

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 755

(Senator Dyson)

Education, Health, and Environmental Affairs

Ways and Means

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Election Law - Slot Machine Gaming Referendum - Campaign Finance Reports

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This bill generally makes specified requirements currently applicable to a corporation that cumulatively spends more than \$10,000 on campaign material to promote the success or defeat of the constitutional amendment to authorize video lottery terminal gaming instead applicable to specified cumulative *expenditures* over \$10,000 to promote the success or defeat of the constitutional amendment made by *a person*. In addition, within seven days of making cumulative expenditures of more than \$10,000, a person must file specified information with the State Board of Elections and must subsequently file campaign finance reports on the same dates, in the same manner, and subject to the same sanctions, as required for a ballot issue committee under State law. The bill exempts an individual who uses personal funds and acts independently of others in making expenditures from a requirement that specified information be included on campaign material promoting the success or defeat of the constitutional amendment.

The bill takes effect June 1, 2008.

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**Fiscal Summary**

**State Effect:** Potential increase in general fund revenues and expenditures due to the sanctions provided for in the bill.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the sanctions provided for in the bill.

**Small Business Effect:** Potential minimal.

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## **Analysis**

**Current Law/Background:** The constitutional amendment proposed by Chapter 5 of the 2007 special session would authorize the issuance of a limited number of video lottery operation licenses in the State, subject to specified requirements and conditions, and would require any authorizations by the General Assembly of additional forms or expansion of commercial gaming to be submitted to a referendum. Chapter 5 will be submitted for Maryland voters' approval or rejection at the 2008 general election.

Chapter 4 of the 2007 special session requires a corporation that cumulatively spends more than \$10,000 on campaign material to promote the success or defeat of the constitutional amendment proposed by Chapter 5 to file campaign finance reports on the same dates on which a ballot issue committee is required to file campaign finance reports under State law. A report has to be filed under Chapter 4, by a ballot issue committee formed to promote the success or defeat of the constitutional amendment proposed by Chapter 5, on or before the fourth Friday immediately preceding the 2008 general election. In addition, a corporation must include on all campaign material published or distributed by the corporation to promote the success or defeat of the constitutional amendment specified information identifying those responsible for the material.

State campaign finance law requires a ballot issue committee to file campaign finance reports on or before the second Friday immediately preceding a general election and on or before the third Tuesday after a general election.

Under Title 13, Subtitle 3 of the Election Law Article, late filing fees of generally \$10 per business day that a report is overdue (an additional \$10 per day fee applies for the first six business days a preelection campaign finance report is overdue), with a \$250 maximum, apply to failures to file campaign finance reports.

In addition, a responsible officer of a ballot issue committee can be guilty of a misdemeanor for failing to file a campaign finance report and pay the applicable late fee after specified notice has been issued by SBE. On conviction, a responsible officer is subject to a fine of up to \$25,000 and/or imprisonment for up to one year.

Article 1 (Rules of Interpretation) of the Annotated Code specifies that the word "person" includes a corporation, partnership, business trust, or limited liability company, unless such a construction would be unreasonable.

**State Revenues:** General fund revenues could increase minimally as a result of the sanctions provided for under the bill from cases heard in the District Court. Any additional late fees collected by SBE are assumed to be minimal. Under State law, the

late fees are required to be applied to pay the expenses of collection and any audits of campaign finance reports performed by or at the direction of the State Administrator.

### **State Expenditures:**

#### *Office of the State Prosecutor*

General fund expenditures could increase for the Office of the State Prosecutor to pursue complaints/SBE referrals associated with the sanctions provided for under the bill. The number of complaints or referrals that would need to be pursued and any associated increase in general fund expenditures, however, cannot be reliably estimated. In fiscal 2007, which included the 2006 gubernatorial elections, the State Prosecutor received 469 election law complaints, the majority of which were campaign finance related.

#### *Incarceration Costs*

General fund expenditures could increase minimally as a result of the incarceration penalty associated with the sanctions provided for under the bill due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction facilities. The number of people convicted pursuant to the sanctions provided for under the bill is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

**Local Revenues:** Revenues could increase minimally as a result of the sanctions provided for under the bill from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the incarceration penalty associated with the sanctions provided for under the bill. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per

diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections, Department of Legislative Services

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