

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 1504 (Delegate Ross)
 Ways and Means

Campaign Finance Entities - Contributions, Transfers, and Reports

This bill makes changes to State campaign finance laws by establishing a transfer limit applicable to out-of-state political action committees; eliminating, for members of the General Assembly, an exception to fundraising restrictions during a regular General Assembly session; and requiring additional campaign finance reports to be filed.

The bill takes effect January 1, 2011.

Fiscal Summary

State Effect: General/special fund expenditures increase by at least \$12,900 in FY 2011 to audit campaign finance reports and provide for relatively minimal mailing costs. Future years reflect annualization and inflation. Special fund revenues increase beginning in FY 2011 due to additional fees collected for late filings of campaign finance reports. The extent of the revenue increase is uncertain but is expected to at least partially offset the increased expenditures and may result in a net revenue increase.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	-	-	-	-	-
SF Revenue	-	-	-	-	-
GF/SF Exp.	\$12,900	\$52,700	\$55,400	\$58,200	\$61,100
Net Effect	(\$12,900)	(\$52,700)	(\$55,400)	(\$58,200)	(\$61,100)

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

Local Effect: Local government revenues may increase minimally due to criminal penalties applicable to the bill's provisions.

Small Business Effect: None.

Analysis

Bill Summary: The bill:

- specifies a limit of \$10,000 on the cumulative amount that may be transferred from a political action committee located outside the State to a campaign finance entity located in the State during a four-year election cycle;
- eliminates, for members of the General Assembly, an exception to restrictions on specified fundraising activities during a regular General Assembly session when a member is engaged in activities solely related to his or her election to a federal or local office; and
- establishes two additional annual campaign finance reports that must be filed by campaign finance entities on the third Wednesday in May and the third Wednesday in July.

Current Law:

Transfer Limits

In general, during a four-year election cycle a campaign finance entity (including a nonfederal, out-of-state political committee) may not directly or indirectly make transfers in a cumulative amount of more than \$6,000 to any one other campaign finance entity. The transfer limit does not apply to a transfer by a campaign finance entity to a ballot issue committee or a transfer between or among political committees that are State or local central committees of the same political party, a slate and the campaign finance entities of its members, and the campaign finance entities of a candidate.

Fundraising Restrictions During a Regular General Assembly Session

Subject to certain exceptions, during a regular session of the General Assembly, the Governor, the Lieutenant Governor, the Attorney General, the Comptroller, and a member of the General Assembly, or a person acting on behalf of any of those officials, may not, as to a candidate for federal, State, or local office, or a campaign finance entity of the candidate or operated in coordination with the candidate (1) receive a contribution; (2) conduct a fundraising event; (3) solicit or sell a ticket to a fundraising event; or (4) deposit or use any contribution of money that was not deposited prior to the session. An official, or a person acting on behalf of the official, however, is not subject to the restrictions when engaged in activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate.

Campaign Finance Reporting

For each election in which a campaign finance entity participates, it generally must file campaign finance reports at various times prior to and after the primary and general elections. The reports must contain information required by the State Board of Elections (SBE) with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period. Annual reports generally must also be filed on the third Wednesday in January. An affidavit may be filed in place of a campaign finance report when a campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more since the campaign finance entity was established or since the campaign finance entity's last campaign finance report was filed.

A campaign finance entity is subject to a late filing fee for a failure to file a campaign finance report or affidavit. The fee is \$10 for each day or part of a day, excluding Saturdays, Sundays, and holidays, that a campaign finance report or affidavit is overdue, with an additional fee of \$10 imposed for the first six days, excluding Saturdays, Sundays, and holidays, that a preelection campaign finance report is overdue. The maximum fee payable for a campaign finance report or affidavit is \$250. Fees relating to campaign finance reports are paid to SBE and applied to pay the expenses of collection and of any audits of campaign finance reports performed by or at the direction of the State Administrator of Elections.

A late filing fee is the joint and several liability of the responsible officers of a campaign finance entity and a responsible officer of a campaign finance entity who, without cause, does not file a report and pay the late fee within 30 days of being served with a notice of a failure to file by SBE is guilty of a misdemeanor and subject to a fine of up to \$25,000 and/or imprisonment of up to one year.

General Penalties

Except as otherwise provided for specific offenses, a person who knowingly and willfully violates a provision of Title 13 ("Campaign Finance") of the Election Law Article (within which the bill's provisions are included) is also guilty of a misdemeanor and on conviction is subject to a fine of up to \$25,000 and/or imprisonment for up to one year. An unknowing violation is subject to a civil penalty of up to \$5,000. The Secretary of State may also seek an immediate injunction against a violation of Title 13.

State Expenditures: General/special fund expenditures increase by at least \$12,900 in fiscal 2011, which accounts for a three-month start-up delay following the bill's January 1, 2011 effective date. This estimate reflects the cost of hiring an additional staff person in April 2011 to handle auditing of the additional campaign finance reports required to be filed. It includes a salary, fringe benefits, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$12,885
Operating Expenses	<u>53</u>
Total FY 2011 State Expenditures	\$12,938

Future year expenditures reflect a full salary with 4.4% annual increases and 3% employee turnover; and 1% annual increases in ongoing operating expenses. Costs for a full year in fiscal 2012 are estimated at \$52,700.

Relatively minimal additional costs will also be incurred for mailing of electronic filing software patches to campaign finance entities to account for the two new reports and other ongoing mailings associated with the reports. Software modifications are expected to be handled within existing resources.

The increased expenditures may be partially or wholly accounted for by special fund revenues (discussed below); however, any portion of the increased expenditures not accounted for with special fund revenues would need to be supported with general funds.

State Revenues: Special fund revenues are expected to increase annually due to additional fees collected for late filings of the additional campaign finance reports required under the bill. The extent to which special fund revenues will increase is uncertain, but the additional revenue is expected to at least partially offset the expenditure increase estimated above, if not result in a net revenue increase.

SBE indicates that while a majority of campaign finance entities file campaign finance reports on time, a number of reports are filed late. There are approximately 1,600 campaign finance entities, which would all be required to file the additional annual reports. As mentioned above, the maximum late fee payable for a campaign finance report is \$250.

General fund revenues may also increase minimally due to criminal/civil penalties applicable to the bill's provisions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections, State Prosecutor's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2010
mpc/mwc

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510