

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 593 (The President, *et al.*) (By Request - Administration)
Budget and Taxation and Education, Health,
and Environmental Affairs

Election Law - Fair Campaign Financing Fund - Income Tax Checkoff

This Administration bill establishes a Fair Campaign Financing Fund (FCFF) checkoff on the individual income tax return form. After the Comptroller deducts administrative expenses, contributions are credited to the fund. The bill also specifies that all fines and civil penalties resulting from violations of State election law must be deposited into FCFF.

Fiscal Summary

State Effect: General fund revenues decrease by about \$25,000 annually beginning in FY 2016 due to the redistribution to FCFF of certain civil penalties and fine revenues. Special fund revenues to FCFF may increase by about \$150,000 annually beginning in FY 2016, reflecting the impact of donations from the income tax checkoff and civil penalty and fine revenues. Overall special fund revenues to other funds receiving contributions through income tax checkoffs may decrease minimally. General fund expenditures increase by \$48,000 in FY 2016 due to one-time computer programming expenses at the Comptroller's Office.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	(\$25,000)	(\$25,000)	(\$25,000)	(\$25,000)	(\$25,000)
SF Revenue	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000
GF Expenditure	\$48,000	\$0	\$0	\$0	\$0
Net Effect	\$77,000	\$125,000	\$125,000	\$125,000	\$125,000

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

Local Effect: Local government revenues will decrease by about \$25,000 annually beginning in FY 2016 due to the redistribution to FCFF of certain criminal penalties. No effect on expenditures.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: The Comptroller must include a checkoff designated as the Fair Campaign Financing Fund Contribution on the individual income tax return form. The checkoff must state that the individual, or each spouse in the case of a joint return, may contribute to the fund an amount designated by the individual, up to \$500, if the individual or each spouse is a U.S. citizen or admitted for permanent legal residence in the United States. The individual deducts the amount of the contribution from any refund to which the individual is entitled or, if the individual is not entitled to a refund, the individual adds the amount of the contribution to the income tax paid with the return. The Comptroller must include, with the individual income tax return package, a description of the purposes of FCFF. From the contributions collected, the Comptroller distributes an amount necessary to administer the checkoff system to an administrative cost account and distributes the remainder to FCFF.

The bill also specifies that all fines and civil penalties collected as a result of State election law violations are deposited into FCFF.

Current Law/Background: The Chesapeake Bay and Endangered Species Fund, Cancer Research Fund, and Developmental Disabilities Services and Support Fund Contribution are the three current checkoffs on the personal income tax form. In tax year 2013, taxpayers contributed a total of \$1.8 million to these funds.

Public Financing Act and FCFF

The Public Financing Act provides for a system of public financing of elections for candidates for Governor and Lieutenant Governor. The Act established FCFF and the fund is administered by the Comptroller. Until recently, the fund generated revenue from an income tax checkoff on the individual income tax return form that allowed an individual to contribute up to \$500 to the fund on the individual's tax return in a similar manner as the checkoff established by the bill. The checkoff, however, was repealed in the Budget Reconciliation and Financing Act of 2010 (Chapter 484). Taxpayers donated about \$100,000 to the fund in the last year in which the checkoff was available.

With the exception of the 1994 gubernatorial election, the public financing program under the Public Financing Act had not been used until recently. Beginning in 2009, following multiple election cycles without use of the public financing program, the General Assembly authorized certain amounts of money in the fund to be used for other election-related

purposes. In the 2014 election, two gubernatorial tickets qualified for public financing under the program. FCFF contained approximately \$1.1 million as of October 2014.

Election Law Fines and Civil Penalties

State election law governs State, county, and Baltimore City elections held during statewide elections every two years. The State Board of Elections (SBE) ensures compliance with the requirements of Maryland and federal election laws by all persons involved in the election process. SBE is authorized to impose (1) late fees for the failure to timely file required reports; and (2) civil penalties with respect to violations of certain campaign finance law. Although Chapter 419 of 2013 provided additional enforcement authority to SBE, the State Prosecutor's Office has a significant role in enforcing election law by prosecuting election law violations that can result in both civil penalties and criminal fines.

State Revenues: Special fund revenues to FCFF may increase by about \$150,000 annually beginning in fiscal 2016, reflecting the impact of donations from the income tax checkoff (\$100,000) and civil penalty and fine revenues (\$50,000).

The estimated revenue generated by the income tax checkoff is based on the amount of contributions previously received through the checkoff. Overall special fund revenues, however, may be unaffected or decrease. Donations to this checkoff would likely divert funds from the three existing checkoffs. To the extent that the new checkoff does not divert funds from the existing checkoffs, net special fund revenues will increase by a greater amount.

The amount of election law criminal fines and civil penalties collected in each fiscal year varies significantly. On average, it is expected that \$50,000 will be collected, of which half will be collected by SBE or in District Court. These revenues are currently deposited into the general fund. It is assumed that the remaining amount is collected as a result of criminal cases heard in circuit court and is distributed to the counties.

State Expenditures: The Comptroller's Office reports that it will incur a one-time general fund expenditure increase of \$48,000 in fiscal 2016 to add the checkoff to the personal income tax forms. This includes data processing changes to the SMART income tax return processing and imaging systems and systems testing.

Local Revenues: The bill requires that all fines and civil penalties resulting from violations of State election law must be deposited into FCFF. Based on the assumptions above, county revenues may decrease by \$25,000 annually due to the loss of certain criminal penalty revenues.

Additional Information

Prior Introductions: HB 1401 of 2014, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: HB 485 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means.

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

Fiscal Note History: First Reader - March 2, 2015
min/jrb

Analysis by: Robert J. Rehrmann

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Election Law – Fair Campaign Financing Fund – Income Tax Checkoff

BILL NUMBER: SB593/HB485

PREPARED BY: Governor’s Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS