

Department of Legislative Services
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 663 (Senator Kittleman)
Education, Health, and Environmental Affairs

Campaign Finance - Affiliated 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), real estate investment trusts, business trusts, and sole proprietorships, 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. In addition, contributions by entities other than business entities are considered to be made by a single contributor if they are organized and operated in coordination and cooperation with each other and make their decisions concerning contributions under the control of the same individual or entity.

Fiscal Summary

State Effect: General fund expenditures increase by \$52,600 in FY 2012 for the cost to hire a full-time investigator in the Office of the State Prosecutor to handle additional investigations. General fund revenues may increase as a result of collection of additional fine revenue. The impact in future years reflects an ongoing salary, operating costs, and potential fine revenues.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	-	-	-	-	-
GF Expenditure	\$52,600	\$69,500	\$73,100	\$76,900	\$80,900
Net Effect	(\$52,600)	(\$69,500)	(\$73,100)	(\$76,900)	(\$80,900)

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 61,100 in 2004 to approximately 109,200 in 2010, representing 39% of the annual reports filed (approximately 53% are filed by corporations).

State Fiscal Effect: General fund expenditures increase by \$52,627 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. 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. The Office of the State Prosecutor indicates a significant number of investigations may result from the bill's change.

Position	1
Salaries and Fringe Benefits	\$50,752
Computer Workstation	1,500
Supplies	<u>375</u>
Total Fiscal 2012 State Expenditures	\$52,627

Future year expenditures reflect a full salary with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

General fund revenues may increase as a result of collection of civil penalties from cases heard in the District Court.

Additional Information

Prior Introductions: SB 216 and HB 373 of 2010 received hearings in the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, respectively, but no further action was taken on either bill. In addition, similar bills were introduced in the 2003 through 2009 sessions.

Cross File: HB 723 (Delegates George and Walker) - Ways and Means.

Information Source(s): State Board of Elections, Office of the State Prosecutor, Maryland Attorney General's Advisory Committee on Campaign Finance, State Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2011
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