

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 223 (Delegate McIntosh, *et al.*)

Commerce & Government Matters

Referred to Economic & Environmental Affairs

Election Law and Ethics Law Violations - Enforcement Procedures and Penalties

This amended bill establishes a civil citation procedure for unintentional (and without criminal intent) violations of the Fair Election Practices Act. The State Prosecutor and/or a State's Attorney can issue a civil citation to each violator. The District Court has original civil jurisdiction over each case. Any fines cannot exceed the greater of \$1,000 or an amount equal to 200% of the contribution, expenditure, or transfer involved in the violation, plus any late fees owed to the State Administrative Board of Election Laws (SABEL). The District Court must remit all late fees to SABEL.

The bill also increases the amount of fines for certain offenses. Any person who knowingly and willfully violates the Fair Election Practices Act is subject to a fine not exceeding the greater of \$25,000 or 300% of the contribution, expenditure, or transfer involved in the violation, and/or imprisonment not exceeding one year. However, any person who commits a violation without knowledge of the illegal act is subject to a fine not exceeding the greater of \$1,000 or 200% of the contribution, expenditure, or transfer involved in the violation. Currently, violators of the Fair Election Practices Act are subject to a fine not exceeding \$1,000 and/or imprisonment not exceeding one year.

In addition, the bill increases the statute of limitations for prosecutions to impose a civil fine for violations of the Fair Election Practices Act and for violations of lobbying disclosure laws from two to three years.

Fiscal Summary

State Effect: Potential minimal effect on revenues and expenditures resulting from the change in the statute of limitations and the applicable penalties.

Local Effect: Potential minimal effect on expenditures resulting from the change in the statute of limitations.

Small Business Effect: Potential minimal effect on small businesses as discussed below.

Fiscal Analysis

State Effect: To the extent that the increase in the statute of limitations for violations of the Fair Election Practices Act and lobbying disclosure laws causes an increase in the number of convictions, general fund expenditures could increase due to increased payments to counties for reimbursement of inmate costs. Persons serving a sentence of one year or less are sentenced to a local detention facility. These costs would depend upon the number of convictions and sentences imposed. However, it is assumed that the number of additional cases would be small, and that the State Prosecutor and the District Court could handle such cases with existing resources.

General fund revenues could also increase due to the extension of the statute of limitations and the increases in the monetary penalties. The increase would depend upon the number of convictions and the amount of monetary penalties. Under the bill, certain late fees would go to the State Administrative Board of Election Laws. Any amounts collected are assumed to be minimal.

Local Effect: To the extent that the increase in the statute of limitations causes more convictions, local expenditures could increase due to an increase in the number of incarcerations at local detention facilities. Although the number of additional incarcerations is unknown, it is likely that they would be small. Similarly, the county State's Attorneys could handle the additional workload with existing resources.

Small Business Effect: Currently, there are between 550 and 650 registered lobbyists in Maryland. The bill increases the statute of limitations period for prosecution of violations of lobbyist disclosure laws and fair election practices laws from two to three years. To the extent that this provision leads to more convictions, lobbyists could experience an increase in costs due to the additional fines. In addition, the bill increases the amount of fines for violations of fair election practices laws. As a result, small businesses that are convicted of violating such laws could experience an increase in costs. Although the number of such violations cannot be determined, it is likely to be small.

Information Source(s): State Administrative Board of Election Laws, State Ethics Commission, Office of State Prosecutor, Judiciary (District Court), Department of Fiscal Services

Fiscal Note History: First Reader - February 3, 1997

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