



Senate

General Assembly

File No. 208

February Session, 2024

Substitute Senate Bill No. 253

Senate, April 3, 2024

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 2024 supplement to the general statutes
2 is amended by adding subdivisions (33) to (38), inclusive, as follows
3 (*Effective from passage*):

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

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

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

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

12 (i) With respect to which a foreign owner or a person described in
13 subparagraph (A) or (B) of this subdivision holds, owns, controls or
14 otherwise has a direct or indirect beneficial ownership of at least five
15 per cent of such entity's total equity or outstanding voting shares;

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

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

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

32 (NEW) (34) "Foreign principal" has the same meaning as provided in
33 22 USC 611(b), as amended from time to time.

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

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

39 (NEW) (37) "Foreign owner" means a firm, partnership, corporation,
40 association, organization or other entity with respect to which a person
41 described in subparagraph (A) or (B) of subdivision (33) of this section
42 holds, owns, controls or otherwise has a direct or indirect beneficial

43 ownership of at least fifty per cent of such entity's total equity or
44 outstanding voting shares, excluding interests held in a widely held,
45 diversified fund.

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

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

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

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

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

75 (3) Any person who, in consideration of any money, gift, advantage,
76 preferment, aid, emolument or other valuable thing paid, received,
77 accepted or promised to the person's advantage or any other person's
78 advantage, votes or refrains from voting for or against any person or for
79 or against any measure at any such election, caucus, primary or
80 referendum;

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

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

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

104 (7) Any person who, directly or indirectly, individually or through
105 another person, makes a payment or promise of payment to a treasurer
106 in a name other than the person's own, and any treasurer who
107 knowingly receives a payment or promise of payment, or enters or

108 causes the same to be entered in the person's accounts in any other name
109 than that of the person by whom such payment or promise of payment
110 is made;

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

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

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

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

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

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

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

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

136 (16) Any chief of staff for the Governor or Lieutenant Governor who

137 solicits a contribution on behalf of or for the benefit of any candidate for
138 state, district or municipal office from a member of the staff of the
139 Governor or Lieutenant Governor, or from any commissioner or deputy
140 commissioner of any state agency;

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

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

146 Sec. 3. Subsection (c) of section 9-601d of the general statutes is
147 repealed and the following is substituted in lieu thereof (*Effective from*
148 *passage*):

149 (c) The independent expenditure long-form report shall identify: (1)
150 The name of the person making or obligating to make such independent
151 expenditure or expenditures and, in the case of a person other than an
152 individual, provide a certification that the person making such
153 independent expenditure is not a foreign national; (2) the tax exempt
154 status of such person, if applicable; (3) the mailing address of such
155 person; (4) the principal business address of the person, if different from
156 the mailing address; (5) the address, telephone number and electronic
157 mail address of the agent for service of process in this state of such
158 person; (6) the date of the primary or election for which the independent
159 expenditure or expenditures were made or obligated to be made; (7) the
160 name of any candidate who was the subject of any independent
161 expenditure or expenditures and whether the independent expenditure
162 or expenditures were in support of or in opposition to such candidate;
163 and (8) the name, telephone number and electronic mail address for the
164 individual filing such report. Such individual filing such report shall
165 affirm that the expenditure reported is an independent expenditure
166 under penalty of false statement.

167 Sec. 4. Subsection (b) of section 9-605 of the general statutes is
168 repealed and the following is substituted in lieu thereof (*Effective from*

169 *passage*):

170 (b) The registration statement shall include: (1) The name and address
171 of the committee; (2) a statement of the purpose of the committee; (3) the
172 name and address of its treasurer, and deputy treasurer if applicable; (4)
173 the name, address and position of its [chairman] chairperson, and other
174 principal officers if applicable; (5) the name and address of the
175 depository institution for its funds; (6) the name of each person, other
176 than an individual, that is a member of the committee; (7) the name and
177 party affiliation of each candidate whom the committee is supporting
178 and the office or position sought by each candidate; (8) if the committee
179 is supporting the entire ticket of any party, a statement to that effect and
180 the name of the party; (9) if the committee is supporting or opposing
181 any referendum question, a brief statement identifying the substance of
182 the question; (10) if the committee is established by a business entity or
183 organization, the name of the business entity or organization and, if the
184 committee is established by a person other than a human being, a
185 certification that the person making the expenditure is not a foreign
186 national; (11) if the committee is established by an organization, whether
187 it will receive its funds from the organization's treasury or from
188 voluntary contributions; (12) if the committee files reports with the
189 Federal Elections Commission or any out-of-state agency, a statement to
190 that effect including the name of the agency; (13) a statement indicating
191 whether the committee is established for a single primary, election or
192 referendum or for ongoing political activities; (14) if the committee is
193 established or controlled by a lobbyist, a statement to that effect and the
194 name of the lobbyist; (15) the name and address of the person making
195 the initial contribution or disbursement, if any, to the committee; and
196 (16) any information that the State Elections Enforcement Commission
197 requires to facilitate compliance with the provisions of this chapter or
198 chapter 157. If no such initial contribution or disbursement has been
199 made at the time of the filing of such statement, the treasurer of the
200 committee shall, not later than forty-eight hours after receipt of such
201 contribution or disbursement, file a report with the State Elections
202 Enforcement Commission. The report shall be in the same form as
203 statements filed under section 9-608.

204 Sec. 5. Subdivision (1) of subsection (g) of section 9-7a of the general
205 statutes is repealed and the following is substituted in lieu thereof
206 (*Effective from passage*):

207 (g) (1) (A) In the case of a written complaint filed with the commission
208 pursuant to section 9-7b, commission staff shall conduct and complete a
209 preliminary examination of such complaint by the fourteenth day
210 following its receipt, at which time such staff shall, at its discretion, ~~[(A)]~~
211 (i) dismiss the complaint for failure to allege any substantial violation of
212 state election law supported by evidence, ~~[(B)]~~ (ii) engage the
213 respondent in discussions in an effort to speedily resolve any matter
214 pertaining to a de minimis violation, or ~~[(C)]~~ (iii) investigate and docket
215 the complaint for a determination by the commission that probable
216 cause or no probable cause exists for any such violation. If commission
217 staff dismisses a complaint pursuant to subparagraph ~~[(A)]~~ (A)(i) of this
218 subdivision, such staff shall provide a brief written statement concisely
219 setting forth the reasons for such dismissal. If commission staff engages
220 a respondent pursuant to subparagraph ~~[(B)]~~ (A)(ii) of this subdivision
221 but is unable to speedily resolve any such matter described in said
222 subparagraph by the forty-fifth day following receipt of the complaint,
223 such staff shall docket such complaint for a determination by the
224 commission that probable cause or no probable cause exists for any
225 violation of state election law. If the commission does not, by the sixtieth
226 day following receipt of the complaint, either issue a decision or render
227 its determination that probable cause or no probable cause exists for any
228 violation of state election laws, the complainant or respondent may
229 apply to the superior court for the judicial district of Hartford for an
230 order to show cause why the commission has not acted upon the
231 complaint and to provide evidence that the commission has
232 unreasonably delayed action.

233 (B) (i) For any complaint received on or after January 1, 2018, if the
234 commission does not, by one year following receipt of such complaint,
235 issue a decision thereon, the commission shall dismiss such complaint,
236 provided the length of time of any delay caused by ~~[(i)]~~ (I) the
237 commission or commission staff granting any extension or continuance

238 to a respondent prior to the issuance of any such decision, [(ii)] (II) any
 239 subpoena issued in connection with such complaint, [(iii)] (III) any
 240 litigation in state or federal court related to such complaint, or [(iv)] (IV)
 241 any investigation by, or consultation of the commission or commission
 242 staff with, the Chief State's Attorney, the Attorney General, the United
 243 States Department of Justice or the United States Attorney for
 244 Connecticut related to such complaint, shall be added to such one year.

245 (ii) The provisions of subparagraph (B)(i) of this subdivision shall not
 246 apply to any complaint received on or after July 1, 2024, that relates to a
 247 potential violation of state election law by 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
Sec. 3	<i>from passage</i>	9-601d(c)
Sec. 4	<i>from passage</i>	9-605(b)
Sec. 5	<i>from passage</i>	9-7a(g)(1)

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 25 \$	FY 26 \$
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	Minimal	Minimal
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill creates a ban on foreign political spending on state elections and referenda, and results in the effects outlined below.

Section 2 expands an existing class D felony for knowingly and willfully engaging in illegal campaign finance practices, which results in a potential cost to the Department of Correction and the Judicial Department for incarceration or probation and a potential revenue gain from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$3,300¹ while the average marginal cost for supervision in the community is less than \$800² each year for adults and \$1,000 each year for juveniles. Since FY 14, there have been five similar

¹Inmate marginal cost is based on increased consumables (e.g., food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

²Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

violations. Few, if any, future violations are expected.

Sections 3-5 define foreign campaign expenditures as "illegal campaign finance practices" and imposes a penalty of \$2,000 or double the illegal contribution whichever is greater resulting in a potential revenue gain to the state.

These sections also stipulate that reports to the State Elections Enforcement Commission (SEEC) must be closed within one year of opening or be dismissed. This is expected to be completed with existing resources.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the size and number of violations, and penalties imposed.

OLR Bill Analysis**sSB 253*****AN ACT CONCERNING FOREIGN POLITICAL SPENDING.*****SUMMARY**

This bill prohibits foreign nationals from making contributions or expenditures under 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.

The bill makes these actions illegal campaign finance practices (§ 2). 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)).

Additionally, the bill requires that certain independent expenditure reports and political action committee (PAC) registration statements filed with the State Elections Enforcement Commission (SEEC) include a certification that the person making the expenditure is not a foreign national. It also exempts complaints regarding foreign nationals that are filed with SEEC from the statutory one-year deadline for the commission to adjudicate complaints.

EFFECTIVE DATE: Upon passage

§ 1 — FOREIGN NATIONAL

Federal law generally prohibits foreign nationals from making contributions, donations, or independent expenditures (IE) in connection with federal, state, or local elections (see BACKGROUND). The 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'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).

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 a firm, partnership, corporation, association, organization, or other entity ("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 another 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)).

§§ 3 & 4 — REPORTING

Under existing law, any person that makes or obligates to make an independent expenditure or expenditures of more than \$1,000 in an election or primary for statewide or legislative office must electronically file a long-form and a short-form report with SEEC with specified information about the expenditure(s) (i.e., SEEC Form 26). The bill requires that the long-form report additionally include a certification

that the person making the expenditure (if not an individual) is not a foreign national.

The bill also requires PACs, if established by a person other than an individual, to certify in their registration statement filed with SEEC that the person making the expenditure is not a foreign national.

§ 5 — SEEC COMPLAINTS

The law requires SEEC to dismiss a complaint if it does not issue a final decision on it within one year after receipt, with certain exceptions (e.g., the timeline is extended if a subpoena is issued in connection with the complaint). The bill exempts from the one-year deadline complaints received on or after July 1, 2024, relating to potential violations of state election law by a foreign national.

BACKGROUND

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 another 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 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 (03/15/2024)