

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 408

(Senator Manno)

Education, Health, and Environmental Affairs

Ways and Means

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**Election Law - State Elected Officials - Campaign Fund-Raising During General  
Assembly Session - Civil Penalty**

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This bill authorizes the State Board of Elections (SBE) to impose a specified civil penalty, without instituting a civil action in circuit court, for fund-raising during the General Assembly session in violation of provisions governing such fund-raising. Procedural requirements apply, including the ability for a person charged in a citation to elect to stand trial in District Court. An existing authorization for SBE, represented by the State Prosecutor, to institute a civil action in circuit court for such violations is repealed. The bill also clarifies that solicitation of a contribution is prohibited under the provisions governing fund-raising during the General Assembly session.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The civil penalty which SBE may impose equals \$1,000 plus the amount of the contribution received as a result of a violation of the law, unless SBE, at its discretion, assesses a lesser penalty for good cause. The contribution must also be refunded to the contributor. SBE may issue a citation to any “person” (defined to include a campaign finance entity) the State board believes is committing or has committed a violation.

SBE must consider, in determining the amount of a penalty (1) the severity of the violation; (2) the good faith of the violator; and (3) any history of prior violations. The civil penalty must be paid to SBE by the person charged within 20 days after service of a citation, and is distributed to the Fair Campaign Financing Fund (FCFF). The civil penalty is paid by the campaign finance entity unless it has insufficient funds, in which case, the balance of the civil penalty is the joint and several liability of the responsible officers (chairman and treasurer). A person may also elect (by written notice at least five days prior to the required date of payment of the civil penalty) to stand trial in District Court, in which case the State Prosecutor assumes responsibility for prosecuting the violation and specified provisions apply to the adjudication of the case in District Court.

**Current Law/Background:** State campaign finance law prohibits specified campaign finance activity, including receipt of contributions and soliciting or selling a ticket to a fund-raising event, during a regular session of the General Assembly by or on behalf of the Governor, Lieutenant Governor, Attorney General, Comptroller, and members of the General Assembly. Exceptions apply for activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate and for publicly financed gubernatorial tickets. SBE, represented by the State Prosecutor, may institute a civil action in the circuit court for any county seeking a civil penalty equal to \$1,000 plus the amount of the contribution received as a result of a violation of the law. The contribution also must be refunded to the contributor. The civil penalty is distributed to FCFF.

FCFF holds funding for public campaign financing of gubernatorial tickets under the Public Financing Act.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 241 (Delegates Rosenberg and A. Washington) - Ways and Means.

**Information Source(s):** State Board of Elections, Judiciary (Administrative Office of the Courts), State Ethics Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2016  
min/hlb Revised - Senate Third Reader - March 21, 2016

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