

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**

Senate Bill 601 (Senators Raskin and Pinsky)  
Education, Health, and Environmental Affairs

**Elections - Campaign Finance - Prohibition of Contributions and Expenditures by Business Entities**

This bill prohibits a business entity, defined as a corporation, general or limited partnership, limited liability company, or real estate investment trust, from making a contribution to a campaign finance entity or making an expenditure to support or oppose a candidate. The bill does not prohibit a business entity from making an expenditure to support or oppose a ballot question.

The bill takes effect January 1, 2011.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by up to \$80,900 in FY 2011 for alteration and testing of campaign finance electronic filing software and to hire a contractual investigator in the Office of the State Prosecutor (OSP) to handle additional complaints. Future years reflect an ongoing salary and operating costs. General fund revenues may increase due to criminal/civil penalties from cases heard in District Court.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	-	-	-	-	-
GF Expenditure	\$80,900	\$56,700	\$59,100	\$61,700	\$64,400
Net Effect	(\$80,900)	(\$56,700)	(\$59,100)	(\$61,700)	(\$64,400)

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

**Local Effect:** Local government revenues may increase due to criminal penalties from cases heard in the circuit courts.

**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. With the exception of the above contribution limits, business entities are not otherwise restricted from contributing to a campaign finance entity or making an independent expenditure to support or oppose a candidate.

Except as otherwise provided for specific offenses, a person who knowingly and willfully violates a provision of Title 13 (“Campaign Finance”) of the Election Law Article (within which the bill’s provisions are included) is guilty of a misdemeanor and on conviction is subject to a fine of up to \$25,000 and/or imprisonment for up to one year. An unknowing violation is subject to a civil penalty of up to \$5,000. The Secretary of State may also seek an immediate injunction against a violation of Title 13.

**Background:** The U.S. Supreme Court, in *Citizens United v. Federal Election Commission*, recently invalidated federal restrictions on corporate independent expenditures in connection with certain qualified federal elections. The National Conference of State Legislatures (NCSL) indicates that, while not directly affecting state laws, the ruling will have a significant effect on laws governing corporate political activity in nearly half the states, likely causing laws in those states to not be enforced and/or repealed or modified. According to NCSL, there are at least 23 states (not including Maryland) that currently prohibit or restrict corporate and union spending on candidate elections. NCSL notes that the *Citizens United* decision, while addressing corporate independent expenditures, did not address bans on corporate and union contributions to candidates.

**State Expenditures:** General fund expenditures increase by up to \$80,900 in fiscal 2011, which accounts for the bill’s January 1, 2011 effective date. This estimate reflects the cost of alteration and testing of State Board of Elections (SBE) campaign finance electronic filing software and the cost of hiring a contractual investigator in OSP. The estimate includes a salary, fringe benefits, one-time programming/testing costs (based on a vendor estimate provided to SBE), and ongoing operating expenses. The estimate assumes an increase in campaign finance violations will result from the bill, requiring an additional contractual investigator in OSP. OSP received 271 election law

complaints in fiscal 2009 and closed 227 complaints. OSP indicates it currently has one contractual investigator devoting time to election law complaints.

Salary and Fringe Benefits	\$28,860
Software Programming/Testing	50,000
Operating Expenses	<u>2,000</u>
<b>Total FY 2011 State Expenditures</b>	<b>\$80,860</b>

Future year expenditures reflect a full salary with 4.4% annual increases and 6.8% employee turnover; and 1% annual increases in ongoing operating expenses.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** Although HB 917 (Delegate Carr, *et al.* – Ways and Means) is designated as a cross file, it is not identical.

**Information Source(s):** State Board of Elections, State Ethics Commission, Judiciary (Administrative Office of the Courts), State Prosecutor's Office, Attorney General's Office, National Conference of State Legislatures, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2010  
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