

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 538

Ways and Means

(Delegates Mosby and Cain)

Education, Health, and Environmental Affairs

Campaign Finance - Revisions

This bill allows for disbursements by a campaign finance entity to be *approved* rather than *made* by the treasurer (or in certain instances the chairman) of the campaign finance entity. The bill also requires campaign finance entities that become liable for specified civil penalties related to an entity's finances to subsequently submit bank statements with the entity's campaign finance reports for a specified period of time, unless waived by the State Board of Elections (SBE) after at least one submittal. **The bill takes effect January 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by \$59,000 in FY 2021; future years reflect annualization and ongoing costs. Revenues are not expected to be materially affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	59,000	37,300	38,000	39,400	40,800
Net Effect	(\$59,000)	(\$37,300)	(\$38,000)	(\$39,400)	(\$40,800)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Approval of Disbursements

The bill changes references to disbursements being *made* by the treasurer, or in certain instances the chairman, of a campaign finance entity, to instead refer to those disbursements being *approved* by the treasurer, or in certain instances the chairman.

Submission of Bank Statements

The bill requires that a campaign finance entity that becomes liable for a civil penalty for specified violations relating to the entity's finances submit – with each subsequent campaign finance report – bank statements that (1) document all expenditures made by or on behalf of the campaign finance entity during the reporting period and (2) have all personal identifying information, including bank account numbers, redacted. Unless waived by SBE, the bank statements must continue to be submitted with the entity's campaign finance reports until the later of (1) the conclusion of the election cycle in which the campaign finance entity became liable for the civil penalty or (2) the due date of the last campaign finance report that is due within two years after the campaign finance entity became liable for the civil penalty. If a campaign finance entity has submitted bank statements with at least one campaign finance report, SBE may, at its discretion, waive the requirement that a campaign finance entity submit bank statements during the remainder of the above-mentioned period.

The violations subject to a civil penalty that can result in a campaign finance entity being subject to the bank statement requirement are (1) making a disbursement in an unauthorized manner or by an unauthorized method; (2) failure to maintain a campaign bank account; (3) failure to maintain detailed and accurate account books and records; (4) fundraising during the General Assembly session in an unauthorized manner; and (5) failure to sufficiently report all contributions received and expenditures made on a campaign finance report.

Current Law/Background:

Campaign Finance Entities

Unless otherwise expressly authorized by law, all campaign finance activity for an election under the Election Law Article of the Annotated Code must be conducted through a campaign finance entity (defined as a political committee established under Title 13 of the Election Law Article). An individual may not file a certificate of candidacy or a

declaration of intent until the individual establishes, or causes to be established, an authorized candidate campaign committee (a campaign finance entity authorized by the candidate to promote the candidate's candidacy). 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 must contain information required by SBE with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period.

Responsible Officers

A campaign finance entity must have a chairman and a treasurer who are the responsible officers of a campaign finance entity. A campaign finance entity may not receive or disburse money or any other thing of value if there is a vacancy in the office of chairman or the office of treasurer. The chairman and treasurer are jointly and severally responsible for (1) filing all campaign finance reports in full and accurate detail and (2) except as otherwise provided under State campaign finance law, all other actions of the entity.

Treasurer – Control of Contributions and Expenditures

All assets received by or on behalf of a campaign finance entity must be delivered to the treasurer and maintained by the treasurer for the purposes of the campaign finance entity. Assets of a campaign finance entity may be disbursed only (1) if they have passed through the hands of the treasurer and (2) in accordance with the purposes of the entity. Subject to certain exceptions, the treasurer must make all disbursements for the campaign finance entity. The exceptions include:

- If the chairman of a campaign finance entity is not a candidate, the chairman may make a disbursement on behalf of the campaign finance entity in the same manner as the treasurer, if the treasurer is temporarily unable to perform the duties of the office.
- A campaign finance entity, or a person authorized by the campaign finance entity, may pay an expense of the campaign finance entity from funds other than a campaign account if (1) the expense is supported by a receipt that is provided to the campaign finance entity and (2) the campaign finance entity reimburses the person who paid the expense from the campaign account and reports the expense as an expenditure of the campaign finance entity.
- A campaign finance entity may maintain a petty cash fund of up to \$250, subject to specified requirements.

State Fiscal Effect: General fund expenditures increase by \$59,018 in fiscal 2021, which accounts for the bill's January 1, 2021 effective date. This estimate reflects the cost of

(1) hiring a part-time auditor within SBE to conduct more in-depth audits of the campaign finance entities affected by the bill, using the submitted bank statements and (2) making programming changes to the campaign finance reporting system to allow for bank statements to be submitted with campaign finance reports. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

The bill does not require SBE to conduct more in-depth audits of the affected campaign finance entities, using the submitted bank statements, but this estimate assumes SBE does so under its general authority under State law to audit campaign finance reports. To the extent that SBE does not utilize the submitted bank statements in its audits of the affected campaign finance entities, then the additional part-time auditor is not necessary.

Position(s)	0.5
Salaries and Fringe Benefits	\$18,969
Programming Changes	35,000
Operating Expenses	<u>5,049</u>
Total FY 2021 State Expenditures	\$59,018

Future year expenditures reflect a salary with annual increases and employee turnover and ongoing operating expenses.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 9, 2020
rh/hlb
Third Reader - April 14, 2020
Revised - Amendment(s) - April 14, 2020
Revised - Correction - April 14, 2020

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