

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 105 (Chair, Education, Health, and Environmental Affairs Committee)
 (By Request – Departmental – Elections, State Board of)

Education, Health, and Environmental Affairs

Ways and Means

Campaign Finance Reporting - Enforcement of Late Fees

This departmental bill allows the appropriate prosecuting authority to refer a matter involving unpaid late fees for failing to file a campaign finance report to the Central Collection Unit (CCU) of the Department of Budget and Management. The bill also prohibits a person from signing another person’s name on any form or document under State campaign finance laws without the authority of the person whose name is signed. A person who violates that provision is guilty of a misdemeanor and subject to a fine of up to \$1,000 or imprisonment for up to one year or both.

The bill will take effect January 1, 2007.

Fiscal Summary

State Effect: Special fund revenues could increase by \$8,700 annually due to increased collection of campaign finance reporting late fees. The bill’s creation of an additional misdemeanor is expected to have minimal to no impact on State finances.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	\$8,700	\$8,700	\$8,700	\$8,700	\$8,700
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$8,700	\$8,700	\$8,700	\$8,700	\$8,700

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

Local Effect: Minimal. To the extent the State Board of Elections (SBE) refers late fees owed to local boards to CCU, local jurisdictions may realize a small revenue increase.

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. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: Campaign finance entities, with the exception of ballot issue committees, are generally required to file campaign finance reports at specified times twice before a primary election, once before and after a general election, and once on the third Wednesday in January. An entity that is not a continuing political committee is only subject to reporting requirements for the election for which it was formed and if it does not have a cash balance and has no outstanding obligations at the end of a reporting period it may file a final report and not be subject to further reporting requirements.

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.

Late fees are treated as special funds and paid to SBE to pay collection and audit expenses and to local boards for fees where a campaign finance report was required to be filed only with a local board. Any remaining balance reverts to the general fund at the end of each fiscal year.

Background: The provisions of this bill were introduced as part of HB 642 in 2005. They are based on recommendations made in a report SBE filed in December 2004 in accordance with the 2004 *Joint Chairmen's Report*, regarding the status of campaign finance reporting late fees and ways to improve compliance. According to the report, as of November 30, 2004, SBE was owed \$143,050 in late fees and the counties were collectively owed \$130,290. SBE advises this backlog may have since been reduced.

SBE recommended the option of referring late fees to CCU as a way to more effectively and efficiently collect late fees.

The report also pointed out a loophole in State law identified by the Office of the State Prosecutor where if a person signed a campaign finance report for another, both the person who was signed for and the signer could possibly avoid liability for the content of the report. This bill would make signing a campaign finance report for someone else, without their authority, a misdemeanor punishable by a fine of up to \$1,000 and/or imprisonment of up to one year.

State Fiscal Effect: Special fund revenues could increase by an estimated \$8,700 per fiscal year as a result of increased collection of campaign finance reporting late fees. This estimate includes a 17% collection fee charged by CCU and assumes:

- approximately 90 accounts would be referred to CCU each year, as estimated by SBE;
- the dollar amount of each account would be the maximum allowed (\$250); and
- the collection rate on the accounts would be 33%, as projected by CCU.

The 17% CCU collection fee would be retained by CCU and distributed to the Central Collection Fund, a special fund used for operating expenses of CCU. Therefore, an estimated \$1,300 would be distributed to the Central Collection Fund and \$7,400 would be distributed to SBE annually.

The creation of an additional misdemeanor under the bill is expected to have minimal to no impact on State finances. The State Prosecutor's Office advises that cases involving documents signed by a person other than the person whose name is signed do not arise frequently and the bill's changes are not expected to result in an increase in prosecutions.

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 Ways and Means Committee held a hearing on the bill and no further action was taken.

Cross File: None.

Information Source(s): State Board of Elections, Office of the State Prosecutor, Department of Budget and Management, Department of Legislative Services

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