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H.B. 1
(1_135_2603-6)
135th General Assembly
Special Session

Fiscal Note & Local Impact Statement

Version: In House Government Oversight

Primary Sponsor: Rep. Seitz

Local Impact Statement Procedure Required: No

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Highlights

- The Attorney General (AGO) would incur costs to investigate and enforce the campaign finance prohibitions pertaining to foreign national contributions established in the bill.
- The AGO may potentially offset these costs through any fines collected from the campaign finance violations established in the bill. The fine for each infraction is three times the amount involved or \$10,000, whichever is greater. Offenders would also be guilty of a first degree misdemeanor for their first offense and a fifth degree felony on subsequent offenses.
- Similarly, a person who aids or facilitates a campaign finance infraction is guilty of a first degree misdemeanor.

Detailed Analysis

The bill modifies campaign finance law to prohibit certain contributions from foreign nationals, as detailed in the LSC bill analysis. As a result of these changes, the Attorney General (AGO) will incur costs to investigate and enforce the campaign finance violations established under the bill. The magnitude of any such costs are uncertain and would presumably be in proportion to the frequency and complexity of potential campaign finance violations arising from the bill. The AGO may partially or fully offset the costs through fines collected as a result of these campaign finance violations.

The fine for each infraction under this bill is three times the amount involved or \$10,000, whichever is greater. For the first infraction, an offender is guilty of a first degree misdemeanor which is punishable by fines of up to \$1,000 and a possible maximum jail term of six months. Subsequent infractions are fifth degree felonies punishable by fines of up to \$2,500 and a possible

maximum jail term of 12 months. Additionally, a person who aids or facilitates a campaign finance infraction involving the activities of a foreign national is guilty of a first degree misdemeanor.

The bill also creates a new process for submitting allegations of these campaign violations. Under the process created by the bill, the AGO is required to investigate an alleged violation of the bill, in consultation with the Secretary of State (SOS), if requested in writing by the Governor, the SOS, or the General Assembly. Similarly, the AGO would need to investigate a complaint filed by an Ohio elector. This provision could increase the number of cases investigated and ultimately prosecuted.

If the AGO is a victim or witness or is otherwise involved in a case, then the case would be referred to the Franklin County Prosecutor or the county prosecutor of the most populous county in which the candidate or issue is to appear on the ballot. In this circumstance, as with the AGO, the responsible county prosecutor would incur the costs to investigate and pursue these cases. County courts of common pleas could, however, incur increased costs if there are additional cases referred for prosecution.

In addition to the above prohibitions and corresponding penalties, the bill also requires a violator to return the contribution to the foreign national in addition to paying the fine levied.

Synopsis of Fiscal Effect Changes

The substitute bill (I_135_2603-6) makes changes to the As Introduced bill as follows. First, it adds prohibitions for (1) disbursements from a foreign national, directly or indirectly, for the production or airing of an electioneering communication and (2) continuing associations from receiving or expending money from a foreign national. These two new prohibitions result in a fine three times the amount involved or \$10,000, whichever is greater. Secondly, the substitute bill adds additional penalties for the prohibitions in the As Introduced bill, specifically a first degree misdemeanor for a first offense and a fifth degree felony for subsequent offenses. Thirdly, under the bill a person found to have aided or facilitated a campaign finance infraction would be subject to a first degree misdemeanor charge. For these additional provisions, the magnitude of any such enforcement costs are uncertain and would presumably be in proportion to the frequency and complexity of potential campaign finance violations. The Attorney General (AGO) may partially or fully offset the costs through fines collected as a result of these campaign finance violations. Much like any new investigative costs from the bill, any fine revenue collected is also uncertain, and will depend on the frequency and dollar amount of campaign finance violations.

The substitute bill also alters the enforcement of campaign finance violations. With respect to violations of the law regarding foreign nationals, the bill instead gives the AGO exclusive authority to investigate and prosecute, unless the AGO is a victim or witness or is otherwise involved in the case. In that situation, the AGO must refer the matter to either the Franklin County Prosecutor or the county prosecutor of the most populous county in which the candidate or issue is to appear on the ballot. The bill also creates a new system for bringing forward allegations of campaign finance violations involving foreign nationals. Under this system, the AGO would be required to investigate every alleged violation under the bill properly submitted by the Governor, the General Assembly, the Secretary of State (SOS), and any Ohio elector.

The substitute bill removes a provision that classifies ballot issue committees as political action committees. As a result, the SOS will not incur additional administrative costs for

processing additional fillings as would have been the case under the As Introduced bill. Finally, the substitute bill removes an emergency clause which would have made the changes to Campaign Finance Law listed in the bill to go into effect immediately.