

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1398

(Chair, Ways and Means Committee)(By Request -
Departmental - Elections, State Board of)

Ways and Means

Education, Health, and Environmental Affairs

Election Law - Campaign Finance - Revisions

This departmental bill makes various changes to State campaign finance laws, including those relating to the establishment of a campaign finance entity (political committee); requirements of responsible officers of campaign finance entities; prohibited campaign contributions; late filing of specified affidavits; and legislative newsletters. The bill also eliminates various references to local boards of elections, which no longer receive campaign finance filings.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances.

Local Effect: None.

Small Business Effect: SBE has determined that this bill has 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

Bill Summary: The bill's various changes include:

- a requirement that an individual establish, or cause to be established, a candidate campaign committee prior to filing a declaration of intent (filed by candidates nominated by petition or by a nonprincipal political party);
- a requirement that the chairman and treasurer of a political committee notify SBE of a change of residence or mailing address at least 30 days before the date that the next campaign finance report is due;
- elimination of provisions relating to, and references to, campaign managers and subtreasurers;
- a requirement that a treasurer issue a campaign contribution receipt within 90 days of receiving a contribution or by the end of the current campaign finance reporting period, whichever is earlier;
- provisions allowing for an affidavit of limited contributions and expenditures (filed in lieu of a campaign finance report) to be filed late and making a campaign finance entity that files an affidavit late subject to late filing fees applicable to campaign finance reports;
- a prohibition against a contribution if it is intended to conceal the source of the funds or the intended recipient; and
- provisions specifying that (1) a “legislative newsletter” does not include a document disseminated to recipients by electronic mail or any other mode of electronic transmission, (2) such a document is subject to standards adopted by the Presiding Officers, or an appropriate entity, of the General Assembly, and (3) it is the intent of the General Assembly that reasonable standards for the use of the General Assembly’s electronic mail system and other General Assembly resources used to disseminate electronic communications be adopted.

Current Law/Background:

Establishment of a Campaign Finance Entity

Unless expressly authorized by law, all campaign finance activity for an election governed by State law must be conducted through a campaign finance entity (political committee) and an individual may not file a certificate of candidacy until the individual establishes, or causes to be established, an authorized political committee. An individual seeking nomination by petition or by a nonprincipal political party, however, pursuant to existing State law requirements, files a declaration of intent to seek nomination, beginning the process of seeking office, but files a certificate of candidacy at a later date. The bill’s change would require individual’s seeking nomination by petition or by a nonprincipal political party to have established a campaign finance entity at the beginning of the process of seeking nomination, prior to filing a declaration of intent.

Notification of a Change of Residence or Mailing Address

SBE must notify campaign finance entities (political committees) of each campaign finance report required to be filed, by first class mail at least 10 but not more than 20 days before the filing deadline. SBE indicates a common defense for late filing of campaign finance reports is that the committee never received notice, which is often due to the failure of a responsible officer of a campaign finance entity to notify SBE of a move.

Campaign Managers and Subtreasurers

SBE indicates that campaign managers serve no official purpose for campaign finance purposes. SBE also advises that subtreasurers, which a treasurer may appoint for a local jurisdiction, to deposit, disburse, and account for funds, under the authority of the treasurer, serve a limited purpose, but are not utilized at all and are unnecessary given advances in technology and communications.

Campaign Contribution Receipts

Statute requires a campaign contribution receipt to be issued by a treasurer or subtreasurer upon receiving, and before depositing, contributions from a person generally of a cumulative amount of \$51 or more. SBE indicates that this timeframe is unrealistic and has been an administrative burden on political committees.

Late Filing of Affidavits

SBE indicates that campaign finance entities currently have to file a campaign finance report if the filing deadline is missed and may not file an affidavit of limited contributions and expenditures late. The bill allows a campaign finance entity to do so, subject to late filing fees.

Prohibited Contributions

The bill's prohibition against a contribution to a campaign finance entity if it is intended to conceal the source of the funds or the intended recipient is similar to an existing prohibition against transfers of money between campaign finance entities.

Legislative Newsletters

“Legislative newsletter” is defined as an unsolicited document used by a member of the General Assembly, without supervision by, or coordination with, the General Assembly, to disseminate information to a constituent, voter, or potential voter about the member's performance in legislative office or one or more issues of public interest chosen by the member.

Expenditures relating to writing, publishing, printing, issuing, mailing, or distributing a legislative newsletter may not be paid from public funds, but may be paid for by a campaign finance entity of the member or the personal funds of the member or member's spouse, subject to certain conditions.

The Office of the Attorney General recently provided advice that a newsletter distributed electronically is subject to the prohibition against use of public funds for publication expenses of a legislative newsletter.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections, Secretary of State, Montgomery County, Garrett County, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2009
ncs/hlb Revised - House Third Reader - April 10, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Election Law – Campaign Finance – Miscellaneous Technical &
Clarifying Corrections

BILL NUMBER: HB 1398

PREPARED BY: Maryland State Board of Elections

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.