

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 772 (Senator Raskin, *et al.*)  
Education, Health, and Environmental Affairs

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**Campaign Finance - Corporate Contributions and Independent Expenditures -  
Determination of Stockholder Preference**

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This bill prohibits a Maryland corporation or a foreign corporation doing business in the State from making a campaign contribution or an independent expenditure without procedures in place to determine and fairly represent stockholder political preferences. The bill authorizes a stockholder to bring a civil action against directors of the corporation or a campaign finance entity to recover the amount of a contribution or independent expenditure made in violation of the prohibition.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A Maryland corporation or a foreign corporation doing business in the State may not make a contribution to a campaign finance entity or an independent expenditure unless the bylaws of the corporation establish adequate procedures for effectively determining the political preferences of the stockholders of the corporation and fairly representing the preferences of the majority of stockholders. Procedures are considered adequate if the stockholders are notified of and have the opportunity to vote on a proposed contribution or independent expenditure.

A stockholder alleging a violation may bring a civil action against the directors of the corporation to recover the amount of the contribution or independent expenditure. A court may award treble damages for a violation. Specified immunity from liability afforded to directors that perform their duties according to certain standards does not apply.

A campaign finance entity may not receive a contribution made in violation of the bill, and a stockholder alleging a violation may bring a civil action against the campaign finance entity to recover the amount of the contribution.

**Current Law:** The business and affairs of a corporation are managed under the direction of a board of directors and all powers of the corporation may be exercised by or under the authority of the board of directors except as conferred on or reserved to the stockholders by law or by the charter or bylaws of the corporation. “Stockholder” is defined under the Corporations and Associations Article as a person who is a record holder of shares of stock in a corporation and includes a member of a corporation organized without stock.

A director must perform his or her duties as a director in good faith; in a manner he or she reasonably believes to be in the best interests of the corporation; and with the care that an ordinarily prudent person in a like position would use under similar circumstances. A director that performs his or her duties in accordance with that standard has no liability by reason of being or having been a director of a corporation.

“Independent expenditure” means an expenditure by a person expressly advocating the success or defeat of a clearly identified candidate or ballot issue if the expenditures are not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections, Judiciary (Administrative Office of the Courts), Office of the State Prosecutor, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2013  
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