

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 949  
Ways and Means

(Delegates Kittleman and Boteler)

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Campaign Finance – Campaign Finance Reports – Prohibition on Disclosure

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This bill establishes that campaign finance reports required under Title 13 (“Campaign Finance”) of the Election Law Article or by municipalities that require candidates in a municipal election to file campaign finance reports, are not subject to public inspection under Maryland’s Public Information Act (PIA). In addition, the campaign finance reports may not be disclosed to a person other than the State Board of Elections (SBE) or a local board of elections unless (1) the disclosure is required by federal law; (2) the report is being disclosed to a law enforcement agency in accordance with a warrant; or (3) the report is being disclosed as part of a *bona fide* legal proceeding. The bill applies only prospectively and does not have any effect on or application to any requests for inspections of public records filed, campaign finance reports filed, or campaign contributions made before the effective date of the bill. **The bill takes effect January 1, 2023.**

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Fiscal Summary

**State Effect:** The bill is not expected to materially affect State finances.

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

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Campaign Finance Reporting*

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.

Campaign finance reports required to be filed with SBE generally must be submitted using an electronic storage medium and in a format that SBE approves. SBE is required to make the campaign finance reports that are maintained in an electronic storage format widely and easily accessible to the public.

SBE makes reported information publicly available through its online Maryland Campaign Reporting Information System.

### *Maryland Public Information Act*

#### *In General*

PIA establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any *Public Information Act Manual* published by OAG.

*Duties of Custodians:* Generally, a custodian of a public record must permit inspection of any public record at any reasonable time. A custodian must designate types of public records that are to be made available to any applicant immediately on request and maintain a current list of the types of public records that have been so designated. Each custodian must adopt reasonable rules or regulations that, consistent with PIA, govern timely production and inspection of a public record. Chapter 658 of 2021, effective July 1, 2022, requires each official custodian to adopt a policy of proactive disclosure of public records that are available for inspection under PIA, as specified.

#### *Denials*

*Required Denials:* A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the

inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. PIA also requires denial of inspection for specified personal and confidential records and information, including, for example, personnel and student records, hospital records, specified medical and financial information, and shielded criminal and police records.

*Discretionary Denials:* Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. PIA specifies the types of records and information that are eligible for discretionary denials, including documents that would not be available through discovery in a lawsuit.

*Procedure for Denial:* A custodian who denies inspection of a public record must, within 10 working days, provide a written statement to the applicant that gives (1) the reason for denial; (2) if denying a part of a record on a discretionary basis, a brief explanation of why the denial is necessary and why redacting information would not address the reasons for the denial; (3) the legal authority for the denial; (4) a brief description of the undisclosed record (without disclosing the protected information); and (5) notice of the available statutory remedies.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - March 6, 2022  
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