

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 130

(Senator Simonaire)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Ballot Issues - Contributions or Donations by Foreign Principals

This bill prohibits a foreign principal from making a contribution to a ballot issue committee or a donation to a person that makes independent expenditures or electioneering communications relating to a ballot issue. "Foreign principal" has the meaning stated under specified federal law, which includes (1) foreign governments and political parties; (2) an individual outside the United States, unless the individual is a citizen of and domiciled within the United States; and (3) businesses or other entities organized under the laws of, or having their principal place of business in, a foreign country.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law/Background:

Contributions by Foreign Nationals

Federal law prohibits a foreign national from making, directly or indirectly, a contribution or donation of money or other thing of value, or making an express or implied promise to make a contribution or donation, in connection with a federal, State, or local election. A foreign national also may not make, directly or indirectly, a contribution or donation to a

committee of a political party or an expenditure, independent expenditure, or disbursement for an electioneering communication. “Foreign national” is defined under federal campaign finance law in a similar manner as the specified federal law definition of “foreign principal” referenced above. However the definitions are somewhat different with respect to individuals that are included in the definition. “Foreign national” does not include any individual who is a U.S. citizen. It includes an individual who is not a citizen or national of the United States and is not lawfully admitted for permanent residence. “Foreign principal” includes an individual outside the United States, unless the individual is a citizen of and domiciled within the United States.

The Federal Election Commission, in 2015, considered the question of whether the federal prohibition against contributions and expenditures by foreign nationals applies to contributions and expenditures in connection with State and local ballot measures. The commission, however, was unable to reach agreement on whether to pursue a case involving that question or whether to revise the commission’s regulations to clarify the issue.

Ballot Issue Committees

Under Maryland law, a ballot issue committee is defined as a campaign finance entity that is formed to promote the success or defeat of a question to be submitted to a vote at an election. Contributions to a ballot issue committee are not subject to the \$6,000 limit on the amount of aggregate contributions a person may contribute to any one campaign finance entity in a four-year election cycle.

Independent Expenditures and Electioneering Communications

Independent expenditures and electioneering communications are not limited, but Maryland law requires certain disclosure of independent expenditures and disbursements for electioneering communications. Independent expenditures are expenditures for public communications that are not made in coordination with a candidate or campaign finance entity and that expressly advocate the success or defeat of a clearly identified candidate or ballot question. Electioneering communications, on the other hand, do not expressly advocate the success or defeat of a candidate or ballot question but refer to a clearly identified candidate or ballot question, are made within 60 days of an election, are capable of being received by a certain amount of individuals (with the amount depending on the type of communication) in the constituency where the candidate or ballot question is on the ballot, and are not made in coordination with a candidate or campaign finance entity.

Additional Information

Prior Introductions: SB 420 of 2016, a similar bill, passed with amendments in the Senate and received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): State Board of Elections; Federal Election Commission; Department of Legislative Services

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Analysis by: Scott D. Kennedy

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