



COMMISSIONER ELLEN L. WEINTRAUB
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ellen L. Weintraub
Commissioner, U.S. Federal Election Commission

Testimony before the Ways and Means Committee
Maryland House of Delegates

**Regarding HB 34, An Act Concerning Campaign Finance – Contributions,
Expenditures, or Donations by Foreign-Influenced Corporations or Foreign Principals**

January 28, 2020

Good afternoon. My name is Ellen L. Weintraub. I serve as a commissioner on the U.S. Federal Election Commission.

Chair Kaiser, members of the committee, thank you for this opportunity to testify regarding HB 34.

What you are considering here is the sort of reform that may *only* succeed at the local and state levels at the moment, as ideological opposition to campaign-finance law enforcement has effectively paralyzed both the Federal Election Commission and Congress. Fortunately, state and local governments across the country are stepping into the breach and leading the way with innovative solutions to campaign-finance problems.

The bill you are considering is consistent with an approach I laid out in an op-ed for *The New York Times* that described a new way to read the *Citizens United* decision together with the foreign-national political-spending ban.

In a nutshell, I noted that since the *Citizens United* majority protected the First Amendment rights of corporations as, quote, “associations of citizens,” and held that a corporation’s right to participate in elections flows from the collected rights of its individual shareholders to participate, it follows that the *limits* on the rights of a corporation’s shareholders must *also* flow to the corporation.

And one of the most important campaign-finance limits we have is that foreign nationals are absolutely barred from spending directly or indirectly in U.S. elections at *any* political level – federal, state, or municipal. It thus defies logic to allow groups of foreign nationals, or foreign nationals in combination with American citizens, to fund political spending through corporations. You cannot have a right collectively that you do not have individually.

Accordingly, HB 34 seeks to ensure that only those corporations owned and influenced by people who have the right under federal law to participate in Maryland elections are doing so. Its provisions fit comfortably within existing federal statutory law and Supreme Court precedent.

In 2017, St. Petersburg, Florida was the first jurisdiction to write this approach into law. I was delighted that the City of Seattle did so earlier this month. Maryland's adoption of this very similar measure would give major momentum to this fresh approach to corporate political spending.

The heart of HB 34's definition of a "foreign-influenced corporation" is 1 percent ownership by one foreign owner, or 5 percent ownership by more than one foreign owner. This might feel like a very tight standard, but I would ask you to keep in mind that you're not working your way down from a 100 percent or 50 percent foreign ownership standard – you're working your way *up* from the *zero* foreign-influence standard that a strict reading of federal law would suggest.

The risks addressed by this measure are not theoretical. Last year, reporters used FEC filings to uncover \$1.3 million in illegal foreign donations to a super PAC routed through APIC, an American subsidiary of a foreign corporation. As a result, the Commission issued the largest penalty in one matter in the post-*Citizens United* era. Had APIC been required to **sign the certifications** required by the measure before you, their illegal behavior may well have been deterred.

Again, I am delighted that the Maryland General Assembly is moving forward to address this key campaign-finance issue at a moment when the federal government is unable to do so. By passing this bill, you will be doing not just Maryland but also your country a great service. You will set an example that can be followed by others at the local, state, and, *hopefully* someday, federal levels.

I thank Delegate Palakovich Carr for moving this important bill forward, I thank the Committee and the House of Delegates for considering this measure, I thank you for the opportunity to speak before you today, and I welcome your questions.