



Senate

General Assembly

File No. 602

January Session, 2023

Substitute Senate Bill No. 1188

Senate, April 17, 2023

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING FOREIGN POLITICAL SPENDING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-601 of the general statutes is amended by adding
2 subdivisions (33) to (38), inclusive, as follows (*Effective from passage*):

3 (NEW) (33) "Foreign national" means:

4 (A) A foreign principal and any agent or separate segregated fund of
5 a foreign principal;

6 (B) An individual who is not (i) a citizen of the United States, (ii) a
7 national of the United States, or (iii) lawfully admitted for permanent
8 residence; or

9 (C) A firm, partnership, corporation, association, organization or
10 other entity:

11 (i) With respect to which a foreign owner or a person described in
12 subparagraph (A) or (B) of this subdivision holds, owns, controls or
13 otherwise has a direct or indirect beneficial ownership of at least five

14 per cent of such entity's total equity or outstanding voting shares;

15 (ii) With respect to which two or more, in combination, foreign
16 owners or persons described in subparagraph (A) or (B) of this
17 subdivision hold, own, control or otherwise have a direct or indirect
18 beneficial ownership of at least twenty per cent of such entity's total
19 equity or outstanding voting shares, excluding interests held in a widely
20 held, diversified fund;

21 (iii) With respect to which a foreign owner or individual described in
22 subparagraph (A) or (B), as applicable, of this subdivision participates
23 directly or indirectly in decisions to engage in any activity subject to the
24 provisions of chapter 155 or 157; or

25 (iv) That is exempt from taxation under Section 501(c)(4) of the
26 Internal Revenue Code of 1986, or any subsequent corresponding
27 internal revenue code of the United States, as amended from time to
28 time, and with respect to which at least twenty per cent of the income
29 received by such entity in the most recent taxable year derives from one
30 or more foreign owners.

31 (NEW) (34) "Foreign principal" has the same meaning as provided in
32 22 USC 611(b), as amended from time to time.

33 (NEW) (35) "National of the United States" has the same meaning as
34 provided in 8 USC 1101(a)(22), as amended from time to time.

35 (NEW) (36) "Lawfully admitted for permanent residence" has the
36 same meaning as provided in 8 USC 1101(a)(20), as amended from time
37 to time.

38 (NEW) (37) "Foreign owner" means a firm, partnership, corporation,
39 association, organization or other entity with respect to which a person
40 described in subparagraph (A) or (B) of subdivision (33) of this section
41 holds, owns, controls or otherwise has a direct or indirect beneficial
42 ownership of at least fifty per cent of such entity's total equity or
43 outstanding voting shares, excluding interests held in a widely held,
44 diversified fund.

45 (NEW) (38) "Widely held, diversified fund" means a pooled
46 investment, including a common trust fund of a financial institution,
47 mutual fund or limited partnership, (A) that has more than one hundred
48 investors, (B) that invests not more than five per cent of its value in the
49 securities of a single issuer, other than the federal government, (C) that
50 invests not more than twenty per cent of its value in any one economic
51 or geographic sector, and (D) for which no investor, and no immediate
52 family member of an investor, is able to exercise control over the
53 financial interests held by the pooled investment, including by
54 exercising the pooled investment's authority as the holder of corporate
55 securities.

56 Sec. 2. Section 9-622 of the general statutes is repealed and the
57 following is substituted in lieu thereof (*Effective from passage*):

58 The following persons shall be guilty of illegal practices and shall be
59 punished in accordance with the provisions of section 9-623:

60 (1) Any person who, directly or indirectly, individually or by another
61 person, gives or offers or promises to any person any money, gift,
62 advantage, preferment, entertainment, aid, emolument or other
63 valuable thing for the purpose of inducing or procuring any person to
64 sign a nominating, primary or referendum petition or to vote or refrain
65 from voting for or against any person or for or against any measure at
66 any election, caucus, convention, primary or referendum;

67 (2) Any person who, directly or indirectly, receives, accepts, requests
68 or solicits from any person, committee, association, organization or
69 corporation, any money, gift, advantage, preferment, aid, emolument or
70 other valuable thing for the purpose of inducing or procuring any
71 person to sign a nominating, primary or referendum petition or to vote
72 or refrain from voting for or against any person or for or against any
73 measure at any such election, caucus, primary or referendum;

74 (3) Any person who, in consideration of any money, gift, advantage,
75 preferment, aid, emolument or other valuable thing paid, received,
76 accepted or promised to the person's advantage or any other person's

77 advantage, votes or refrains from voting for or against any person or for
78 or against any measure at any such election, caucus, primary or
79 referendum;

80 (4) Any person who solicits from any candidate any money, gift,
81 contribution, emolument or other valuable thing for the purpose of
82 using the same for the support, assistance, benefit or expenses of any
83 club, company or organization, or for the purpose of defraying the cost
84 or expenses of any political campaign, primary, referendum or election;

85 (5) Any person who, directly or indirectly, pays, gives, contributes or
86 promises any money or other valuable thing to defray or towards
87 defraying the cost or expenses of any campaign, primary, referendum
88 or election to any person, committee, company, club, organization or
89 association, other than to a treasurer, except that this subdivision shall
90 not apply to any expenses for postage, telegrams, telephoning,
91 stationery, express charges, traveling, meals, lodging or photocopying
92 incurred by any candidate for office or for nomination to office, so far as
93 may be permitted under the provisions of this chapter;

94 (6) Any person who, in order to secure or promote the person's own
95 nomination or election as a candidate, or that of any other person,
96 directly or indirectly, promises to appoint, or promises to secure or
97 assist in securing the appointment, nomination or election of any other
98 person to any public position, or to any position of honor, trust or
99 emolument; but any person may publicly announce the person's own
100 choice or purpose in relation to any appointment, nomination or
101 election in which the person may be called to take part, if the person is
102 nominated for or elected to such office;

103 (7) Any person who, directly or indirectly, individually or through
104 another person, makes a payment or promise of payment to a treasurer
105 in a name other than the person's own, and any treasurer who
106 knowingly receives a payment or promise of payment, or enters or
107 causes the same to be entered in the person's accounts in any other name
108 than that of the person by whom such payment or promise of payment
109 is made;

110 (8) Any person who knowingly and wilfully violates any provision
111 of this chapter;

112 (9) Any person who offers or receives a cash contribution in excess of
113 one hundred dollars to promote the success or defeat of any political
114 party, candidate or referendum question;

115 (10) Any person who solicits, makes or receives a contribution that is
116 otherwise prohibited by any provision of this chapter;

117 (11) Any department head or deputy department head of a state
118 department who solicits a contribution on behalf of, or for the benefit of,
119 any candidate for state, district or municipal office or any political party;

120 (12) Any municipal employee who solicits a contribution on behalf
121 of, or for the benefit of, any candidate for state, district or municipal
122 office, any political committee or any political party, from (A) an
123 individual under the supervision of such employee, or (B) the spouse or
124 a dependent child of such individual;

125 (13) Any person who makes an expenditure, that is not an
126 independent expenditure, for a candidate without the knowledge of
127 such candidate. No candidate shall be civilly or criminally liable with
128 regard to any such expenditure;

129 (14) Any chief of staff of a legislative caucus who solicits a
130 contribution on behalf of or for the benefit of any candidate for state,
131 district or municipal office from an employee of the legislative caucus;

132 (15) Any chief of staff for a state-wide elected official who solicits a
133 contribution on behalf of or for the benefit of any candidate for state,
134 district or municipal office from a member of such official's staff; [or]

135 (16) Any chief of staff for the Governor or Lieutenant Governor who
136 solicits a contribution on behalf of or for the benefit of any candidate for
137 state, district or municipal office from a member of the staff of the
138 Governor or Lieutenant Governor, or from any commissioner or deputy
139 commissioner of any state agency;

140 (17) Any foreign national that makes, directly or indirectly, (A) any
 141 contribution or any express or implied promise to make a contribution,
 142 or (B) any expenditure; or

143 (18) Any person who solicits, accepts or receives any contribution or
 144 covered transfer from a foreign national.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-601(33) to (38)
Sec. 2	<i>from passage</i>	9-622

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill could potentially result in revenue gain for the state. The purpose of the bill is to codify into state law existing provisions of federal law banning contributions by foreigners to state office. The bill additionally creates penalties of \$2,000 per improper transaction or twice the amount or twice the improper payment or contribution whichever is greater. The state's potential revenue gain would depend on the number of violations and the amount contributed within those violations.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations and the amount contributed within those violations.

OLR Bill Analysis**sSB 1188*****AN ACT CONCERNING FOREIGN POLITICAL SPENDING.*****SUMMARY**

Federal law generally prohibits foreign nationals from making contributions, donations, or independent expenditures (IEs) in connection with federal, state, or local elections (see BACKGROUND). This bill explicitly prohibits foreign nationals (as defined in the bill, see below) from directly or indirectly making contributions (or expressly or impliedly promising to do so) or expenditures that are subject to the state's campaign finance laws. It similarly prohibits a person from soliciting, accepting, or receiving a contribution or covered transfer from a foreign national. By law, a "covered transfer" is, with certain exceptions, any donation, transfer, or payment of funds by a person to a recipient that (1) makes IEs or (2) transfers funds to another person that makes IEs (CGS § 9-601(29)).

The bill makes these actions illegal campaign finance practices. By law, an illegal campaign finance practice is subject to a civil penalty of up to \$2,000 per offense or twice the amount of any improper payment or contribution, whichever is greater (CGS § 9-7b(a)(2)(D)). If the act is knowing and willful, it is a class D felony, punishable by up to five years in prison, a fine of up to \$5,000, or both (CGS § 9-623(a)).

The bill's prohibitions expand upon those in federal law by, among other things, explicitly applying them to referenda. The bill also subjects additional persons to the prohibitions by defining a "foreign national" under the state campaign finance laws more broadly than federal law does (see BACKGROUND).

EFFECTIVE DATE: Upon passage

DEFINITIONS***Foreign National***

Under the bill, a “foreign national” includes (1) a foreign principal (as defined in federal law, see below) and any agent or segregated fund of the principal; (2) an individual who is not a U.S. citizen or national or lawfully admitted for permanent residence; and (3) certain entities with foreign owners (see below).

Under the bill, a “foreign owner” is an entity in which a foreign national holds, owns, controls, or otherwise has direct or indirect beneficial ownership of at least 50% of the total equity or outstanding voting shares, other than interests held in a widely held, diversified fund (i.e., a pooled investment that, among other things, has at least 100 investors, with no investor able to exercise control over the investment’s financial interests).

The bill deems an entity to be a foreign national if it meets any of the following criteria:

1. one “foreign owner” or “foreign national” holds, owns, controls, or has direct or indirect beneficial ownership of at least 5% of the total equity or outstanding voting shares;
2. multiple foreign owners or nationals hold, own, control, or have direct or indirect beneficial ownership of at least 20% of the total equity or outstanding voting shares, other than interests held in a widely held, diversified fund (as described above);
3. any foreign owner or national directly or indirectly participates in decisions to engage in any activity subject to state campaign finance laws, including the Citizens’ Election Program; or
4. (a) at least 20% of the organization’s income in the most recent taxable year is from one or more foreign owners and (b) the organization is a tax-exempt 501(c)(4) entity.

Foreign Principal

Under federal law, a “foreign principal” (deemed to be a foreign national under the bill) includes the following:

1. a government of a foreign country and a foreign political party;
2. a person outside of the United States, unless it is shown that the person is (a) an individual and a U.S. citizen domiciled in the United States or (b) not an individual, has its principal place of business in the United States, and is organized under, or created by, laws of the United States, a state, or other place subject to U.S. jurisdiction; and
3. a partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country (22 U.S.C. § 611(b)).

BACKGROUND

Related Bills

sHB 6904 (File 543, § 3) and sSB 1225 (§ 17), reported favorably by the Government Administration and Elections Committee, allow the State Elections Enforcement Commission to extend its complaint processing deadline if it is investigating a potential violation of state election law by a foreign national (as defined in federal law).

Foreign Nationals and Related Federal Law

Foreign Nationals. Federal campaign finance law defines a “foreign national” as any of the following:

1. a government of a foreign country and a foreign political party;
2. a person outside of the United States unless it is shown that the person is (a) an individual and a U.S. citizen domiciled in the United States or (b) not an individual, has its principal place of business in the United States, and is organized under, or created by, laws of the United States, a state, or other place subject to U.S. jurisdiction;

3. a partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country; or
4. an individual who is not a U.S. citizen or national and is not lawfully admitted for permanent residence (52 U.S.C. § 30121(b) & 22 U.S.C. § 611(b)).

Prohibited Activities. Federal law prohibits a foreign national from, among other things, directly or indirectly making:

1. in connection with a federal, state, or local election, a contribution or donation of money or anything of value; an express or implied promise to make a contribution or donation; or an expenditure or IE; or
2. a contribution or donation to a federal, state, or local political party's committee.

It similarly prohibits soliciting, accepting, or receiving any contribution or donation described above from a foreign national (52 U.S.C. § 30121 & 11 C.F.R. § 110.20).

2021 FEC Ruling. In 2021, the Federal Elections Commission (FEC) dismissed a complaint alleging that foreign nationals made prohibited contributions opposing a Montana ballot initiative. In doing so, the FEC concluded that spending related to referenda and other issue-based ballot measures is beyond federal law's purview because it is not in connection with an election (i.e., a regular or special election, primary, runoff, or a party convention or caucus). It noted that federal law applies to spending on ballot measures only if the measure is inextricably linked with a candidate's election (FEC, MUR 7523 Stop I-186).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/27/2023)