

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1020 (Senators Nathan-Pulliam and Kelley)
Education, Health, and Environmental Affairs

Campaign Finance - Out-of-State Political Committees

This bill modifies registration and reporting requirements applicable to out-of-state political committees (including establishment of a registration fee), as well as provisions governing failures by out-of-state political committees to file required reports and associated late filing fees.

Fiscal Summary

State Effect: Special fund revenues increase annually, potentially by more than \$50,000 over the course of a four-year election cycle. Expenditures are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Modified Registration and Reporting Requirements

The bill requires an out-of-state political committee to register with the State Board of Elections (SBE) within 48 hours after directly or indirectly making “political disbursements” in the State in a cumulative amount of \$5,000 or more in an election cycle, in place of a requirement to register within 48 hours after directly or indirectly making transfers in a cumulative amount of \$6,000 or more in an election cycle to one or more campaign finance entities organized under State law. “Political disbursement” means (1) a

transfer to a campaign finance entity; (2) an independent expenditure for campaign material that is a public communication; (3) a disbursement for an electioneering communication; (4) an expenditure for paid canvassers; (5) a coordinated expenditure; (6) an in-kind contribution to a campaign finance entity; (7) a donation to a person making independent expenditures; or (8) a donation to a person making a disbursement for an electioneering communication. Under the bill, reports required to be filed by out-of-state political committees under existing law must disclose all “political disbursements,” instead of all “expenditures,” made in the State.

At the time of filing the registration form, an out-of-state political committee must pay a registration fee of \$500 and an out-of-state political committee may not be considered registered until the registration fee has been paid. A separate registration form must be filed for each election year in which the out-of-state political committee participates.

Failure to File Reports and Late Filing Fees

Instead of being subject to existing sanctions, including late filing fees, applicable to a failure by a Maryland campaign finance entity to file a campaign finance report or affidavit, the bill makes out-of-state political committees subject to newly established late filing fees for a failure of an out-of-state political committee to file a required report. The bill requires SBE to assess late filing fees for a failure by an out-of-state political committee to file a required report, in the amounts of (1) \$1,000 for the first day or part of a day that a report is overdue and (2) \$500 for each subsequent day or part of a day that a report is overdue. The maximum fee payable for each month that a report is overdue is \$10,000. The late filing fees must be distributed to the Fair Campaign Financing Fund (which holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act) and are the joint and several liability of (1) the out-of-state political committee; (2) the treasurer or other individual who signs and files the required reports; and (3) any person exercising direction or control over the activities of the out-of-state political committee.

Failure to provide all the information required on a report is deemed a failure to file and renders the report overdue. SBE must accept an overdue report that is submitted without payment of the late filing fee, but an accepted report may not be considered filed until the fee has been paid. After an overdue report is accepted, no further late filing fee is incurred. An out-of-state political committee that fails to file a report may seek specified relief from a late filing fee, that is available to a campaign finance entity that fails to file a campaign finance report, for just cause. An out-of-state political committee that fails to file two or more reports may not participate in any election until all the required reports have been filed.

An out-of-state political committee may not make a disbursement to an affiliated entity for the purpose of concealing the source of any political disbursement or the intended recipient of any political disbursement.

Current Law:

Out-of-state Political Committees

An “out-of-state political committee” is a nonfederal political committee organized under the law of another state. An out-of-state political committee must register with SBE within 48 hours after directly or indirectly making transfers in a cumulative amount of \$6,000 or more in an election cycle to one or more campaign finance entities organized under State law. The registration form prescribed by SBE must require an out-of-state political committee to designate the election year in which the committee is participating.

After registering with SBE, an out-of-state political committee must file reports with SBE for the election year in which the committee is participating on or before each date that a campaign finance entity of a candidate is required to file a campaign finance report. (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, as well as an annual report.)

The reports filed by an out-of-state political committee must:

- disclose all expenditures made in the State by the out-of-state political committee (1) from the beginning of the election cycle, in the case of the first report filed by the out-of-state political committee or (2) during the reporting period applicable to campaign finance reports filed by campaign finance entities, for each subsequent report filed by the out-of-state political committee;
- describe how to access the campaign finance reports filed by the out-of-state political committee in the state where the committee is registered and files the reports; and
- be filed in the manner, and subject to sanctions, applicable to campaign finance reports of campaign finance entities.

Late Filing Fees

SBE must assess a late filing fee for a failure to file a campaign finance report, an affidavit, or an amended campaign finance report. The fee is \$10 for each day or part of a day that a campaign finance report, an affidavit, or an amended campaign finance report is overdue. An additional fee of \$10 is due for each of the first six days that a preelection campaign finance report is overdue. The maximum fee payable for a report or affidavit

is \$500. Continued failure to file and nonpayment of the late filing fee, without cause, can also result in a misdemeanor and referral for prosecution of a responsible officer (chairman and treasurer) of the campaign finance entity.

A sanction may not be imposed for failure to file a campaign finance report or to pay a late filing fee if a court of competent jurisdiction finds just cause for the failure. The State Administrator of Elections may also waive a late filing fee for just cause, on request of a responsible officer and with the approval of SBE.

SBE must accept an overdue report or affidavit that is submitted without payment of the late filing fee, but the report or affidavit is not considered filed until the fee has been paid. After a report or affidavit is received, no further late filing fee is incurred.

A late filing fee is paid by the campaign finance entity, unless the campaign finance entity has insufficient funds to pay the late filing fee in a timely manner, in which case it is the joint and several liability of the responsible officers.

State Revenues: Special fund revenues increase annually due to collection of registration fees from out-of-state political committees and any late filing fees paid by out-of-state political committees for failure to file reports. During the 2015-2018 election cycle, the first election cycle in which out-of-state political committees were required to register with SBE, approximately 35 out-of-state political committees registered. If the \$500 registration fee under the bill had been in place, at least \$17,500 total in special fund revenues from registration fees would have been generated, and potentially more, if any were participating in both the 2016 and 2018 election years. Special fund revenues could conceivably increase by more than \$50,000 over the course of a four-year election cycle, under the bill, if (1) the bill's expansion of the applicability of the out-of-state political committee registration and reporting requirements (to "political disbursements") results in more committees registering; (2) at least some committees participate in more than one election year in an election cycle; and/or (3) at least some committees pay late filing fees.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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Analysis by: Scott D. Kennedy

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