

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 157 (Senator Frosh, *et al.*)
Education, Health, and Environmental Affairs

Campaign Finance - Affiliated Business Entities - Attribution of Contributions

This bill expands the types of entities covered by campaign contribution attribution provisions to include a “business entity” which under the bill is defined as a corporation, a general or limited partnership, a limited liability company (LLC), or a real estate investment trust. Under current law, these provisions only apply to a corporation.

The bill considers campaign contributions by two or more business entities as being 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.

The bill takes effect June 1, 2009 and only applies prospectively.

Fiscal Summary

State Effect: None. The bill does not directly affect State operations or finances.

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 State Department of Assessments and Taxation's (SDAT) 2007 annual report indicated that LLCs were the preferred business entity type being formed by the public in the years leading up to and including 2006. Substantial numbers of corporations, limited partnerships, limited liability partnerships, and business trusts were also reported as being formed each year. The number of annual reports filed with SDAT by LLCs has grown from approximately 65,000 in fiscal 2005 to over 85,000 in fiscal 2008, representing 43% of the annual reports filed (approximately 53% are filed by corporations).

It is not uncommon for LLCs to represent individual real estate holdings and the same group of individuals, or a variation of the same group, may own several LLCs for the purposes of managing separate real estate holdings or other investments. Under current law, these individuals could potentially contribute the maximum aggregate contribution amount several times over depending on the number of LLCs of which they are members.

Additional Information

Prior Introductions: Similar bills have been introduced in each of the last six regular sessions. SB 245 of 2008, SB 227 of 2007, SB 140 of 2006, SB 461 of 2005, and SB 165 of 2004 each had a hearing in the Senate Education, Health, and Environmental Affairs Committee but no further action was taken. HB 473 of 2008, HB 816 of 2007, and HB 585 of 2006 each had a hearing in the House Ways and Means Committee but no further action was taken. HB 566 of 2005 was passed by the House but not acted upon by the Senate, whereas HB 660 of 2003 was passed by the House but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. SB 132 of 2003 also received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, State Board of Elections, Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2009
mlm/hlb

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510