

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1378 (Delegate Terrasa, *et al.*)
 Government, Labor, and Elections

**Corporations and Associations - Limitations on Election and Ballot Issue
 Activities (Maryland Corporate Power Reset Act)**

This bill prohibits an artificial person from engaging in election activity or ballot issue activity, and establishes that such activity is *ultra vires*, void, and unenforceable. The bill’s prohibition applies to numerous specified business entities formed and organized under the Corporations and Associations Article. The State Department of Assessments and Taxation (SDAT) must adopt procedures and regulations necessary to implement and enforce the bill, including coordination with the Office of the Attorney General (OAG).

Fiscal Summary

State Effect: General fund expenditures increase by \$844,400 in FY 2027 for staff and one-time programming costs of \$278,000 in FY 2027 only; future years reflect annualization, inflation, and ongoing costs. Revenues are not affected.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	844,400	669,100	700,100	731,600	763,500
Net Effect	(\$844,400)	(\$669,100)	(\$700,100)	(\$731,600)	(\$763,500)

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

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Prohibition Against Election Activity or Ballot Issue Activity

Notwithstanding § 1-403 of the Corporations and Associations Article (the defense of *ultra vires* – see Current Law) or any other provision of law, an artificial person may not engage in election activity or ballot issue activity. If an artificial person engages in election activity or ballot issue activity, the bill requires the activity to be considered *ultra vires*, void, and unenforceable. Further, an election activity or ballot issue activity may not be ratified, validated, or given effect by estoppel, reliance, or any other equitable doctrine.

Definitions

“Artificial person powers” means the same powers as an individual to do all things necessary or convenient to carry out lawful business or charitable, cooperative, or organizational purposes, and does not include the power to directly or indirectly engage in election activity or ballot issue activity.

“Ballot issue activity” means paying, contributing, or expending money or anything of value to support or oppose any initiative, referendum, recall, constitutional amendment, charter amendment, or other question that is certified or submitted to the electors of the State or a political subdivision of the State.

“Election activity” means paying, contributing, or expending money or anything of value to support or oppose (1) a candidate; (2) a political party; (3) a political committee; or (4) a news organization that is owned or controlled by a candidate, political party, or political committee, and does not include paying, contributing, or expending money or anything of value on any *bona fide* news story, commentary, or editorial distributed through the facilities of an independent news organization.

Applicability

The bill applies to domestic or foreign artificial persons formed, organized, or authorized under State law, including corporations; nonstock corporations; professional corporations; limited liability companies; limited partnerships; limited liability partnerships; real estate investment trusts; statutory trusts; business trusts; and real estate investment trusts, statutory trusts, business trusts, or similar arrangements to the extent State law granted limited liability, perpetual duration, succession in name, or any other charter privilege. The bill also makes numerous conforming changes related to this applicability.

The bill does not apply to (1) natural person acting in an individual capacity or (2) any agency, instrumentality, or political subdivision of the State. Also, the bill does not restrict the lawful activities of political committees organized under law.

State Department of Assessments and Taxation – Regulations

Regulations required to be adopted by SDAT must provide for (1) administrative determination of violations and (2) procedures for forfeiture and reinstatement of charter privileges; certification of compliance following disgorgement (payment to the State of an amount equal to the money or thing of value expended, contributed, or transferred for election activity or ballot issue activity); notice and opportunity to be heard that is consistent with due process; and coordination with OAG.

General Assembly – Findings

The bill also expresses findings of the General Assembly, including that:

- all political power in the State is inherent in the people, and the creation of an artificial person is a privilege granted by the State and not a natural right;
- the General Assembly retains full authority to define, revise, limit, or withdraw the powers and privileges granted to an artificial person when required for the public good; and
- the purpose of the bill is to revoke any prior implied authority for artificial persons to engage in election activity or ballot issue activity and grant only those powers necessary or convenient for (1) lawful business; (2) charitable, cooperative, or organizational purposes; (3) establishing a uniform rule across all forms of business; (4) preserving the rights of natural persons; or (5) ensuring that no authority revoked under the bill is revived by implication or judicial construction.

Current Law:

Corporations and Associations Article – Applicability and Construction

Except as otherwise provided by statute, the provisions of the Corporations and Associations Article apply to every Maryland corporation and to all their corporate acts. To the extent that rights conferred by a special act of the General Assembly are inconsistent with the provisions of the Corporations and Associations Article, the rights conferred by the special act govern. The charter of every corporation formed before June 1, 1951, which is subject to repeal or modification, and the charter of every corporation formed under the Corporations and Associations Article is subject to repeal or modification by public general law of the General Assembly.

Corporations – In General

Except as otherwise expressly provided by law, a corporation may be formed under the Corporations and Associations Article for any lawful purposes. If the purpose for which a corporation is organized or its form makes it subject to a special provision of law, the corporation must comply with that provision. Unless otherwise provided by law or its charter, a Maryland corporation has the general powers, whether or not they are set forth in its charter, to take various actions, including making gifts or contributions in cash, other property, or stock or other securities of the corporation to or for the use of (1) Maryland, the United States, another state of the United States, a territory, possession, or district of the United States, or any institution, agency, or political subdivision of any of them and (2) any governmental or other organization, whether inside or outside of the United States, for religious, charitable, scientific, civic, public welfare, literary, or educational purposes.

Defense of Ultra Vires

In *Steele v. Diamond Farm Homes Corp.*, the Court of Appeals (now the Supreme Court of Maryland) described *ultra vires* as the act of a corporation that is beyond the powers conferred upon the corporation by its charter, statutes, or common law. 464 Md. 364, 378 (2019). Pursuant to § 1-403 of the Corporations and Associations Article, generally an *ultra vires* act by a corporation is not invalid or unenforceable unless asserted in a proceeding, as specified, including by a stockholder in a proceeding to enjoin the corporation from doing an act or from transferring or acquiring real or personal property. Also, a corporation may assert that it lacked corporate power or capacity (*ultra vires*) in a suit brought in its name by the corporation or its receiver, trustee, other legal representative, or in a representative suit brought by a stockholder against its present or former officers or directors. Further, the Attorney General may assert *ultra vires* in a proceeding for the forfeiture of the charter of the corporation or to enjoin it from transacting unauthorized business.

Election and Ballot Activities

Campaign Finance Entities and Contributions

Unless otherwise expressly authorized by law, all campaign finance activity for an election under the Election Law Article must be conducted through a campaign finance entity (defined as a political committee established under Title 13 of the Election Law Article).

Generally, a person may not make, either directly or indirectly, aggregate contributions of more than \$6,000 to any one campaign finance entity in a four-year election cycle. Contributions by two or more business entities are considered as being made by one 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 or business entities. “Business entity” includes a corporation, a sole proprietorship, a general partnership, a limited partnership, a limited liability company, a real estate investment trust, or other entity.

The contribution limit does not apply to contributions to ballot issue committees (campaign finance entities formed to promote the success or defeat of a ballot question or prospective ballot question).

Independent Expenditures and Electioneering Communications

Independent expenditures in general – political spending by individuals or organizations without coordination with a candidate – cannot be limited or prohibited, pursuant to the 2010 Supreme Court decision *Citizens United v. FEC*. Requirements for disclosure of independent expenditures, however, have been upheld by courts. Under Maryland’s disclosure requirements, 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.

Within 48 hours after a person makes aggregate independent expenditures or disbursements for electioneering communications of \$5,000 or more in an election cycle, the person must file a registration form with the State Board of Elections (SBE). Within 48 hours after a day on which a person makes aggregate independent expenditures or disbursements for electioneering communications of \$10,000 or more in an election cycle, the person must file a report with SBE providing information on the person, the expenditures or disbursements, and persons who made cumulative donations of \$6,000 or more to the person during the period covered by the report. Further, a person who files an independent expenditure or electioneering communication report must file an additional report within 48 hours after a day on which the person makes aggregate independent expenditures or disbursements for electioneering communications of \$10,000 or more following the closing date of the person’s previous report.

Office of the Attorney General – Enforcement

OAG has specified authority to bring civil actions against business entities to enforce the Corporations and Associations Article, including a civil proceeding (authorized by SDAT)

against a corporation to determine whether the corporation has abused, misused, or failed to use its powers and franchises in a manner against the public interest that warrants forfeiture of the charter and dissolution of the corporation.

State Expenditures: State expenditures increase by \$844,445 in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of SDAT and OAG hiring additional full-time staff to implement the bill’s requirements.

General fund expenditures for SDAT increase by \$706,080 in fiscal 2027, and over \$500,000 annually thereafter. This estimate reflects the cost of hiring five full-time charter specialists to implement and enforce the bill’s requirements, including monitoring and reviewing election and ballot issue activity by business entities, calculating disgorgement for violations, conducting any investigatory duties related to the ongoing regulation of business entities, and coordinating with OAG. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also reflects one-time programming costs of \$278,000 in fiscal 2027 only. This estimate reflects the use of general funds (consistent with SDAT’s assumption that such funds are needed). However, to the extent that sufficient special funds are available, the impact on the general fund is mitigated.

In addition, general fund expenditures for OAG increase by \$138,365 in fiscal 2027, and by approximately \$178,000 annually thereafter. This estimate reflects the cost of hiring one full-time assistant Attorney General to assist SDAT with drafting and reviewing regulations, and enforcement activities.

Positions	6.0
Salaries and Fringe Benefits	\$511,600
One-time Programming Costs	278,000
Operating Expenses	<u>54,845</u>
Total FY 2027 State Expenditures	\$844,445

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

SDAT advises that *at least* 15 additional charter specialists are needed to implement the bill. SDAT advises that entire current staff of charter specialists are dedicated to the processing of charter filings, and that the bill’s requirements are beyond the scope of the regular duties of a charter specialist, necessitating additional staff. Further, SDAT indicates it has minimal or no expertise in certain tasks assumed to be required by the bill (*e.g.*, conducting any investigatory duties related to the ongoing regulation of business entities). While acknowledging the bill creates significant additional work for SDAT that is not absorbable, the Department of Legislative Services (DLS) is unable to validate the

full extent of the staffing estimate indicated by SDAT; thus, this analysis assumes that five charter specialists (as reflected above) are required. To the extent that the volume of work experienced under the bill requires additional staff beyond that assumed in this analysis, SDAT can request these resources through the annual budget process. DLS also notes that SDAT may be assisted in efforts to monitor compliance by SBE's searchable campaign finance database and reporting information system on its [website](#) that tracks, among other things, contributions (by donor, recipient, or amount) to candidates and campaigns, independent expenditures/electioneering communications, filed reports, and other related campaign data.

Small Business Effect: Small businesses engaged in election and ballot activities are prohibited from the continuation of such activities.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Maryland State Board of Elections; Department of Legislative Services

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Analysis by: Joanne E. Tetlow

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