Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 310   (Chair, Education, Health, and Environmental Affairs
                                 Committee)(By Request - Departmental - State Board of
                                 Elections)

Education, Health, and Environmental Affairs   Ways and Means

Election Law – Campaign Finance Entities – Termination

This departmental bill modifies certain campaign finance entity termination requirements and expands the scope of a provision providing that the termination of a campaign finance entity does not limit specified enforcement or recovery actions.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: The bill does not directly affect local government finances.

Small Business Effect: The State Board of Elections (SBE) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill eliminates the date of payment of the final debt or other obligation of a campaign finance entity as a criteria in determining the beginning of the eight-year period within which a campaign finance entity of an individual must terminate and file a final campaign finance report. Instead, the bill simply requires a campaign finance entity of an individual to terminate and file a final campaign finance report within eight years after the later of (1) the end of the individual's most recent term of office and (2) the date of the election in which the individual last was a filed candidate. In addition, under the bill, those requirements are no longer applicable only to campaign finance entities that have funds remaining after the payment of all outstanding debts and other obligations.

The bill also requires the State Administrator of Elections to, not later than six months before a campaign finance entity is required to terminate, notify the responsible officers of the campaign finance entity and the candidate affiliated with the campaign finance entity of the date by which the campaign finance entity must (1) pay all outstanding obligations; (2) dispose of all its remaining assets in accordance with applicable State law; and (3) terminate and file a final campaign finance report.

The bill also alters the scope of an existing provision that establishes that the termination of a campaign finance entity does not limit the right of (1) SBE, or the State Prosecutor or the State's Attorney, to pursue an enforcement action against the former responsible officers of, or any candidate formerly affiliated with, the campaign finance entity or (2) a creditor to bring an action against the former responsible officers of, or any candidate affiliated with, the campaign finance entity. The existing provision applies to termination of a campaign finance entity by SBE under specified circumstances, but under the bill the provision applies to any termination of a campaign finance entity under State campaign finance law.

Current Law: State campaign finance law establishes termination requirements for the campaign finance entity of an individual if (1) the individual is not a filed candidate or the incumbent in any office filled by an election under State election law and (2) the campaign finance entity has funds remaining after the payment of all outstanding debts and other obligations. Under the requirements, a campaign finance entity must terminate and file a final campaign finance report within eight years after the latest of (1) the end of the individual's most recent term of office; (2) the date of the election in which the individual last was a filed candidate; and (3) the payment of the final debt or obligation of the entity that was incurred in connection with that candidacy.

SBE is authorized to terminate a campaign finance entity if it determines that good cause exists and that (1) the campaign finance entity could be terminated except for the existence of one or more outstanding obligations, each of which is more than five years old; (2) no responsible officer currently is appointed and serving; or (3) other extenuating circumstances exist to justify terminating the campaign finance entity. The termination of a campaign finance entity under that authority does not limit the right of (1) SBE, or the State Prosecutor or the State's Attorney, to pursue an enforcement action against the former responsible officers of, or any candidate formerly affiliated with, the campaign finance entity or (2) a creditor to bring an action against the former responsible officers of, or any candidate affiliated with, the campaign finance entity.

Background: SBE indicates that having the date of payment of the final debt or other obligation of a campaign finance entity as a criteria in determining the beginning of the eight-year period within which a campaign finance entity of an individual must terminate

and file a final campaign finance report creates too much uncertainty for enforcement actions due to the difficulty of identifying and/or verifying that date.

Additional Information

Prior Introductions: HB 199 of 2020 passed the House and received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Designated Cross File: None.

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

Fiscal Note History: First Reader - January 12, 2021
rh/hlb   Third Reader - February 2, 2021

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Election Law -- Campaign Finance Entities -- Termination

BILL NUMBER: SB 310

PREPARED BY: Maryland State Board of Elections
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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_x_   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