

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 642 (Delegates Barkley and Bates)
 Ways and Means

Election Law - Campaign Finance Organization and Reporting Requirements -
 Revisions

This bill eliminates noncontinuing campaign finance entities, requires all political committees to file campaign finance reports to the State Board of Elections (SBE), requires a continuing committee to designate the election(s) in which it will participate, requires treasurers to take training classes, and makes a candidate liable for committee late fees and reports.

Fiscal Summary

State Effect: General fund expenditures for SBE could increase by \$158,000 in FY 2006 for costs associated with the expansion of the number of campaign finance entities that must report directly to SBE. Future year expenditures reflect annualization and inflation. The Central Collections Unit of the Department of Budget and Management (DBM) could handle the bill’s requirements with existing resources.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	158,000	0	0	0	86,700
Net Effect	(\$158,000)	\$0	\$0	\$0	(\$86,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local boards of election could experience moderate savings because they would no longer be required to administer campaign finance reporting rules or accept campaign finance reports from political committees. This would obviate the need to send notices and provide compliance materials to committees.

Small Business Effect: None.

Analysis

Bill Summary: Generally, the bill streamlines and centralizes the campaign finance reporting requirements for campaign finance entities in the State.

Political Committees

The bill repeals provisions allowing the formation of a personal treasurer campaign finance entity, which is composed of a candidate and a treasurer. Noncontinuing committee status (committees with a duration of one year or less) for other campaign finance entities are also repealed.

A newly formed political committee must include on its statement of organization, whether the committee will participate in presidential, gubernatorial, Baltimore City, or multiple elections.

Filing Requirements

All campaign finance reports must be filed with SBE. A candidate's authorized political committee is allowed to file an affidavit of limited contributions and expenditures for a reporting period in which the entity does not intend either to raise contributions or make expenditures over the cumulative amount of \$1,000. The committee must file all subsequent reports prescribed by State law if actual contributions or expenditures exceed the \$1,000 limit.

The bill repeals provisions allowing a continuing political committee to file an affidavit of nonparticipation and instead requires all campaign finance entities to file periodic reports only for those elections the committees have designated on the statement of organization. If an entity participates in an election that was not designated on the initial statement of organization, the entity must file all campaign reports prescribed by State law for that election. Failure to file reports for undesignated elections is a misdemeanor; a violator is subject to sanctions prescribed in the Election Law Article, which include: (1) late filing fees; (2) disqualification for candidacy or to serve as a treasurer on a campaign; and (3) a fine and/or imprisonment.

Mandatory Training

A treasurer must complete a training course conducted by SBE on the duties and responsibilities of treasurers within 90 days of appointment. In addition, SBE may, for good cause, require a treasurer to complete a refresher course.

Late Fees

A candidate is responsible for the failure of that candidate's authorized candidate campaign committee to file a campaign finance report and/or pay the late fee and is subject to the penalties prescribed in State law. The State Prosecutor's office is authorized to refer late fee cases to the Central Collection Unit within DBM.

Signatures

The bill prohibits an individual from signing another person's name on any form or document required by State campaign finance law regardless of the consent of the individual whose name is signed.

Current Law: Generally, State law requires all campaign finance activity carried out in connection with an election to be conducted through a campaign finance entity. Thus, any political committee formed for these purposes must also file a statement of organization with the appropriate board of election that provide details about the organization, including the committee's name and a statement of purpose specifying each candidate or ballot question, if any, that the committee was formed to promote or defeat. The types of campaign finance entities that can be formed are as follows:

- Personal Treasurer (consists of one candidate and a treasurer only);
- Local Ballot Issue Committee;
- Candidate Committee;
- State Ballot Issue Committee;
- Slate;
- Party Central Committee; and
- Political Action Committee (PAC).

These entities may be continuing or noncontinuing (except a Personal Treasurer which is always noncontinuing, and a central committee, which is always continuing). Noncontinuing entities are formed for one election only and must dispose of any surplus funds remaining in its account upon expiration. State law allows surplus funds to be

returned to contributors, paid to a State or local central committee, or given to various other organizations according to regulation.

The current campaign finance law establishes a dual set of rules for continuing and noncontinuing committees, mostly in terms of filing requirements. All continuing committees currently file with SBE, while a noncontinuing committee files with either SBE or the applicable local board depending on where the committee filed its statement of organization. All continuing campaign finance entities file the Statement of Organization with SBE. Noncontinuing campaign finance entities associated with a local candidate or a local ballot issue, must file the Statement of Organization with the appropriate county board. Noncontinuing campaign finance entities associated with a State candidate or State ballot issue file the statement with SBE. Noncontinuing campaign finance entities supporting both State and local candidates also file with SBE.

A campaign finance entity must file campaign finance reports according to the following schedule:

- except for a ballot issue committee, on or before the fourth Tuesday immediately preceding a primary election;
- except for a ballot issue committee, on or before the second Friday immediately preceding an election;
- on or before the third Tuesday after a general election; and
- on the third Wednesday in January.

A continuing committee must file each report according to the schedule above, but a noncontinuing committee is subject to this schedule only as to the election for which the entity was formed, except all entities must file the annual report due in January.

A candidate is only liable for late fees incurred by failure to file a campaign finance report at the specified times if the candidate is chairman of a continuing committee or if the entity is a personal treasurer entity, otherwise the chairman and treasurer of a political committee are responsible. SBE at its discretion may request the State Prosecutor to prosecute the responsible officers of an entity for failure to file a required report after notice and an opportunity to show cause why SBE should not refer the officers for prosecution is given. Other sanctions for failure to file include:

- late filing fees of \$10 for each day or part of a day, (excluding Saturdays, Sundays, and holidays) that a campaign finance report is overdue, and an additional fee of \$10 for each of the first six days (excluding Saturdays, Sundays, and holidays) that a preelection campaign finance report is overdue. The maximum fee payable for any single campaign finance report is \$250;

- disqualification for candidacy or to serve as a treasurer on a campaign; and
- a fine not exceeding \$25,000 or imprisonment not exceeding one year, or both, upon conviction of a misdemeanor for failure to file a required report and pay a late fee.

There is no law prohibiting an individual from authorizing another person to sign his or her name on a required campaign finance report.

Exhibit 1 compares the main provisions in current law affected by the bill and the bill.

Background: Currently, a continuing committee is presumed to be participating in every election, meaning that the committee must either file all the required reports for each election or file an affidavit of nonparticipation. However, most of these committees only participate in one election (generally the gubernatorial) and many do not expect to have to file in connection with other elections. As of November 2004, campaign finance entities required to file with SBE owed a total of \$147,200 in late fees. The 24 local jurisdictions have entities with late fees outstanding in amounts ranging from \$250 in Charles County to \$43,800 in Prince George’s County.

State Fiscal Effect: Under the bill, the number of committees reporting to SBE would nearly double in a gubernatorial election year (which is the year in which most committees have campaign finance activity to report), from 1,500 to 3,000. SBE general fund expenditures would increase by an estimated \$158,000 in fiscal 2006 for a one-time cost for modifications to its committee management software, updating compliance materials, the ongoing costs of additional training classes for treasurers, and providing additional data entry and general support services in gubernatorial election years. This estimate reflects the costs of hiring two contractual employees to perform data entry and handle the increased volume of calls and help desk requests in gubernatorial election years. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries (contractual)	\$60,000
Software Modifications	85,000
Additional Compliance Materials	<u>13,000</u>
Total FY 2006 State Expenditures	\$158,000

Ongoing costs would increase expenditures again in fiscal 2010 by an estimated \$86,735 for two contractual positions and compliance materials.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel County, Garrett County, Montgomery County, Prince George's County, Maryland State Board of Elections, Department of Budget and Management, Department of Legislative Services

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Exhibit 1

Current Law

HB 642

Political Committees

Individuals may form a noncontinuing committee and candidates may form a “personal treasurer entity,” which is a type of noncontinuing committee.

All noncontinuing committees are abolished.

Scope of Activities

All noncontinuing committees must designate the specific election(s) for which the entity was formed. Continuing committees need not specify an election.

All continuing committees must designate the elections the entity will participate in; *i.e.*, Presidential, gubernatorial, Baltimore City, or multiple elections.

Filing Requirements

Where to File

All continuing committees must file electronically with SBE. Noncontinuing committees file at local boards if the entity was formed for a local ballot question or candidate for a local office. If the entity’s activities involve more than one county or a State candidate or party, it must file with SBE.

All campaign finance entities would file with SBE.

Exemptions from Filing

Continuing Committees

Can file an affidavit of nonparticipation if the entity has not received or made expenditures since the last report.

No affidavit is required. All entities must file only for the elections it designated when formed as well as any undesignated elections the entity actually participated in.

Noncontinuing Committees

Can file an affidavit of “limited contributions and expenditures” if they will not exceed a cumulative total of \$1,000.

Noncontinuing committees are abolished under the bill, but an “authorized” candidate committee can file this affidavit.

Liability for Late Fees

The chairman and treasurer of a political committee are liable for late fees. The candidate and treasurer are liable in “personal treasurer” entities.

The candidate, chairman, and treasurer of an *authorized candidate political committee are liable. Only the chairman and treasurer are liable in a nonauthorized political committee.

**A candidate committee is authorized or unauthorized, depending on whether the candidate has given his or her authority to the committee to act on the candidate’s behalf. A candidate committee formed to oppose a candidate is always an unauthorized candidate committee.*