

HOUSE BILL 83

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1999 Regular Session
9r0918

By: **Delegate Fulton**

Introduced and read first time: January 21, 1999

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Campaign Financing Reports - Liability for Late Filing**

3 FOR the purpose of clarifying that the treasurer of a political committee is solely
4 responsible for the failure to file certain required campaign finance reports;
5 specifying that a candidate supported by a political committee is not liable for
6 certain violations of reporting requirements by the treasurer of the committee;
7 and generally relating to campaign finance reports.

8 BY repealing and reenacting, with amendments,
9 Article 33 - Election Code
10 Section 13-403
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 1998 Supplement)

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

15 **Article 33 - Election Code**

16 13-403.

17 (a) There is a late filing fee for each report or statement of expenditures and
18 contributions which is not filed within the time prescribed in § 13-401 of this subtitle.
19 The fee is \$10 for each day or part of a day, excluding Saturdays, Sundays and
20 holidays, that a report is overdue. An additional fee of \$10 is due for each of the first
21 six days, excluding Saturdays, Sundays and holidays, that a preelection report is
22 overdue pursuant to § 13-401(a)(1) and (2), (c), and (d) of this subtitle. The maximum
23 fee payable with respect to any single report is \$250. A board or its officer shall
24 receive an overdue report or statement even if any late filing fee due has not been
25 paid but the report or statement shall not be considered officially filed until all fees
26 have been paid. Upon the receipt by the board of an overdue report or statement, no
27 further late filing fees shall be incurred, notwithstanding the fact that the report or
28 statement is not considered officially filed. The late filing fee is the joint and several
29 personal liability of the candidate and treasurer as to the report of a candidate, or of
30 the chairman and treasurer as to the report of a committee. A late filing fee may not

1 be paid, directly or indirectly, from contributions to the candidate or committee and,
2 when paid, may not be treated as a contribution or an expenditure for purposes of this
3 article.

4 (b) A person may not become a candidate for public or party office in any
5 election in this State, a certificate of candidacy may not be accepted on his behalf, and
6 he may not become a treasurer for a candidate or committee unless (1) the person has
7 filed or had filed on his behalf all reports or statements required by § 13-401 of this
8 subtitle and subsection (d) of this section to be filed by him, as a candidate, chairman,
9 or treasurer, during the five calendar years preceding the election in which the person
10 seeks to become a candidate or treasurer, and (2) any late filing fees due in connection
11 with such reports and statements have been paid.

12 (c) Each board shall promptly notify the State Board of any report or
13 statement required by § 13-401 of this subtitle to be filed which is more than 30 days
14 overdue. Whenever it learns that a required report or statement is more than 30 days
15 overdue, the State Board shall issue a notice to the candidate and treasurer, if the
16 report is the statement of a candidate, or to the chairman and treasurer if the report
17 is that of a committee, to show cause why the appropriate State's Attorney should not
18 be requested to prosecute them as provided in § 13-603 of this title for violation of the
19 provisions of this subtitle, unless the failure to file is remedied and late filing fees
20 paid within 30 days of service of the notice. Any candidate, chairman, or treasurer
21 who fails to file the report or statement and pay the late filing fee due within 30 days
22 after service of the show cause notice is guilty of a misdemeanor and subject to the
23 penalties prescribed in § 13-603 of this title.

24 (d) For the purposes of this section, the failure to provide all of the information
25 called for on the forms prescribed pursuant to § 13-402 of this subtitle, to the extent
26 applicable, is a failure to file if the State Board has notified the candidate and
27 treasurer, or chairman and treasurer, in writing, of the particular deficiencies and a
28 properly corrected report has not been filed within 30 days of service of such notice.
29 After the 30th day, and in the absence of a filed corrected report, daily late filing fees
30 are thereafter payable, and all sanctions provided for herein and in § 13-603 of this
31 title shall be fully applicable without the necessity of further notice to the candidate,
32 chairman, or treasurer under this subsection or subsection (c) of this section.

33 (e) A person may not be deemed elected to any public or party office under the
34 laws of this State, or enter upon the duties of the office or receive any salary or
35 emoluments therefrom until all of the reports and statements of contributions and
36 expenditures required to be filed by the person pursuant to § 13-401(a) of this
37 subtitle and subsection (d) of this section and due before the person may take office,
38 have been filed. A candidate may not be sworn in until the State Board certifies that
39 all the reports and statements required [by] **TO BE FILED BY THE CANDIDATE IN**
40 **ACCORDANCE WITH** § 13-401(a) of this subtitle and subsection (d) of this section have
41 been filed. An official of the State or any of its political subdivisions may not issue a
42 commission or administer an oath of office to a candidate until that official has
43 received this certification from the State Board.

1 (f) If any person elected to public office has been notified pursuant to
2 subsection (c) or (d) of this section and has failed to file a report or statement required
3 by § 13-401(a) of this subtitle and subsection (d) or (i) of this section in the time
4 required, failed to file a report under subsection (i) of this section, or failed to pay any
5 late filing fee due, the board shall cause an investigation to be undertaken and shall
6 notify the elected official and afford him the opportunity to be heard. If the board
7 determines, after hearing, that a report or statement required by § 13-401(a) of this
8 subtitle and subsection (d) or (i) of this section was not timely filed, that the official
9 was notified pursuant to subsection (c) or (d) of this section, and that the failure to file
10 has not been corrected and late filing fees have not been paid, then it shall direct the
11 appropriate financial officers to withhold the salary of the elected official until the
12 report or statement is filed and all late fees paid and to withhold from future salary
13 payments a sum or sums which equal any amount previously paid to the elected
14 official for a period during which his report or statement was in default.

15 (g) All late filing fees paid shall be treated as a special fund and shall be paid
16 and distributed as follows:

17 (1) Fees pertaining to reports or statements required to be filed with the
18 State Board shall be first applied to pay the expenses of collection and of any audits
19 of financial reports and statements performed at the direction of the State
20 Administrator. Any balance remaining at the end of each fiscal year shall be remitted
21 to the State treasury as part of the general funds of the State; and

22 (2) Fees pertaining to reports or statements required to be filed only
23 with a county board shall be paid to the county board which shall, in turn, pay over all
24 amounts received to the county.

25 (h) (1) The provisions of this section, and the provisions of § 13-401 of this
26 subtitle with respect to the filing of reports or statements, are mandatory and not
27 directory. However, no sanctions may be imposed for failure to file a report or
28 statement or to pay a late filing fee if the failure is found by a court of competent
29 jurisdiction to be for just cause.

30 (2) In addition, upon request of the person required to file, a late filing
31 fee may be waived for just cause by the State Administrator subject to the approval of
32 the State Board.

33 (3) (i) The decision of the State Administrator to waive or not to waive
34 a late filing fee shall be in writing and shall set forth the circumstances surrounding
35 the late filing and the reasons for the decision.

36 (ii) The decision to waive or not to waive may be made without
37 notice or hearing.

38 (i) (1) There is a \$10 late filing fee for each day or part of a day that a report
39 required by the provisions of § 13-503 of this title is overdue, excluding a Saturday,
40 Sunday, or holiday.

41 (2) The maximum fee payable on an overdue report is \$250.

1 (3) An incumbent is liable personally for payment of a late fee assessed
2 under this subsection.

3 (J) A CANDIDATE IS NOT LIABLE UNDER THIS SECTION FOR A VIOLATION OF
4 THIS SUBTITLE BY THE TREASURER OF A POLITICAL COMMITTEE THAT IS FORMED
5 TO SUPPORT THE CANDIDATE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1999.