

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 605

(Senators Raskin and Kittleman)

Education, Health, and Environmental Affairs

Ways and Means

Campaign Finance Entities - Loans - Reporting Requirement and Penalties

This bill establishes a reporting requirement for specified loans received by a campaign finance entity that are not considered campaign contributions; expands liability for unpaid loans that violate campaign contribution limits; and specifies when a statute of limitations for such violations begins.

The bill takes effect January 1, 2012.

Fiscal Summary

State Effect: General fund expenditures increase by \$6,300 in FY 2012 for the cost to hire a part-time contractual investigative assistant in the Office of the State Prosecutor. Future year expenditures reflect ongoing compensation costs. Revenues are not materially affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	6,300	12,100	12,700	13,200	13,800
Net Effect	(\$6,300)	(\$12,100)	(\$12,700)	(\$13,200)	(\$13,800)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a campaign finance entity that receives specified loans that are not considered campaign contributions in an amount greater than \$4,000 to file a statement with the State Board of Elections (SBE) disclosing the loan within 24 hours after it is received. The statement must contain a copy of the terms of the loan and written consent of the candidate. SBE must then post that information on the SBE website within 24 hours of receiving the statement. The bill also specifies that if a loan results in a violation of campaign contribution limits, applicable penalties may be assessed against the lender, the candidate whose campaign finance entity received the loan, or both. Any statute of limitations associated with assessing such penalties begins on expiration of the repayment deadline for the loan. The bill also clarifies a term and specifies that the terms of a loan to a campaign finance entity must be signed by the treasurer of the campaign finance entity.

Current Law:

Loans to Campaign Finance Entities

A loan to a campaign finance entity is considered a contribution in the amount of the outstanding principal balance of the loan unless:

- (1) the loan is from a financial institution or other entity in the business of making loans; or
- (2) the loan is to the campaign finance entity of a candidate, repayment of the loan is personally guaranteed by the candidate, and the election cycle immediately following the election cycle in which the loan was made has not ended.

The terms of a loan to a campaign finance entity must be in writing; include the lender's name, address, and signature; state the schedule for repayment of the loan; state the interest rate of the loan; and be attached to the campaign finance report filed by the campaign finance entity for the reporting period during which the loan was made.

Contribution Limits

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.

Background: The bill implements recommendations of the Maryland Attorney General's Advisory Committee on Campaign Finance with regard to loans to candidates, and also requires disclosure of loans of over \$4,000 from financial institutions or other entities in the business of making loans, which is in addition to the committee's recommendations. The committee 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 a concern by many that candidates may become beholden to wealthy individuals they receive large loans from and have personally guaranteed repayment to once in office, especially since the repayment period can extend over two election cycles. The committee also mentioned as a concern the difficulty of prosecution of loan-related campaign finance violations if the loan is not repaid within the required period, as well as the fact that only the lender, and not the candidate, is subject to prosecution for the unpaid loan, to the extent it becomes a contribution beyond the contribution limits.

The committee agreed that "the best way to ensure transparent and responsible use of loans would be to expand liability for unpaid loans, clarify the statute of limitations for loan-related violations to facilitate more robust enforcement, and improve disclosure for large loans."

State Fiscal Effect: General fund expenditures increase by \$6,300 in fiscal 2012, which accounts for the bill's January 1, 2012 effective date. This estimate reflects the cost of hiring an additional part-time contractual investigative assistant in the Office of the State Prosecutor to handle additional failure to file and over-contribution cases resulting from the bill's changes. Future year expenditures total \$12,100 in fiscal 2013 and \$13,800 in fiscal 2016.

Additional Information

Prior Introductions: None.

Cross File: HB 1060 (Delegates Walker and George) - Ways and Means.

Information Source(s): State Prosecutor's Office, State Board of Elections, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2011
ncs/hlb Revised - Senate Third Reader - March 30, 2011

Analysis by: Scott D. Kennedy

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