

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

Senate Bill 112 (Chair, Education, Health, and Environmental Affairs Committee)
 (By Request – Departmental – Elections, State Board of)

Education, Health, and Environmental Affairs

Ways and Means

Campaign Finance Entities - Organization and Reporting

This departmental bill requires a campaign finance entity to designate the election(s) in which it will participate, eliminates the personal treasurer as a campaign finance entity, and requires all political committees to file campaign finance reports only with the State Board of Elections (SBE).

The bill takes effect January 1, 2007.

Fiscal Summary

State Effect: General fund expenditures for SBE could increase by \$85,000 in FY 2007 for costs associated with the expansion of the number of campaign finance entities that must report directly to SBE. Out-year expenditures would occur in gubernatorial election years due to operating expenses and reflect annualization and inflation. No effect on revenues.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	85,000	0	0	0	86,800
Net Effect	(\$85,000)	\$0	\$0	\$0	(\$86,800)

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 eliminate the need to send notices and provide compliance materials to committees.

Small Business Effect: SBE has determined that this bill will have minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary:

Filing Requirements

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 finance 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 of up to \$25,000 and/or imprisonment up to one year.

Late Fees

The bill eliminates the requirement that late filing fees be treated as a special fund for which the balance is transferred to the general fund at the end of each fiscal year. SBE is otherwise authorized to apply the fees toward expenses of collection and of any audits of campaign finance reports performed by or at the direction of the SBE administrator.

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 provides 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.

A personal treasurer must file campaign finance reports with the board where the certificate of candidacy of their candidate is filed. A continuing political committee must file with SBE. A noncontinuing political committee must file with either SBE or a local board depending on where the certificate of candidacy of their candidate is filed, or if the committee is formed for the success or defeat of a political party or ballot question, whether the applicable election would be in one county or all or part of more than one county.

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, yet may file an affidavit of nonparticipation on or before the first campaign finance report filing date in an election year, stating that the committee has not and does not intend to solicit contributions or make expenditures with respect to any election in that year. A noncontinuing committee is subject to the above schedule only as to the election for

which the entity was formed, except all entities must file the annual report due in January.

If SBE determines that a campaign finance entity has failed to file a campaign finance report and more than 30 days have passed, it must issue a notice to the responsible officers of the campaign finance entity requiring that within 30 days of service of the notice, they either submit a report and pay any late filing fee assessed or show cause as to why SBE should not ask the appropriate prosecuting authority to prosecute them. A responsible officer who fails to file a campaign finance report and pay any late fee assessed within 30 days of service of a notice from SBE is guilty of a misdemeanor and subject to a fine of not more than \$25,000 or imprisonment not to exceed one year, or both. Where a personal treasurer serves as a campaign finance entity, the candidate and treasurer are responsible officers. Where a political committee serves as a campaign finance entity, the chairman and treasurer are responsible officers. Late fees consist of \$10 for each day a report is overdue including Saturdays, Sundays, and holidays and an additional \$10 for the first six days a pre-election report is overdue. The maximum fee for a single report is \$250.

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. According to a November 2004 SBE report, the State was owed \$143,050 in campaign finance report late fees and the counties were collectively owed \$130,290. SBE advises this backlog may have since been reduced.

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 \$85,000 in fiscal 2007, which accounts for the bill's January 1, 2007 effective date. This estimate reflects a one-time cost for modifications to SBE committee management software and assumes SBE would make the modifications in fiscal 2007.

The Department of Legislative Services advises that costs associated with this bill will also be incurred in later years. Out-year expenditures would average \$86,800 in gubernatorial election years, beginning in fiscal 2011. This estimate reflects the cost of hiring two contractual employees to manage an increased volume of calls, help desk requests, and data entry services; and additional compliance materials, notices, and campaign finance reporting software.

Salaries (contractual)	\$73,234
Additional Compliance Materials	<u>13,528</u>
Total FY 2011 State Expenditures	\$86,762

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 6.8% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

SBE advises that late fees are fully expended toward collection expenses within each fiscal year and do not revert to the general fund. Therefore, the changes the bill makes, eliminating the general fund reversion, should not affect general fund revenues.

Additional Information

Prior Introductions: The provisions of this bill were introduced along with other changes to campaign finance law as a part of HB 642 in 2005. The House Ways and Means Committee held a hearing on the bill yet no further action was taken.

Cross File: None.

Information Source(s): Maryland State Board of Elections, Department of Legislative Services

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ncs/jr

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