

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 759

(Senator Lam)

Education, Health, and Environmental Affairs

Ways and Means

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Election Law - Disclosure of Contributions by Persons Doing Public Business -  
Enforcement

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This bill modifies the penalties applicable to a violation of Title 14 of the Election Law Article (which requires filing of statements of specified political contributions by persons with a State or local government contract of at least \$200,000) and expands the State Board of Elections' (SBE) authority to enforce filing requirements and its assessment of late filing fees under Title 14. **The bill takes effect June 1, 2020.**

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**Fiscal Summary**

**State Effect:** Special fund revenues may increase annually, beginning in FY 2021, as discussed below. Expenditures are not expected to be materially affected.

**Local Effect:** The bill is not expected to materially affect local government finances.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:**

*Modified Penalties*

The bill increases the maximum monetary penalty for a knowing and willful violation of Title 14 of the Election Law Article, from \$1,000 to \$25,000.

The bill also prohibits a person from (1) willfully making a false, fraudulent, or misleading statement or entry in any filing under oath required by Title 14 or (2) making an electronic submission of a statement required to be filed under Title 14 by a person doing public business, or any other document required by Title 14 on behalf of another person, without that person's express consent. A person who violates those prohibitions is guilty of perjury and on conviction is subject to the penalty provided under the Criminal Law Article (imprisonment for up to 10 years).

The bill also establishes a civil penalty, of up to \$5,000, applicable to a person who violates a provision of Title 14 without knowing the act is illegal (violating a provision unintentionally and without criminal intent). The bill establishes procedures for imposing the civil penalty that are equivalent to those applicable to civil penalties imposed under the campaign finance provisions of Title 13 of the Election Law Article, and include issuance of a citation by the State Prosecutor, State's Attorney, or both, and a right to a trial in the District Court. Civil penalties and late fees collected under those procedures are distributed to the Fair Campaign Financing Fund.

#### *Enforcement of Filing Requirements*

The bill expands SBE's authority to enforce filing requirements and its assessment of late filing fees for late filing of statements under Title 14 by, among other things, allowing for referral for prosecution after specified notice and subsequent failure to rectify the failure to file, and pay any late fee, or show cause why the failure(s) should not be referred for prosecution.

**Current Law:** Under Title 14 of the Election Law Article, persons that do public business (defined as making or having a single contract with a State or local governmental entity involving cumulative consideration of at least \$200,000) are required to submit statements to SBE regarding any applicable contributions. An initial statement is filed when a contract is awarded that causes the person to be doing public business and semi-annually thereafter as long as performance on the contract remains uncompleted. "Applicable contributions" are defined as contributions or donations to or for the benefit of a candidate for an office of the governmental entity with which the person is doing public business.

SBE is authorized to impose late fees for late filing of a statement or amended statement in the same amounts and manner provided under specified provisions of Title 13 of the Election Law Article applicable to late filing of campaign finance reports. The fees assessed under those provisions are (1) \$20 for each of the first seven days a report is overdue; (2) \$35 for each of the following seven days; and (3) \$50 for each day thereafter. The maximum fee payable for a given report is \$1,000.

A person who knowingly and willfully violates Title 14 is guilty of a misdemeanor and subject to a fine of up to \$1,000 and/or imprisonment for up to one year. An officer or partner of a business entity who knowingly authorizes or participates in a violation of Title 14 by the business entity is subject to the same penalty.

**State Revenues:** Special fund revenues may increase annually, beginning in fiscal 2021, to the extent additional late fee or civil/criminal penalty revenues are collected as a result of the bill's changes. Late filing fees and civil/criminal penalties are deposited in the Fair Campaign Financing Fund.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 951 (Delegate Washington) - Ways and Means.

**Information Source(s):** State Board of Elections; State Prosecutor's Office; Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2020  
rh/hlb Third Reader - March 13, 2020  
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