

# **CCMD\_Tierra Bradford\_Fav\_SB0759**

Uploaded by: Bradford, Tierra

Position: FAV

Feb 20, 2020

**Testimony on SB 759**  
**Election Law - Disclosure of Contributions by Persons Doing Public Business – Enforcement**  
**Ways and Means**

**Position: Favorable**

Common Cause Maryland is in support of SB 759 which will expand SBE's authority to enforce filing requirements and fees for late filing of statements under Title 14. The bill will allow SBE to refer entities doing public business for prosecution after giving entities notice that they are in violation of campaign finance laws.

There is growing frustration by citizens over the role that special interests are playing in our campaigns. Particularly in situations where it can appear that there is a conflict of interest, Maryland does not have unlimited ability to fight back against the surging tide of special interest donations. Public Businesses are businesses that make or have a single contract with a State or local governmental entity involving cumulative consideration of at least \$200,000. They are required to submit statements to SBE regarding any applicable contributions. The issue is whether they are disclosing and disclosing on time.

SB 759 addresses the lack of adherence to campaign finance laws. Entities are abusing the system by filing late or not filing at all. Currently, there is not much incentive to follow the rules because the highest amount an entity would have to pay in fees is \$1,000. This is not having much of a deterrent effect. Increasing SBE's authority, as well as the actual punishment will hopefully be an effective solution that will help deter bad behavior by public businesses.

SB 759 is a step in the direction of Maryland that clarifies enforcement of campaign finance laws It is always good to protect against any potential further abuse campaign limits and we recommend a favorable report.

# **SB759\_OSP\_support**

Uploaded by: Howard, Charlton

Position: FAV

CHARLTON T. HOWARD, III  
STATE PROSECUTOR



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**SUPPORT FOR SB 759**

Mr. Chair and Members of the Education, Health, and Environmental Affairs Committee:

We are writing to express the Office of the State Prosecutor's support for Senate Bill 759, which enhances our ability to effectively enforce Title 14 of the election law Article by providing civil enforcement power.

**The Office of the State Prosecutor**

The Office of the State Prosecutor is an independent agency within the Executive Branch of government. The Office is tasked with ensuring the honesty and integrity of state government and elections by conducting thorough, independent investigations, and when appropriate, employing our criminal and civil enforcement power to prosecute conduct affecting the integrity of our government institutions, officials, employees, and elections. One of the duties of The Office of the State Prosecutor is to enforce Maryland's election laws.

**Title 14**

Title 14 mandates that business entities that have a single contract of at least \$200,000 with a governmental entity file statements with the State Board of Elections listing the business' applicable campaign contributions. Title 14 encourages transparency and seeks to avoid corruption in the award of State contracts.

It is clear that the Office of the State Prosecutor was meant to have civil enforcement power over violations of Title 14, and a technical loophole is preventing us from exercising that power. Senate Bill 759 closes the loophole, affording the civil enforcement power that many assume we already have.

Title 14 has specific language for criminal enforcement.<sup>1</sup> However, Title 14 is silent as to civil enforcement. Limiting our enforcement power to situations that rise to the level of a crime renders Title 14 practically unenforceable and as a result significantly hinders compliance.

A criminal violation of Title 14 requires that it is a willful and knowing violation. As a practical matter, this means that to bring a criminal charge resulting from a business' failure to file a required statement, we would need evidence that a decision-maker at the company specifically directed the company not to file the disclosure. This type of evidence is simply not applicable in most cases. Instead, what we typically see is that the company was negligent in failing to file the disclosure,

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<sup>1</sup> E.L. § 14-107.

or there is no specific evidence regarding the reason the company failed to file the disclosure. Thus, the criminal *mens rea* requirement is not met.

Civil enforcement, on the other hand, would permit us to civilly cite the business entity when it has not complied with the requirements of Title 14. It does not require us to see into the minds of the individual officers or decision makers to evaluate why they did not file the required disclosure.

It is our understanding that the drafters of Title 14 intended the Office of the State Prosecutor to have both civil and criminal enforcement power. This intention is congruent with the fact that we have both civil and criminal enforcement power in the analogous Title 13, which regulates the filing of campaign finance reports.<sup>2</sup> In fact, the proposed language in section 14-107.1 of the bill mirrors the language from Title 13 discussing our civil enforcement power.<sup>3</sup>

Importantly, Title 14 provides that the State Board may impose late fees in the same amount and manner as provided under Title 13.<sup>4</sup> The imposition of late fees necessitates a civil enforcement mechanism. As Title 14 currently stands, there is no ability to take any enforcement action when late fees are not paid. As a result, fees go uncollected.

Title 14 is an important tool in promoting transparency and integrity in government contracting. Senate Bill 759 provides a much needed fix which will enable Title 14 to be enforced in a meaningful way.

Sincerely,

CHARLTON T. HOWARD  
STATE PROSECUTOR

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<sup>2</sup> See E.L. §§ 13-603; 13-604.

<sup>3</sup> E.L. §13-604.

<sup>4</sup> E.L. § 14-107 (c).

# **LAM\_FAV\_SB0759**

Uploaded by: Senator Lam, Senator Lam

Position: FAV

CLARENCE K. LAM, M.D., M.P.H.  
*Legislative District 12*  
Baltimore and Howard Counties

Education, Health, and Environmental Affairs  
Committee

Executive Nominations Committee

Joint Committee on Ending Homelessness

*Chair*

Joint Committee on Fair Practices and  
State Personnel Oversight

*Chair*

Howard County Senate Delegation



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## **Support SB 759: Election Law - Disclosure of Contributions by Persons Doing Public Business - Enforcement**

### **Background:**

- “Doing public business” means making or having a single contract with a single governmental entity involving cumulative consideration of at least \$200,000.
- Persons doing public business are required to file statements with the State Board of Election (SBE) regarding their campaign contributions

### **The Issue:**

- SBE does not have the same abilities regarding late filings of disclosures or election law violations by persons doing public business as they do for other election law violations
- No civil penalties exist for violations of persons doing public business with the state
- The maximum criminal penalty for violating requirements on persons doing public business is \$1,000 or 1 year of imprisonment - violations of campaign finance requirements can result in a \$25,000 fine or 1 year of imprisonment
- Business who late file doing public business disclosures are not able to seek relief from a late fee by showing late cause

### **What SB 759 Does:**

- Permits SBE or a court to waive a fee imposed for a late filing by a person doing public business after a finding of just cause
- Creates a civil penalty not to exceed \$10,000 for violations by a person doing public business without criminal intent
- Increases the penalty for knowing and willful violations by a person doing public business to fine of \$25,000 fine or 1 year of imprisonment

# **SB\_759\_StateBoardofElections\_informational**

Uploaded by: DeMarinis, Jared

Position: INFO



# Maryland State Board of Elections

**SB 759**  
**Election Law –**  
**Disclosure of Contributions by Persons Doing Public Business-Enforcement**  
**Senator Lam**

**Purpose:**

To clarify the manner and process for the imposition of late fees on contribution disclosure statements filed by a person doing public business. Additionally, the legislation allows the State Prosecutor to seek civil penalties.

**Comments:**

The State Board of Elections offers informational testimony on the proposed legislation.

Title 14 of the Election Law Article requires a business entity having a single contract of \$200,000 or more with a governmental body file a contribution disclosure statement detailing the political contributions and donations given by the officers of the business entity. In 2013, the General Assembly passed HB 1499 on the recommendations of the Commission to Study Campaign Finance Law to make enforcement similar to that of a political committee's campaign finance reporting; Title 13 of the Election Law Article.

However, the language in the current law does not completely mirror the manner and process dictated under Title 13. The bill closes any enforcement loopholes and follows the recommendations and intent of the Commission's report. The proposed legislation clarifies the process for the State Board to issue fines against a late filing by a business. Additionally, the bill codifies the waiver process for a reduction in late filing fees. Finally, the legislation grants civil prosecution to the Office of the State Prosecutor.

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**LINDA H. LAMONE, ADMINISTRATOR**  
**STATE BOARD OF ELECTIONS**

EHEA 2/20/2020