

SB 632 - Election Law – Contested Elections.pdf

Uploaded by: Antoine, Joanne

Position: FAV

February 18, 2021

Testimony on SB 632
Election Law – Contested Elections
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland supports SB 632 which would increase transparency in campaign finance reporting around the recount process.

Maryland has a well-developed system of campaign finance law, a system that ensures everyday citizens can trace who is making donations and what special interest voices are being heard in that process. The recount process should be required to adhere to the same level of scrutiny.

The recount process is an important part of Maryland's democratic government; it gives candidates the chance the opportunity to petition for a recount after an election where the margin of victory for a race is narrow. This process provides reassurance in the result but is costly and currently. Given the amount of money spent in instances where recounts are needed, it is critical that citizens can see who is funding these efforts. It is also critically important that we ensure those candidates opting into public financing programs are able to adhere to the confinements provided by these programs.

SB 632 aims to establish disclosure requirements through the creation of contested elections committees that are on par with those in place for candidate and other similar entities - increasing reporting and transparency in Maryland's campaign finance law. It also provides enabling authority so counties can establish rules governing the use of public funds in cases where a recount is needed for candidates participating in a local public financing program. These candidates would be required to establish contested election committees, likely with more regulations than candidates not opted into these programs in order to adhere to the overall goals of these programs.

Transparency is important in all aspects of a functioning democracy, including the recount process. SB 632 would implement critical reporting requirements and we urge a favorable report

SB632_ Election Recount Committees Testimony.pdf

Uploaded by: Kagan, Sen. Cheryl

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB632: Election Recount Committee Reforms
Senate Education, Health, & Environmental Affairs Committee
Thursday, February 18, 2021 | 1:00 PM

Close elections at the national, state, and local levels have spurred conversations about recounts. Any Maryland candidate who has been defeated can request a recount within three days of the results being certified. Additionally, any registered voter may file for a recount for a ballot question. Unfortunately, our law is largely silent on how to handle “contested election committees,” which are used to fund recounts.

In 2018, there were several close primary elections. David Blair narrowly lost to Marc Elrich by 77 votes (a .1% margin) for Montgomery County Executive. Johnny Olszewski beat Sen. Jim Brochin by only 17 votes (a .03% margin) for Baltimore County Executive. Elizabeth “Liz” Walsh edged out Councilmember Jon Weinstein by just 6 votes (a .1% margin) in Howard County Council District 1. In each of these instances, the results were certified by a recount.

After discussing the current process with the State Board of Elections (SBE), Ways & Means Committee Chair Anne Kaiser and I learned that our current laws in this area are insufficient. The bill attempts to mirror regular campaign committee requirements for candidates and ballot questions while keeping the accelerated schedule of a recount in mind by:

- Establishing thresholds for recounts at:
 - .25% margin for state-funded recounts for candidates; and
 - 5% margin for all other recounts;
- Obligating the Treasurer of the contested election committee to open a new bank account and file a statement of organization with SBE;
- Restricting campaign donations to \$2,000 per individual for candidates. Committees for ballot questions would have no limit;
- Restricting campaigns to accepting loans only from financial institutions or personal funds;
- Creating a timeline for reporting contributions to SBE;
- Requiring any unused funds from the recount to be returned to donors on a pro rata basis;
- Instituting publicly funded contested election committees in counties with public campaign financing systems;
- Authorizing counties to impose more stringent regulations; and
- Retaining records for at least two years after the committee files its final report.

Howard, Montgomery, and Prince George's Counties allow public campaign financing for candidates but do not account for recounts filed by publicly financed candidates. SB632 would require counties with public campaign financing to establish publicly funded contested election committees and enact stricter reporting requirements if they choose.

Montgomery County is proposing two clarifying amendments related to public campaign finance. The first specifically includes contested election committees for campaigns using public financing. The second allows a county to decide the amount of money publicly funded candidates can transfer from their campaign account to the contested election account. This would give counties flexibility to ensure that taxpayer money is used responsibly.

I urge a favorable with amendments report on SB632 to establish needed guardrails for recount committees.

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Uploaded by: Soreng, Nancy

Position: FAV



**TESTIMONY TO THE SENATE EDUCATION, HEALTH AND ENVIRONMENTAL
AFFAIRS COMMITTEE**

SB 632 Election Law – Contested Elections

POSITION: Support

BY: Lois Hybl and Richard Willson – Co-Presidents

Date: February 18, 2021

The League of Women Voters supports all measures that ensure transparency and the public's right to know who is donating money to candidates. While this legislation doesn't address transparency in funding campaigns, it will reveal who is financing recounts for candidates which can be costly.

If enacted, this legislation will require the formation of Recount Committees when candidates are accepting donations to fund a recount. The reporting requirements for these committees would be very similar to those of a campaign committee.

This bill also changes the threshold to be able to request a recount. Because the League has never studied the recount practice in Maryland we cannot comment on that aspect of the legislation.

Because our best tool for limiting the influence of money on politics is transparency, we urge a favorable report on SB 632.

SB 632 - MoCo (GA 21).pdf

Uploaded by: Boucher, Kathleen

Position: FWA



Montgomery County

Office of Intergovernmental Relations

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SB 632

DATE: February 16, 2021

SPONSOR: Senator Kagan

ASSIGNED TO: Education, Health, and Environmental Affairs

CONTACT PERSON: Kathleen Boucher (kathleen.boucher@montgomerycountymd.gov)

POSITION: Support with Amendments

Election Law – Contested Elections

This bill prohibits a person from accepting a donation or making a disbursement relating to a contested election (i.e., recount) unless the person first establishes a contested election committee and complies with comprehensive rules governing donation limits, bank accounts, deposits, disbursements, acceptance of loans, disposal of surplus funds, recordkeeping, and reporting. The bill also establishes a prohibition against a candidate petitioning for a recount if the margin of difference between the number of votes received by an apparent winner and the losing candidate with the highest number of votes for the office is greater than 5% of the total votes cast for those candidates, and increases the margin of difference that triggers public funding of a recount from .10% to .25% of the total votes cast for the two candidates. Importantly, the bill grants enabling authority for a county to provide public funds to a publicly financed candidate's contested election committee.

Montgomery County strongly supports this bill but respectfully requests that it be amended to clarify the scope of local enabling authority (see below). The County also requests that the bill be amended to clarify: (1) that the definition of "contested election" (page 4, line 13) includes elections where there is a potential for a recount that eventually does not materialize because neither candidate decides to file a formal recount petition or initiate a judicial action; and (2) that a candidate may create a contested election committee at any time (i.e., before or after the original certification of the votes).

PROPOSED AMENDMENTS

Amendment 1

On page 11, in line 26, after "(a)" insert:

**"IN THIS SECTION "CONTESTED ELECTION COMMITTEE" MEANS A
CONTESTED ELECTION COMMITTEE ESTABLISHED UNDER TITLE 12, SUBTITLE 3 OF
THIS ARTICLE.**

(B)"; and in line 29, after "financing" insert "**, INCLUDING PUBLIC FINANCING OF A
CONTESTED ELECTION COMMITTEE,**".

On page 12, in line 5, strike “(b)” and substitute “**(C)**”; in the same line, strike “(a)” and substitute “**(B)**”; in line 26, strike the brackets; strike lines 27 through 29, inclusive; in line 31, strike the brackets; and in the same line, strike “**(8)**”. On page 13, in line 1, strike “(c)” and substitute “**(D)**”; and in the same line strike “(a)” and substitute “**(B)**”.

Rationale: This amendment clarifies that a “system of public campaign financing” enacted by a county may include public financing of a contested election committee established by a publicly financed candidate.

Amendment 2

On page 13, in line 7, after the semicolon insert “**AND**”; and strike lines 8 through 12, inclusive, and substitute:

(3) NOTWITHSTANDING SECTION 12-305(B) OF THIS ARTICLE, ALLOW A PUBLICLY FINANCED CANDIDATE TO TRANSFER ANY AMOUNT OF FUNDS FROM THE CANDIDATE’S CAMPAIGN FINANCE ENTITY TO THE CANDIDATE’S CONTESTED ELECTION COMMITTEE.

Rationale: This amendment allows a county to decide the amount of surplus money that can be transferred from a publicly financed candidate’s campaign finance entity. Without this amendment, a publicly financed candidate would be limited to transferring \$2,000, just like any other candidate. The public interest is best served by allowing this flexibility for publicly financed candidates who receive only small private donations and public funds.