

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

House Bill 602 (Delegate Bobo, *et al.*)
Ways and Means

Campaign Finance - Affiliated Business Entities - Attribution of Contributions

This bill modifies and expands an existing provision that requires campaign contributions by related corporations to be considered as being made by one contributor, limiting the total amount of contributions those corporations can make. The bill expands the limitation to apply to “business entities,” including general or limited partnerships, limited liability companies (LLC), and real estate investment trusts, as well as corporations, specifying that campaign contributions made by two or more business entities are considered to be made by a single contributor if (1) one business entity is a wholly owned subsidiary of another; or (2) the business entities are owned or controlled by at least 80% of the same individuals or business entities.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: General fund expenditures increase by \$52,600 in FY 2013 for the cost to hire a full-time investigator in the Office of the State Prosecutor (OSP) to handle additional investigations. Future year expenditures reflect an ongoing salary and operating costs. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	52,600	68,900	73,600	77,100	80,700
Net Effect	(\$52,600)	(\$68,900)	(\$73,600)	(\$77,100)	(\$80,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: With the exception of contributions to ballot issue committees, transfers between campaign finance entities, and in-kind contributions of a political party central committee, a person may not make, directly or indirectly, aggregate contributions within a four-year election cycle of more than \$4,000 to any one campaign finance entity or \$10,000 to all campaign finance entities.

Contributions by a corporation and any wholly owned subsidiary of the corporation, or by two or more corporations owned by the same stockholders, are considered as being made by one contributor.

Background: The issue of campaign contributions by LLCs and other noncorporation entities under common ownership and control was recently addressed by the Maryland Attorney General's Advisory Committee on Campaign Finance, which was formed in the fall of 2010 to examine and develop recommendations regarding the State's campaign finance laws. In its January 4, 2011 report, the committee discussed the unequal treatment of corporations and LLCs under the current law, where LLCs with common ownership are treated as unrelated entities for the purpose of campaign contribution limits, while corporate subsidiaries are treated as functionally part of one corporation. The committee also noted the fact that LLC owners are provided the means to far exceed the contribution limits that other Marylanders are subject to.

The committee recommended that the General Assembly "enact a statute that treats LLC clusters and all other legal entities with common ownership or control as single entities for contribution limit purposes." The statute should also "similarly treat as a single contributor affiliated entities that are under common control or ownership."

The committee also noted that creating or using an LLC solely for making campaign contributions is an election law violation and that it would be beneficial for the State Board of Elections to adopt regulations clarifying that fact.

The number of annual reports filed with the State Department of Assessments and Taxation by foreign and domestic LLCs has grown from approximately 74,000 in 2005 to approximately 117,600 in 2011, representing 40% of the annual reports filed (approximately 51% are filed by corporations).

State Fiscal Effect: General fund expenditures increase by \$52,559 in fiscal 2013, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one full-time investigator to investigate campaign finance violations associated with the bill's changes. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. OSP indicates that extensive investigative work would be required

to gather evidence to prove the cases since records of the business entities generally would not be public. OSP indicates that existing staff would not be able to handle the additional cases based on the office's current workload.

Position	1
Salary and Fringe Benefits	\$50,684
Computer Workstation	1,500
Supplies	<u>375</u>
Total FY 2013 State Expenditures	\$52,559

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: HB 322 of 2011 received a hearing in the House Ways and Means Committee, but no further action was taken. SB 339 of 2011 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 723/SB 663 of 2011 received hearings in the House Ways and Means and Senate Education, Health, and Environmental Affairs committees, respectively, but no further action was taken on either bill. In addition, similar bills were introduced in the 2003 through 2010 sessions.

Cross File: None.

Information Source(s): State Prosecutor's Office, State Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2012
ncs/hlb

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