injunction against any violation of State campaign finance laws under Title 13 of the Election Law Article. A person who violates such an injunction is in criminal contempt and is guilty of a misdemeanor and subject to a fine of up to \$250 and/or imprisonment for up to 30 days.

Additional Information

Prior Introductions: SB 226 of 2019 passed the Senate and received a hearing in the House Ways and Means Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): State Board of Elections; Secretary of State; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2020
an/hlb Third Reader - January 31, 2020

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