

HOUSE BILL 761

G1

11r2094
CF SB 632

By: **Delegate Kaiser**

Introduced and read first time: January 29, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2021

CHAPTER _____

1 AN ACT concerning

2 **Election Law – ~~Contested Elections~~ Postelection Procedures**

3 FOR the purpose of ~~prohibiting certain candidates from petitioning for a recount under~~
4 ~~certain circumstances; prohibiting a registered voter from filing a petition for a~~
5 ~~recount based on the certified results of a ballot question under certain~~
6 ~~circumstances; altering the circumstances under which a certain petitioner for a~~
7 ~~recount is not liable for the costs of the recount; providing that certain provisions of~~
8 ~~this Act apply only to persons that accept public campaign financing under certain~~
9 ~~provisions of law; providing that a person may accept a donation or make a~~
10 ~~disbursement related to a contested election only if the person establishes a~~
11 ~~contested election committee and makes certain disclosures; authorizing a person to~~
12 ~~establish a contested election committee at any time by filing a certain statement of~~
13 ~~organization with the State Board of Elections; requiring a contested election~~
14 ~~committee to deposit all donations in and make all disbursements from a designated~~
15 ~~bank account; requiring that disbursements of a contested election committee pass~~
16 ~~through the hands of the treasurer and be in accordance with the purposes of the~~
17 ~~entity; establishing a certain limit on the aggregate amount of donations a person~~
18 ~~may make to a contested election committee in an election year; establishing a~~
19 ~~certain limit on the aggregate amount of transfers a campaign finance entity may~~
20 ~~make to a contested election committee in an election year; providing that donations~~
21 ~~or transfers to a contested election committee established to contest a ballot question~~
22 ~~election are not subject to certain limits; providing that donations from the personal~~
23 ~~funds of a candidate or the candidate's spouse to a certain contested election~~
24 ~~committee are not subject to certain limits; prohibiting certain persons from~~
25 ~~soliciting or accepting donations on behalf of a contested election committee in excess~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



of certain contribution limits; prohibiting a contested election committee from accepting a loan other than a loan from certain sources; providing that certain loans may be of any amount; requiring the treasurer of a contested election committee to maintain certain records; requiring a contested election committee to retain the records for a certain period of time; requiring the treasurer of a contested election committee to file certain reports with the State Board in a certain manner; requiring the State Board to make certain reports publicly available on the Internet; requiring that a report filed by a treasurer of a contested election committee include certain information; requiring the treasurer of a contested election committee to file a report on or before certain dates; requiring the State Board to establish certain reporting periods for certain reports; requiring the State Board, under certain circumstances, to notify the treasurer of a contested election committee of certain deficiencies in a certain manner; requiring the treasurer of a contested election committee to file an amended report under certain circumstances; requiring the State Board to assess certain late filing fees for failure to file certain reports; providing for the amount, payment, use, and certain other matters relating to late filing fees; requiring the State Board to issue a certain notice to the treasurer of a contested election committee that has failed to file a certain report or pay a certain late filing fee; authorizing a certain prosecuting authority to refer certain matters to the Central Collection Unit in the Department of Budget and Management; providing that a treasurer of a contested election committee who commits a certain violation is guilty of a misdemeanor and on conviction is subject to certain penalties; prohibiting a candidate whose contested election committee has failed to file a certain report or pay a certain late fee from being issued a certificate of nomination under certain circumstances; prohibiting a candidate whose contested election committee has failed to file a certain report or pay a certain late fee from being deemed to be elected to a certain office, take the oath or otherwise assume the duties of the office, or receive a certain salary or compensation; prohibiting certain officials from issuing a commission or administering an oath to an individual until the official receives a certain certification from the State Board; authorizing the State Board to impose a civil penalty on a contested election committee for certain violations; providing for the amount, manner of assessment, and payment of certain civil penalties; requiring that certain unspent public contributions be repaid to a certain government entity; providing that certain private contributions are treated as spent before certain public contributions for the purpose of making a certain calculation; requiring a contested election committee to pay all outstanding obligations and dispose of its remaining assets in a certain manner before filing a final report; repealing a provision of law providing that certain provisions of law do not affect the right of an individual to pay certain legal expenses associated with maintaining or contesting the results of an election; ~~requiring providing that a certain system of public campaign financing established by the governing body of a county allow a publicly financed candidate to establish may include public financing of a contested election committee; authorizing a system of public campaign financing established by the governing body of a county to provide public funds to the contested election committee of a publicly financed candidate and provide for more stringent regulation of campaign finance activity related to a contested election committee of a publicly financed candidate; 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; requiring the State Administrator of Elections to convene a Risk-Limiting Audits Workgroup; requiring the Workgroup to consist of certain persons selected by the State Administrator; requiring the State Administrator, or the State Administrator's designee, to serve as chair of the Workgroup; requiring that the first meeting of the Workgroup be held on or before a certain date; requiring the Workgroup to draft a plan to conduct a risk-limiting audit of certain contests after each statewide election and proposed legislation for consideration by the General Assembly that would enact the plan; requiring the plan for conducting risk-limiting audits drafted by the Workgroup to include certain requirements and certain elements; requiring the Workgroup to submit its plan for conducting risk-limiting audits and its proposed legislation that would enact the plan to certain committees of the General Assembly on or before a certain date; making a technical correction; altering certain definitions; defining certain terms; and generally relating to ~~contested elections~~ postelection procedures.

BY repealing and reenacting, without amendments,

Article – Election Law

Section 1–101(a)

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Election Law

Section 1–101(o) and (aa), ~~12–101(a)~~, ~~12–103(a)~~, 12–107, 13–233, and 13–505

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

BY adding to

Article – Election Law

Section 12–301 through 12–313 to be under the new subtitle “Subtitle 3. Contested Election Committee”

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Election Law

1–101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(o) (1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to:

(I) promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question; AND

(II) ASSIST IN THE PAYMENT OF EXPENSES ASSOCIATED WITH CONTESTING AN ELECTION UNDER TITLE 12 OF THIS ARTICLE.

(2) "Contribution" includes:

(i) proceeds from the sale of tickets to a campaign fund-raising event; and

(ii) a coordinated expenditure as defined in § 13-249 of this article.

(3) "Contribution" does not include the costs associated with the establishment, administration, or solicitation of voluntary contributions to a political action committee established by a corporation, limited liability company, general partnership, limited partnership, membership organization, trade association, cooperative, or corporation without capital stock as long as the political action committee only solicits contributions from employees of the organization that established the political action committee, or members of the organization that established the political action committee, and the employees or members are participating in a payroll deduction program established by the employer of the employee or member.

(aa) "Expenditure" means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to:

(1) promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question at an election; [or]

(2) PAY EXPENSES ASSOCIATED WITH CONTESTING AN ELECTION UNDER TITLE 12 OF THIS ARTICLE; OR

[(2)] (3) pay for the publication expense of a legislative newsletter under Title 13, Subtitle 4 of this article.

~~12-101.~~

~~(a) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A candidate for public or party office who has been defeated based on the certified results of any election conducted under this article may petition for a recount of the votes cast for the office sought.~~

~~(2) A CANDIDATE MAY NOT PETITION 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.~~

~~12-103.~~

~~(a) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A petition for a recount based on the certified results of a question on the ballot in an election conducted under this article may be filed by a registered voter eligible to vote for that question.~~

~~(2) A REGISTERED VOTER MAY NOT FILE A PETITION FOR A RECOUNT IF THE MARGIN OF DIFFERENCE BETWEEN THE NUMBER OF VOTES CAST FOR AND THE NUMBER OF VOTES CAST AGAINST THE QUESTION IS GREATER THAN 5%.~~

~~12-107.~~

(a) In this section, "petitioner" includes a counterpetitioner.

(b) (1) Except as provided in paragraph (2) of this subsection, each petitioner shall pay the cost of a recount requested under this subtitle and the petitioner's bond is liable for the cost.

(2) The petitioner is not liable for the costs of the recount if:

(i) the outcome of the election is changed;

(ii) the petitioner has gained a number of votes, for the petitioner's candidacy or for or against the question that is the subject of the petition, equal to 2% or more of the total votes cast for the office or on the question, in all precincts being recounted; or

(iii) 1. the margin of difference in the number of votes received by an apparent winner and the losing candidate with the highest number of votes for an office is [0.1%] **0.25%** or less of the total votes cast for those candidates; or

2. in the case of a question, the margin of difference between the number of votes cast for and the number cast against the question is ~~0.1%~~ **0.25%** or less.

(c) If the petitioner is not liable for the costs of the recount as provided in subsection (b) of this section, a county shall pay the costs of the recount in that county.

SUBTITLE 3. CONTESTED ELECTION COMMITTEE.

~~12-301.~~

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “CONTESTED ELECTION” MEANS AN ELECTION SUBJECT TO:

~~(1)~~ (I) A RECOUNT UNDER SUBTITLE 1 OF THIS TITLE; OR

~~(2)~~ (II) A JUDICIAL CHALLENGE UNDER SUBTITLE 2 OF THIS TITLE.

(2) “CONTESTED ELECTION” INCLUDES AN ELECTION THAT MAY BE SUBJECT TO A RECOUNT UNDER SUBTITLE 1 OF THIS TITLE, BUT FOR WHICH A RECOUNT DOES NOT OCCUR BECAUSE NEITHER CANDIDATE FILES A FORMAL RECOUNT PETITION OR INITIATES A JUDICIAL ACTION.

(C) “CONTESTED ELECTION COMMITTEE” MEANS AN ENTITY FORMED FOR THE EXCLUSIVE PURPOSE OF RECEIVING DONATIONS AND MAKING DISBURSEMENTS RELATING TO A CONTESTED ELECTION.

12-302.

(A) THIS SUBTITLE APPLIES ONLY TO A PERSON THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER:

(1) TITLE 15 OF THIS ARTICLE; OR

(2) § 13-505 OF THIS ARTICLE.

(B) A PERSON MAY ACCEPT A DONATION OR MAKE A DISBURSEMENT RELATING TO A CONTESTED ELECTION ONLY IF THE PERSON:

(1) ESTABLISHES A CONTESTED ELECTION COMMITTEE; AND

(2) DISCLOSES THE DONATIONS AND DISBURSEMENTS IN ACCORDANCE WITH THIS SUBTITLE.

12-303.

A PERSON MAY ESTABLISH A CONTESTED ELECTION COMMITTEE AT ANY TIME BY FILING A STATEMENT OF ORGANIZATION WITH THE STATE BOARD THAT INCLUDES:

(1) THE APPOINTMENT OF A TREASURER; AND

(2) ANY OTHER INFORMATION THAT THE STATE BOARD REQUIRES.

12-304.

(A) A CONTESTED ELECTION COMMITTEE SHALL:

(1) DEPOSIT ALL DONATIONS RECEIVED IN A DESIGNATED BANK ACCOUNT; AND

(2) MAKE ALL DISBURSEMENTS FROM THE DESIGNATED BANK ACCOUNT.

(B) DISBURSEMENTS OF A CONTESTED ELECTION COMMITTEE SHALL:

(1) PASS THROUGH THE HANDS OF THE TREASURER; AND

(2) BE IN ACCORDANCE WITH THE PURPOSE OF THE ENTITY.

12-305.

~~(A) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, A PERSON MAY NOT, DIRECTLY OR INDIRECTLY, IN AN ELECTION YEAR MAKE AGGREGATE DONATIONS IN EXCESS OF \$2,000 TO ANY ONE CONTESTED ELECTION COMMITTEE.~~

~~(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CAMPAIGN FINANCE ENTITY MAY NOT, DIRECTLY OR INDIRECTLY, IN AN ELECTION YEAR MAKE AGGREGATE TRANSFERS IN EXCESS OF \$2,000 TO ANY ONE CONTESTED ELECTION COMMITTEE.~~

~~(C) DONATIONS OR TRANSFERS TO A CONTESTED ELECTION COMMITTEE THAT IS ESTABLISHED TO CONTEST A BALLOT QUESTION ELECTION ARE NOT SUBJECT TO THE LIMITS ON DONATIONS OR TRANSFERS UNDER THIS SECTION.~~

~~(D) DONATIONS FROM THE PERSONAL FUNDS OF A CANDIDATE OR THE CANDIDATE'S SPOUSE TO A CONTESTED ELECTION COMMITTEE ESTABLISHED TO FINANCE A RECOUNT OR JUDICIAL CHALLENGE OF AN ELECTION IN WHICH THE CANDIDATE WAS ON THE BALLOT ARE NOT SUBJECT TO THE LIMITS ON DONATIONS UNDER THIS SECTION.~~

(A) (1) A PERSON THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER TITLE 15 OF THIS ARTICLE MAY NOT SOLICIT OR ACCEPT A DONATION ON BEHALF OF A CONTESTED ELECTION COMMITTEE IN EXCESS OF THE CONTRIBUTION LIMITS ESTABLISHED UNDER TITLE 15 OF THIS ARTICLE.

(2) A PERSON THAT ACCEPTS PUBLIC CAMPAIGN FINANCING UNDER § 13-505 OF THIS ARTICLE MAY NOT SOLICIT OR ACCEPT A DONATION ON BEHALF OF A CONTESTED ELECTION COMMITTEE IN EXCESS OF THE CONTRIBUTION LIMITS ESTABLISHED IN LAW BY THE GOVERNING BODY OF THE COUNTY IN ACCORDANCE WITH § 13-505 OF THIS ARTICLE.

~~(B)~~ (1) A CONTESTED ELECTION COMMITTEE MAY NOT ACCEPT A LOAN OTHER THAN A LOAN FROM:

(I) A FINANCIAL INSTITUTION OR OTHER ENTITY IN THE BUSINESS OF MAKING LOANS; OR

(II) THE PERSONAL FUNDS OF A CANDIDATE OR THE CANDIDATE'S SPOUSE IF THE CONTESTED ELECTION COMMITTEE WAS ESTABLISHED TO FINANCE A RECOUNT OF AN ELECTION IN WHICH THE CANDIDATE WAS ON THE BALLOT.

(2) A LOAN UNDER THIS SUBSECTION MAY BE OF ANY AMOUNT.

12-306.

(A) THE TREASURER OF A CONTESTED ELECTION COMMITTEE SHALL MAINTAIN DETAILED AND ACCURATE RECORDS OF ALL:

(1) DONATIONS RECEIVED BY THE CONTESTED ELECTION COMMITTEE;

(2) DISBURSEMENTS MADE BY THE CONTESTED ELECTION COMMITTEE; AND

(3) OUTSTANDING OBLIGATIONS OF THE CONTESTED ELECTION COMMITTEE.

(B) A CONTESTED ELECTION COMMITTEE SHALL RETAIN THE RECORDS REQUIRED TO BE MAINTAINED UNDER SUBSECTION (A) OF THIS SECTION FOR A PERIOD OF 2 YEARS AFTER FILING A FINAL REPORT.

12-307.

(A) THE TREASURER OF A CONTESTED ELECTION COMMITTEE SHALL FILE REPORTS WITH THE STATE BOARD AS REQUIRED IN THIS SUBTITLE:

(1) USING AN ELECTRONIC FORMAT;

1 (2) WITH THE ELECTRONIC SIGNATURE OF THE TREASURER FILING
2 THE REPORT;

3 (3) UNDER OATH OR AFFIRMATION; AND

4 (4) SUBJECT TO THE PENALTIES FOR PERJURY.

5 (B) THE STATE BOARD SHALL MAKE THE REPORTS SUBMITTED UNDER THIS
6 SUBTITLE PUBLICLY AVAILABLE ON THE INTERNET.

7 12-308.

8 (A) A REPORT FILED BY THE TREASURER OF A CONTESTED ELECTION
9 COMMITTEE UNDER THIS SUBTITLE SHALL INCLUDE THE INFORMATION REQUIRED
10 BY THE STATE BOARD WITH RESPECT TO ALL DONATIONS, DISBURSEMENTS, AND
11 OUTSTANDING OBLIGATIONS OF THE CONTESTED ELECTION COMMITTEE DURING
12 THE REPORTING PERIOD.

13 (B) (1) IF THE PERSON WHO ESTABLISHED THE CONTESTED ELECTION
14 COMMITTEE HAS FILED A PETITION FOR A RECOUNT UNDER SUBTITLE 1 OF THIS
15 TITLE OR HAS FILED A COMPLAINT IN THE CIRCUIT COURT UNDER SUBTITLE 2 OF
16 THIS TITLE, THE TREASURER OF THE CONTESTED ELECTION COMMITTEE SHALL
17 FILE THE CONTESTED ELECTION COMMITTEE'S FIRST REPORT ON OR BEFORE THE
18 FIRST DAY AFTER THE EARLIER OF:

19 (I) THE DAY THE PERSON WHO ESTABLISHED THE CONTESTED
20 ELECTION COMMITTEE FILED THE PETITION FOR A RECOUNT; OR

21 (II) THE DAY THE PERSON WHO ESTABLISHED THE CONTESTED
22 ELECTION COMMITTEE FILED THE COMPLAINT IN THE CIRCUIT COURT.

23 (2) IF THE PERSON WHO ESTABLISHED THE CONTESTED ELECTION
24 COMMITTEE HAS NOT FILED A PETITION FOR A RECOUNT UNDER SUBTITLE 1 OF
25 THIS TITLE OR FILED A COMPLAINT IN THE CIRCUIT COURT UNDER SUBTITLE 2 OF
26 THIS TITLE, THE TREASURER OF THE CONTESTED ELECTION COMMITTEE SHALL
27 FILE THE CONTESTED ELECTION COMMITTEE'S FIRST REPORT ON OR BEFORE THE
28 DAY THAT IS 7 DAYS AFTER THE DAY THAT THE CONTESTED ELECTION COMMITTEE
29 OF THE OPPOSING CANDIDATE OR OPPOSING PARTY FILED ITS FIRST REPORT
30 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

31 (C) THE TREASURER OF A CONTESTED ELECTION COMMITTEE SHALL FILE
32 SUBSEQUENT REPORTS ON OR BEFORE:

1 **(1) THE MONDAY THAT IS 30 DAYS AFTER THE DUE DATE OF THE**
2 **FIRST REPORT FILED BY THE CONTESTED ELECTION COMMITTEE UNDER**
3 **SUBSECTION (B) OF THIS SECTION;**

4 **(2) THE MONDAY THAT IS 60 DAYS AFTER THE DUE DATE OF THE**
5 **FIRST REPORT FILED BY THE CONTESTED ELECTION COMMITTEE UNDER**
6 **SUBSECTION (B) OF THIS SECTION; AND**

7 **(3) THE THIRD WEDNESDAY IN JANUARY OF EACH YEAR THAT THE**
8 **CONTESTED ELECTION COMMITTEE REMAINS IN EXISTENCE.**

9 **(D) THE STATE BOARD SHALL, BY REGULATION, ESTABLISH THE**
10 **REPORTING PERIODS FOR EACH OF THE REPORTS REQUIRED UNDER THIS**
11 **SUBTITLE.**

12 **(E) IF THE TREASURER OF A CONTESTED ELECTION COMMITTEE FAILS TO**
13 **PROVIDE ALL THE INFORMATION REQUIRED ON A REPORT UNDER THIS SUBTITLE:**

14 **(1) THE STATE BOARD SHALL NOTIFY THE TREASURER IN WRITING**
15 **OF THE PARTICULAR DEFICIENCIES; AND**

16 **(2) THE TREASURER SHALL FILE AN AMENDED REPORT THAT**
17 **INCLUDES ALL THE INFORMATION REQUIRED WITHIN 30 DAYS AFTER SERVICE OF**
18 **THE NOTICE.**

19 **12-309.**

20 **(A) (1) THE STATE BOARD SHALL ASSESS LATE FILING FEES FOR**
21 **FAILURE TO PROPERLY FILE A REPORT UNDER THIS SUBTITLE.**

22 **(2) THE STATE BOARD SHALL ASSESS THE FEES IN THE FOLLOWING**
23 **AMOUNTS FOR EACH DAY OR PART OF A DAY THAT A REPORT UNDER THIS SUBTITLE**
24 **IS OVERDUE:**

25 **(I) \$20 FOR EACH OF THE FIRST 7 DAYS;**

26 **(II) \$35 FOR EACH OF THE FOLLOWING 7 DAYS; AND**

27 **(III) \$50 FOR EACH DAY THEREAFTER.**

28 **(3) THE MAXIMUM FEE PAYABLE FOR A REPORT IS \$1,000.**

1 **(B) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**
2 **LATE FILING FEE UNDER THIS SECTION SHALL BE PAID BY THE CONTESTED**
3 **ELECTION COMMITTEE.**

4 **(II) IF THE CONTESTED ELECTION COMMITTEE HAS**
5 **INSUFFICIENT FUNDS WITH WHICH TO PAY THE FULL AMOUNT OF THE LATE FILING**
6 **FEE IN A TIMELY MANNER, AFTER THE ACCOUNT OF THE CONTESTED ELECTION**
7 **COMMITTEE IS EXHAUSTED THE BALANCE OF THE LATE FILING FEE IS THE**
8 **LIABILITY OF THE TREASURER.**

9 **(2) LATE FILING FEES SHALL BE DISTRIBUTED TO THE FAIR**
10 **CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.**

11 **(3) (I) THE STATE BOARD SHALL ACCEPT AN OVERDUE REPORT**
12 **THAT IS SUBMITTED WITHOUT PAYMENT OF THE LATE FILING FEE, BUT THE REPORT**
13 **IS NOT CONSIDERED FILED UNTIL THE FEE HAS BEEN PAID.**

14 **(II) AFTER AN OVERDUE REPORT IS RECEIVED UNDER**
15 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, NO FURTHER LATE FILING FEE SHALL BE**
16 **INCURRED.**

17 **(4) THE TREASURER OF A CONTESTED ELECTION COMMITTEE THAT**
18 **FAILS TO PROPERLY FILE A REPORT MAY SEEK RELIEF FROM A LATE FILING FEE**
19 **IMPOSED UNDER THIS SECTION FOR JUST CAUSE AS PROVIDED IN § 13-337 OF THIS**
20 **ARTICLE.**

21 **12-310.**

22 **(A) (1) IF THE STATE BOARD DETERMINES THAT THERE HAS BEEN, FOR**
23 **MORE THAN 30 DAYS, A FAILURE TO FILE A REPORT OR PAY A LATE FILING FEE**
24 **UNDER THIS SUBTITLE, THE STATE BOARD SHALL ISSUE THE NOTICE REQUIRED**
25 **UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE TREASURER OF THE**
26 **CONTESTED ELECTION COMMITTEE IN VIOLATION.**

27 **(2) THE NOTICE SHALL DEMAND THAT, WITHIN 30 DAYS AFTER**
28 **SERVICE OF THE NOTICE, EITHER:**

29 **(I) THE FAILURE TO FILE BE RECTIFIED AND ANY LATE FILING**
30 **FEE DUE BE PAID; OR**

31 **(II) THE TREASURER SHOW CAUSE WHY THE STATE BOARD**
32 **SHOULD NOT ASK THE APPROPRIATE PROSECUTING AUTHORITY TO PROSECUTE**
33 **THE TREASURER FOR A VIOLATION OF THIS SUBTITLE.**

(3) IN ITS DISCRETION, THE APPROPRIATE PROSECUTING AUTHORITY MAY REFER THE MATTER FOR ACTION TO THE CENTRAL COLLECTION UNIT WITHIN THE DEPARTMENT OF BUDGET AND MANAGEMENT.

(B) A TREASURER WHO FAILS, WITHOUT CAUSE, TO FILE THE REPORT AND PAY THE LATE FILING FEE WITHIN 30 DAYS AFTER SERVICE OF THE NOTICE REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTIES PRESCRIBED IN § 13-603 OF THIS ARTICLE.

12-311.

(A) A CANDIDATE WHOSE CONTESTED ELECTION COMMITTEE HAS FAILED TO FILE A REPORT OR PAY A LATE FILING FEE THAT IS DUE UNDER THIS SUBTITLE ON OR BEFORE THE DEADLINE FOR DECLINING THE NOMINATION SPECIFIED UNDER § 5-801(B) OF THIS ARTICLE MAY NOT BE ISSUED A CERTIFICATE OF NOMINATION UNDER § 5-705 OF THIS ARTICLE.

(B) A CANDIDATE WHOSE CONTESTED ELECTION COMMITTEE HAS FAILED TO FILE A REPORT OR PAY A LATE FILING FEE THAT IS DUE UNDER THIS SUBTITLE MAY NOT, UNTIL THE REPORT IS FILED OR THE LATE FILING FEE IS PAID:

(1) BE DEEMED TO BE ELECTED TO A PUBLIC OR PARTY OFFICE IN THIS STATE;

(2) TAKE THE OATH OR OTHERWISE ASSUME THE DUTIES OF THE OFFICE; OR

(3) RECEIVE A SALARY OR COMPENSATION FOR THE OFFICE.

(C) AN OFFICIAL OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS MAY NOT ISSUE A COMMISSION OR ADMINISTER AN OATH OF OFFICE TO AN INDIVIDUAL UNTIL THAT OFFICIAL RECEIVES CERTIFICATION FROM THE STATE BOARD THAT ALL REPORTS DUE UNDER THIS SUBTITLE FROM, OR ON BEHALF OF, THAT INDIVIDUAL HAVE BEEN FILED.

12-312.

(A) THE STATE BOARD MAY IMPOSE A CIVIL PENALTY ON A CONTESTED ELECTION COMMITTEE IN ACCORDANCE WITH THIS SECTION FOR THE FOLLOWING VIOLATIONS:

(1) MAKING A DISBURSEMENT FOR A PURPOSE NOT RELATED TO A CONTESTED ELECTION;

(2) FAILURE TO DISPOSE OF SURPLUS FUNDS IN ACCORDANCE WITH § 12-313 OF THIS SUBTITLE;

(3) FAILURE TO MAINTAIN THE RECORDS REQUIRED UNDER § 12-306 OF THIS SUBTITLE; OR

(4) FAILURE TO REPORT ALL DONATIONS, DISBURSEMENTS, AND OUTSTANDING OBLIGATIONS AS REQUIRED UNDER § 12-308 OF THIS SUBTITLE.

(B) A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE ASSESSED IN THE AMOUNT AND IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS ARTICLE.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE PAID BY THE CONTESTED ELECTION COMMITTEE.

(2) IF THE CONTESTED ELECTION COMMITTEE HAS INSUFFICIENT FUNDS WITH WHICH TO PAY THE FULL AMOUNT OF THE CIVIL PENALTY IN A TIMELY MANNER, AFTER THE ACCOUNT OF THE CONTESTED ELECTION COMMITTEE IS EXHAUSTED THE BALANCE OF THE CIVIL PENALTY IS THE LIABILITY OF THE TREASURER.

12-313.

(A) (1) ANY PART OF A PUBLIC CONTRIBUTION MADE TO A CONTESTED ELECTION COMMITTEE THAT IS NOT SPENT SHALL BE REPAID TO THE APPROPRIATE GOVERNMENT ENTITY.

(2) IN COMPUTING WHETHER PART OF A PUBLIC CONTRIBUTION IS NOT SPENT, ALL PRIVATE CONTRIBUTIONS TO THE PERSON SHALL BE TREATED AS SPENT BEFORE THE EXPENDITURE OF ANY PUBLIC CONTRIBUTION.

~~BEFORE~~ (B) AFTER REPAYING REMAINING PUBLIC CONTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION AND BEFORE FILING A FINAL REPORT, A CONTESTED ELECTION COMMITTEE SHALL PAY ALL OUTSTANDING OBLIGATIONS AND DISPOSE OF ALL ITS REMAINING ASSETS BY RETURNING THE REMAINING BALANCE IN THE ACCOUNT OF THE CONTESTED ELECTION COMMITTEE TO THE DONORS ON A PRO RATA BASIS.

13-233.

This Part V of this subtitle does not affect the right of an individual to[:

(1)] volunteer the individual's time or, for transportation incident to an election, personal vehicle[; or

(2) pay reasonable legal expenses associated with maintaining or contesting the results of an election].

13-505.

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

(B) (1) Subject to the provisions of this section, the governing body of a county may establish, by law, a system of public campaign financing for elective offices in the executive or legislative branches of county government.

(2) A SYSTEM OF PUBLIC FINANCING ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY INCLUDE PUBLIC FINANCING OF A CONTESTED ELECTION COMMITTEE.

~~(2)~~ **(3)** When establishing a system of public campaign financing for elective offices in the executive or legislative branches of county government, the governing body of a county shall:

(i) specify the criteria that [is] **ARE** to be used to determine whether an individual is eligible for public campaign financing; and

(ii) provide the funding and staff necessary for the operation, administration, and auditing of the system of public campaign financing.

~~(B)~~ **(C)** A system of public campaign financing enacted under subsection ~~(a)~~ **(B)** of this section:

(1) shall provide for participation of candidates in public campaign financing on a strictly voluntary basis;

(2) may not regulate candidates who choose not to participate in public campaign financing;

(3) shall prohibit the use of public campaign financing for any campaign except a campaign for county elective office;

(4) shall require a candidate who accepts public campaign financing to:

(i) establish a campaign finance entity solely for the campaign for county elective office; and

(ii) use funds from that campaign finance entity only for the campaign for county elective office;

(5) shall prohibit a candidate who accepts public campaign financing from transferring funds:

(i) to the campaign finance entity established to finance the campaign for county elective office from any other campaign finance entity established for the candidate; and

(ii) from the campaign finance entity established to finance the campaign for county elective office to any other campaign finance entity;

(6) shall provide for a public election fund for county elective offices that is administered by the chief financial officer of the county; ~~and~~

~~(7) SHALL ALLOW A PUBLICLY FINANCED CANDIDATE TO ESTABLISH A CONTESTED ELECTION COMMITTEE UNDER TITLE 12, SUBTITLE 3 OF THIS ARTICLE; AND~~

~~(7)~~ (8) shall be subject to regulation and oversight by the State Board to ensure conformity with State law and policy to the extent practicable.

~~(e)~~ (D) A system of public campaign financing enacted under subsection ~~(a)~~ (B) of this section may:

(1) provide for more stringent regulation of campaign finance activity by candidates who choose to accept public campaign financing, including contributions, expenditures, reporting, and campaign material, than is provided for by State law; [and]

(2) provide for administrative penalties for violations, in accordance with § 10-202 of the Local Government Article; AND

~~(3) PROVIDE PUBLIC FUNDS TO THE CONTESTED ELECTION COMMITTEE OF A PUBLICLY FINANCED CANDIDATE; AND~~

~~(4) PROVIDE FOR MORE STRINGENT REGULATION OF CAMPAIGN FINANCE ACTIVITY RELATED TO A CONTESTED ELECTION COMMITTEE OF A PUBLICLY FINANCED CANDIDATE~~

(3) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) In this section the following words have the meanings indicated.

(2) “Electronic count” means the vote totals produced by the voting system.

(3) “Manual count” means inspection of voter-verifiable paper records by hand and eye to obtain vote totals in a contest.

(4) “Risk limit” means the small, predetermined maximum chance that a risk-limiting audit will not require a full manual count of voter-verifiable paper records in an audited contest if a full manual count of the voter-verifiable paper records would find a different outcome than the outcome determined by the electronic count.

(5) “Risk-limiting audit” means a postelection audit procedure that employs statistical methods to ensure a large, predetermined minimum chance of requiring a full manual count of voter-verifiable paper records in an audited contest if a full manual count of the voter-verifiable paper records would find a different outcome than the outcome determined by the electronic count.

(6) “State Administrator” means the State Administrator of Elections.

(7) “State Board” means the State Board of Elections.

(8) “Voter-verifiable paper record” has the meaning stated in § 9-102 of the Election Law Article.

(b) (1) The State Administrator shall convene a Risk-Limiting Audits Workgroup.

(2) The Workgroup shall consist of the following persons selected by the State Administrator:

(i) experts in the theory and practice of risk-limiting audits;

(ii) at least one representative of the voting system vendor; and

(iii) local election officials.

(3) The State Administrator, or the State Administrator’s designee, shall serve as chair of the Workgroup.

(4) The first meeting of the Workgroup shall be held on or before June 10, 2021.

(5) The Workgroup shall:

1 (i) draft a plan to conduct a risk-limiting audit of at least one
2 statewide contest and at least one countywide or other local contest in each county after
3 each statewide election;

4 (ii) draft proposed legislation for consideration by the General
5 Assembly during the 2022 regular session that would enact the plan for conducting
6 risk-limiting audits after each statewide election; and

7 (iii) meet periodically thereafter to make recommendations to the
8 State Board to revise and improve the risk-limiting audit process as appropriate.

9 (c) The plan for conducting risk-limiting audits drafted by the Workgroup shall:

10 (1) require manual examination of randomly chosen individual
11 voter-verifiable paper records or batches of voter-verifiable paper records until the
12 maximum chance of a full manual count finding a different outcome than the outcome
13 determined by the electronic count is no larger than the risk limit, or until there has been
14 a full manual count;

15 (2) require a risk-limiting audit to:

16 (i) be completed before certification of the election results; and

17 (ii) be observable by the public to the maximum extent practicable;

18 (3) require that, if a risk-limiting audit finds that the election outcome
19 determined by the electronic count is incorrect, the official result of the election be altered
20 to match the outcome determined by the risk-limiting audit;

21 (4) require that a public report concerning the risk-limiting audit process
22 and the results of the risk-limiting audit be released after each statewide election; and

23 (5) include:

24 (i) criteria for determining the contests to be audited;

25 (ii) the risk limit; and

26 (iii) the audit method.

27 (d) On or before December 17, 2021, the Risk-Limiting Audits Workgroup shall
28 submit its plan for conducting risk-limiting audits and its proposed legislation that would
29 enact the plan to the Senate Education, Health, and Environmental Affairs Committee and
30 the Committee on Ways and Means in accordance with § 2-1257 of the State Government
31 Article.

1 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 ~~October~~ June 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.