

AN AMENDMENT  
IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 5, 2013

Amendment offered by: Councilmember Kenyan McDuffie (D-Ward 5)

To: Bill 20-76, the “Campaign Finance Reform and Transparency Amendment Act of 2013”

Version:	Introduced	_____
	Committee Print	_____
	First Reading	<u>  X  </u>
	Amended First Reading	_____
	Engrossed	_____
	Enrolled	_____
	Amendment in the Nature of a Substitute	_____

**1.      Sec. 2                      Page 1-2                      Line 29-30; 1-2**

Is amended to read as follows:

(2A) “Affiliated entity” means each business entity that is related to an entity by virtue of one of the following relationships:

(A) One of the entities owns or controls the other; or

(B) The entities share an owner or controller, whether that owner or controller is another entity or an individual.

**RATIONALE:**

This amendment clarifies the definition of an “affiliated entity” without changing the intent of the Committee.

The affiliated entity definition works in conjunction with the definitions of “business entity”, “business contributor”, and “control” to aggregate the contributions of Limited Liability

Companies, and other business entities, thereby limiting those entities that are linked by ownership and/or control to a single contribution limit.

Thus, several LLCs owned or controlled by a shared parent company would share an aggregated contribution limit with each other and the parent company. Likewise, if a number of LLCs were owned or controlled by one individual or a group of individuals, those companies would share a single contribution limit.

The re-wording of the definition also makes clear that it does not consider an individual to be an affiliated entity. Therefore, underlying individual business owners (natural persons) will still be permitted to donate in their individual capacities without being aggregated with the contributions of businesses they own or control.

**2.      Sec. 2                              Page 3                              Line 17-19**

Is amended by striking subparagraph (ii).

**RATIONALE:**

This amendment removes, from the definition of “contribution”, the following language:

“A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any purpose listed in sub-paragraph (i) of this subparagraph;”

This amendment is necessary to clarify the definition of “contribution.” This language has been confirmed by the Office of Campaign Finance to essentially be unenforceable because they have no way of quantifying, or verifying a “promise” when conducting an audit. Moreover the language contradicts the reporting requirements, which indicate that “[i]n determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.” (emphasis added)

**3.      Sec. 2                              Page 5                              Line 13-14**

Is amended by inserting the phrase “An ownership interest of 40% shall constitute a rebuttable presumption of control.” at the end of the paragraph.

**RATIONALE:**

This amendment clarifies the definition of “control” by inserting a bright-line test by which the Office of Campaign Finance can use to presume control. This amendment will also assist entities and campaigns in understanding when “control” exists in the case of an “affiliated entity.”

**4.      Sec. 2                              Page 6                              Line 12-14**

Is amended by striking subparagraph (ii).

**RATIONALE:**

This amendment removes, from the definition of “expenditure”, the following language:

“A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any purpose listed in sub-paragraph (i) of this subparagraph;”

This amendment is necessary to clarify the definition of “expenditure,” and to maintain parity with the amended definition of “contribution.” This language has been confirmed by the Office of Campaign Finance to essentially be unenforceable because they have no way of quantifying, or verifying a “promise” when conducting an audit.

**5.      Sec. 2                      Page 15                      Line 16**

Is amended by striking the phrase “on the day”

**RATIONALE:**

This technical amendment removes extraneous language.

6. Sec. 2 Page 15 Line 20

Is amended by striking the period, and inserting the following at the end of the paragraph:

“, except that any contribution of \$200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.”

**RATIONALE:**

This amendment reinserts inadvertently deleted language from the reporting requirements. This language already exists in the current code.

**7. Sec. 2 Page 18 Line 17**

Is amended by inserting the phrase “that have also made an independent expenditure” after the phrase “identify the person’s affiliated entities”.

**RATIONALE:**

This amendment is necessary to avoid a new, non-trivial, and potentially unconstitutional, burden on individual independent exponents. Inserting this language will require independent

expenders to report affiliated entities only if an affiliated entity has also made an independent expenditure.

**8.      Sec. 2                                      Page 24                                      Line 18**

Is amended by striking the phrase “shall,”.

**RATIONALE:**

This amendment deletes extraneous language that was inadvertently inserted to this section.

**9.      Sec. 2                                      Page 24                                      Line 19**

Is amended by inserting the word “civil” before the word “penalty”.

**RATIONALE:**

This amendment clarifies that the intent is for this penalty to be civil in nature.

**10.    (a) Sec. 2                                      Page 26                                      Line 14**

Is amended by striking the phrase “not more than \$1,000” and inserting the phrase “not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012 (D.C. Law 19-317; D.C. Official Code § 22-3571.01)” in its place.

**(b) Sec. 2                                      Page 26                                      Line 17-18**

Is amended by striking the phrase “not more than \$10,000” and inserting the phrase “not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012 (D.C. Law 19-317; D.C. Official Code § 22-3571.01)” in its place.

**RATIONALE:**

In 2012 the Council adopted the Criminal Fine Proportionality Amendment Act, to make fines for criminal offenses proportional to the corresponding imprisonment term for the offense. That legislation affects all fines in the D.C. Code, whether or not it is specifically referenced in the individual penalty provision. As such, these two amendments are merely conforming amendments. Amendment (b), however, would increase the maximum fine for knowingly violating a provision of the act from \$10,000 to \$12,500, as this higher amount is associated with an imprisonment penalty of up to 5 years under the Criminal Fine Proportionality Amendment Act.

**11.    Sec. 3                                      Page 27                                      Line 9-10**

Is amended to read as follows:

Sec. 3. Applicability.

This act shall apply upon the latest of either:

- (a) The inclusion of the fiscal effect of this Act in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.
- (b) January 31, 2015; or
- (c) The effective date of this act pursuant to Section 5.

**RATIONALE:**

This amendment clarifies that this Act is subject to appropriations, and that this Act should become effective no earlier than January 31, 2015. January 31, 2015 was selected as the earliest effective date, to allow the 2014 election cycle (including inaugural activities) to conclude, as well as to give the Office of Campaign Finance enough time to procure new programs to comply with the requirements of this Act.

5 A BILL

6  
7 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
8

9 To amend the Board of Ethics and Government Accountability Establishment and  
10 Comprehensive Ethics Reform Amendment Act of 2011 to add and amend definitions, to require  
11 registrants to report bundled contributions, to amend the powers and the duties of the Director of  
12 Campaign Finance to require all reports filed with the Election Board be filed online, to include  
13 political action committees and independent expenditure committees in the list of entities  
14 required to file reports, to amend the reporting requirements, to require candidate and treasurer  
15 training on campaign finance laws and regulations, to prohibit contributions in excess of \$100 in  
16 the form of a money order or cash, to amend the disclosure requirements for those who make  
17 independent expenditures, to clarify that any entity may be treated as an affiliated entity for  
18 purposes of this act, and to amend the penalty provisions to increase civil penalties, provide  
19 concurrent prosecution authority for misdemeanor violations for the United States Attorney for  
20 the District of Columbia and the Attorney General for the District of Columbia, and to provide  
21 for felony prosecution of all violations committed knowingly.  
22

23 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
24 act may be cited as the “Campaign Finance Reform and Transparency Amendment Act of 2013”.

25 Sec. 2. The Board of Ethics and Government Accountability Establishment and  
26 Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-  
27 124; D.C. Official Code § 1-1161.01 *et seq.*) is amended as follows:

28 (a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

29 (1) A new paragraph (2A) is added to read as follows:

30 (2A) ~~“Affiliated entity” means, for a business entity any other business~~  
31 ~~entities related as a parent, subsidiary, or sibling, the control or ownership of one business~~

1 ~~entity by another person, or 2 or more business entities commonly controlled or owned by~~  
2 ~~another person.”.~~

**“Affiliated entity” means each business entity that is related to an entity by  
virtue of one of the following relationships:**

**(A) One of the entities owns or controls the other; or**

3 **(B) The entities share an owner or controller, whether that owner or**  
4 **controller is another entity or an individual.**

5 (2) A new paragraph (3A) is added to read as follows:

6 “(3A) “Bundled” or “bundling” means to forward or arrange to forward two or  
7 more contributions from one or more persons by a person who is not acting with actual authority  
8 as an agent or principal of a committee. Hosting a fundraiser, by itself, shall not constitute  
9 bundling.”.

10 (3) Paragraph (4) is amended by striking the word ““Business”” and inserting the  
11 phrase ““Business or business entity”” in its place.

12 (4) A new paragraph (4A) is added to read as follows:

13 “(4A) “Business contributor” means a business entity making a contribution and  
14 all of that entity’s affiliated entities.”.

15 (5) Paragraph (6) is amended as follows:

16 (A) The lead-in text is amended by inserting the sentence “An individual  
17 deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of  
18 that status, to be a candidate for the purposes of any other law.” after the first sentence of the  
19 paragraph.

1 (B) Subparagraph (A) is amended by striking the phrase “himself or  
2 herself” and inserting the phrase “the individual” in its place.

3 (C) Subparagraph (B) is amended by striking the phrase “his or her” and  
4 inserting the phrase “the individual’s” in its place.

5 (D) Subparagraph (C) is amended by striking the sentence “An individual  
6 deemed to be a candidate for the purposes of this act shall not be deemed, solely by reason of  
7 that status, to be a candidate for the purposes of any other law.”.

8 (6) Paragraph (10) is amended to read as follows:

9 “(10)(A) “Contribution” means:

10 “(i) A gift, subscription (including any assessment, fee, or  
11 membership dues), loan (except a loan made in the regular course of business by a business  
12 engaged in the business of making loans), advance, or deposit of money or anything of value  
13 (including contributions in cash or in kind), made for the purpose of financing, directly or  
14 indirectly:

15 “(I) The nomination or election of a candidate;

16 “(II) Any operations of a political committee or political  
17 action committee; or

18 “(III) The campaign to obtain signatures on any initiative,  
19 referendum, or recall measure, or to bring about the ratification or defeat of any initiative,  
20 referendum, or recall measure;

21 ~~“(ii) A contract, promise, or agreement, whether or not legally~~  
22 ~~enforceable, to make a contribution for any purpose listed in sub-subparagraph (i) of this~~  
23 ~~subparagraph;~~



1 “(iii) A transfer of funds between:

2 “(I) Political committees;

3 “(II) Political action committees;

4 “(III) A political committee and a political action  
5 committee; or

6 “(IV) Candidates.

7 “(iv) The payment, by any person other than a candidate, a  
8 political committee, political action committee, or independent expenditure committee of  
9 compensation for the personal services of another person that are rendered to such candidate or  
10 committee without charge or for less than reasonable value, or the furnishing of goods,  
11 advertising, or services to a candidate’s campaign without charge or at a rate which is less than  
12 the rate normally charged for such services.

13 “(B) Notwithstanding subparagraph (A) of this paragraph, the term  
14 “contribution” does not include:

15 “(i) Personal or other services provided without compensation by  
16 a person (including an accountant or an attorney) volunteering a portion or all of the person's  
17 time to or on behalf of a candidate, political committee, political action committee, or  
18 independent expenditure committee;

19 “(ii) Communications by an organization other than a political  
20 party solely to its members and their families on any subject;

21 “(iii) Communications (including advertisements) to any person  
22 on any subject by any organization that is organized solely as an issue-oriented organization,  
23 which communications neither endorse nor oppose any candidate for office;

1 “(iv) Normal billing credit for a period not exceeding 30 days;

2 “(v) Services of an informational or polling nature, designed to  
3 seek the opinion of voters concerning the possible candidacy of a qualified elector for public  
4 office, before such qualified elector becomes a candidate;

5 “(vi) The use of real or personal property, and the costs of  
6 invitations, food, and beverages voluntarily provided by a person to a candidate in rendering  
7 voluntary personal services on the person's residential premises for related activities; provided,  
8 that expenses do not exceed \$500 with respect to the candidate's election; and

9 “(vii) The sale of any food or beverage by a vendor for use in a  
10 candidate's campaign at a charge less than the normal comparable charge, if the charge for use in  
11 a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;  
12 provided, that expenses do not exceed \$500 with respect to the candidate's election.”.

13 (7) New paragraphs (10A) and (10B) are added to read as follows:

14 “(10A) “Control” or “controlling interest” means the practical ability to direct or  
15 cause to be directed the financial management policies of an entity. **An ownership interest of 40%**  
16 **shall constitute a rebuttable presumption of control.**

17 “(10B) “Coordinate” or “coordination” means to take an action, including  
18 making an expenditure:

19 “(A) At the request or suggestion of a candidate or public official, a  
20 political committee affiliated with a candidate or public official, or an agent of a candidate or  
21 public official or of a political committee affiliated with the candidate or public official; or

22 “(B) With the material involvement of a candidate or public official, a  
23 political committee affiliated with a candidate or public official, or an agent of a candidate or  
24 public official or of a political committee affiliated with a candidate or public official.

1 (8) A new paragraph (18A) is added to read as follows:

2 “(18A) “Entity” shall have the same meaning as provided in § 29-101.02.”.

3 (9) Paragraph (21) is amended to read as follows:

4 “(21)(A) “Expenditure” means:

5 “(i) A purchase, payment, distribution, loan, advance, deposit, or  
6 gift of money or anything of value made for the purpose of financing, directly or indirectly:

7 “(I) The nomination or election of a candidate;

8 “(II) Any operations of a political committee, political  
9 action committee, or independent expenditure committee; or

10 “(III) The campaign to obtain signatures on any initiative,  
11 referendum, or recall petition, or to bring about the ratification or defeat of any initiative,  
12 referendum, or recall measure;

13 ~~“(ii) A contract, promise, or agreement, whether or not legally~~  
14 ~~enforceable, to make an expenditure for any purpose listed in sub-subparagraph (i) of this~~  
15 ~~subparagraph;~~

16 “(iii) A transfer of funds between:

17 “(I) Political committees;

18 “(II) Political action committees;

19 “(III) A political committee and a political action  
20 committee; or

21 “(IV) Candidates.

22 “(B) Notwithstanding subparagraph (A) of this paragraph, the term  
23 “expenditure” does not include incidental expenses (as defined by the Elections Board or Ethics

Board) made by or on behalf of a person in the course of volunteering that person's time on behalf of a candidate, political committee, or political action committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity; provided, that the aggregate value of such activities by such person on behalf of any candidate does not exceed \$500 with respect to any election.”.

(10) Paragraph (22) is amended by striking the phrase “of becoming” and inserting the phrase “of an individual’s becoming” in its place.

(11) Paragraph (23)(A) is amended by striking the phrase “A political contribution” and inserting the phrase “A contribution” in its place.

(12) New paragraphs (28A) and (28B) are added to read as follows:

“(28A) “Independent expenditure” means an expenditure that is:

“(A) Made for the principal purpose of promoting or opposing:

“(i) The nomination or election of a candidate;

“(ii) A political party; or

“(iii) Any initiative, referendum, or recall; and

“(B) Not controlled by or coordinated with:

“(i) Any public official or candidate; or

“(ii) Any person acting on behalf of a public official or candidate;

“(28B) “Independent expenditure committee” means any committee, club, association, organization, or other group of individuals that:

1                   “(A) Is organized for the principal purpose of making independent  
2 expenditures;

3                   “(B) Is not controlled by or coordinated with:

4                         “(i) Any public official or candidate; or

5                         “(ii) Any person acting on behalf of a public official or candidate;

6 and,

7                   “(C) Makes no transfer of funds to:

8                         “(i) Political committees;

9                         “(ii) Political action committees; or

10                        “(iii) Candidates.

11               (13) Paragraph (30) is amended as follows:

12                        (A) Strike the comma following the word “persons”.

13                        (B) Strike the word “expending” and insert the word “spending” in its  
14 place.

15               (14) A new paragraph (33A) is added to read as follows:

16                        “(33A) “Material involvement” means, with respect to a contribution or  
17 expenditure, any communication to or from a candidate or public official, political committee  
18 affiliated with a candidate or public official, or any agent of a candidate or public official or  
19 political committee affiliated with a candidate or public official, related to the contribution or  
20 expenditure. Material involvement includes devising or helping to devise the strategy, content,  
21 means of dissemination, or timing of the expenditure, or making any express or implied  
22 solicitation of the expenditure.”.

23               (15) A new paragraph (43A) is added to read as follows:

1                   “(43A) “Political action committee” means any committee, club, association,  
2 organization, or other group of individuals that is:

3                   “(A) Organized for the principal purpose of promoting or opposing:

4                               “(i) The nomination or election of a person to public office;

5                               “(ii) A political party; or

6                               “(iii) Any initiative, referendum, or recall; and

7                   “(B) Not controlled by or coordinated with:

8                               “(i) Any public official or candidate; or

9                               “(ii) Any person acting on behalf of a public official or  
10 candidate.”.

11                   (16) Paragraph (44) is amended to read as follows:

12                   “(44) “Political committee” means any committee (including any principal  
13 campaign, inaugural, exploratory, transition, or legal defense committee), club, association,  
14 organization, or other group of individuals that is:

15                   “(A) Organized for the principal purpose of promoting or opposing:

16                               “(i) The nomination or election of a person to public office;

17                               “(ii) A political party;

18                               “(iii) Any initiative, referendum, or recall; or

19                   “(B) An inaugural, transition, or legal defense committee; and

20                   “(C) Controlled by or coordinated with any candidate or public official, or  
21 controlled by or coordinated with anyone acting on behalf of a candidate or public official.”.

22                   (b) Section 230(a) (D.C. Official Code § 1-1162.30(a)) is amended as follows:

1 (1) Paragraph (3) is amended by striking the phrase “campaign or testimonial  
2 committee” and inserting in its place the phrase “political committee or political action  
3 committee”.

4 (2) Paragraph (5) is amended by striking the phrase “and”.

5 (3) Paragraph (6) is amended by striking the phrase “shall also be listed in the  
6 report.” and inserting the phrase “; and” in its place.

7 (4) A new paragraph (7) is added to read as follows:

8 “(7) All bundled contributions in accordance with rules promulgated by the  
9 Ethics Board”.

10 (c) Section 231(g)(2) (D.C. Official Code § 1-1162.31(g)(2)) is amended by striking the  
11 phrase “, and the representation and services are not provided by a lobbyist or registrant”.

12 (d) Section 302(c) (D.C. Official Code § 1-1163.02(c)) is amended by striking the  
13 phrase “to the United States Attorney for the District of Columbia for prosecution” and replacing  
14 it with the phrase “for prosecution as provided for in section 335”.

15 (e) Section 303 (D.C. Official Code § 1-1163.03) is amended as follows:

16 (1) Subsection (a)(1) is amended as follows:

17 (A) Subparagraph (B) is amended to read as follows:

18 “(B) To require any person to submit through an electronic format or  
19 medium the reports required in this title;”.

20 (B) Subparagraph (H) is amended by striking the phrase “to the United  
21 States Attorney for the District of Columbia” and inserting the phrase “for prosecution” in its  
22 place.

23 (2) Subsection (c) is amended as follows:

1 (A) Strike the phrase “to the United States Attorney for the District of  
2 Columbia” each place it appears and insert the phrase “for prosecution” in its place.

3 (B) Strike the sentence “The provisions of this subsection shall in no  
4 manner limit the authority of the United States Attorney for the District of Columbia.”.

5 (f) Section 304 (D.C. Official Code § 1-1163.04) is amended as follows

6 (1) New paragraphs (1A) and (1B) are added to read as follows:

7 “(1A) Require that all reports filed with the Elections Board pursuant to  
8 this title be submitted online, provided that reasonable accommodations shall be made where an  
9 actual hardship in complying with this paragraph is demonstrated to the Elections Board. The  
10 Elections Board shall issue regulations governing the online submission of reports, pursuant to  
11 this paragraph;

12 “(1B) Publish all information submitted by recipients and agencies  
13 pursuant to sections of this title online in a publicly accessible, widely accepted, nonproprietary,  
14 searchable, platform-independent, sortable, computer-readable format within 24 hours of filing.  
15 The database of electronic filings and other data within the portal shall be available via bulk  
16 download from the portal website;”.

17 (2) Paragraph (7) is amended to read as follows:

18 “(7) Ensure dissemination of statistics, summaries, and reports prepared under  
19 this title, including a biennial report summarizing the receipts and expenditures of candidates in  
20 the prior 2-year period and the receipts and expenditures of political committees, political action  
21 committees, and independent expenditures during the prior 2-year period. The Director of  
22 Campaign Finance shall make available to the Mayor, Council, and general public the first  
23 biennial report by January 31, 2013, and shall present the summary report on the same date every



1 2 years thereafter. The report shall describe the receipts and expenditures of candidates for  
2 Mayor, Attorney General, Chairman and members of the Council, President and members of the  
3 State Board of Education, shadow Senator, and shadow Representative, but shall exclude  
4 candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum,  
5 the following information, as well as other information that the Director of Campaign Finance  
6 considers appropriate:

7                   “(A) A summary of each candidate’s receipts, in dollar amount and  
8 percentage terms, by donor categories that the Director of Campaign Finance considers  
9 appropriate, such as the candidate himself or herself, individuals, political party committees,  
10 other political committees and political action committees, corporations, partnerships, and labor  
11 organizations;

12                   “(B) A summary of each candidate’s receipts, in dollar amount and  
13 percentage terms, by the size of the donation, including donations of \$500 or more; donations of  
14 \$250 or more but less than \$500; donations of \$100 or more but less than \$250; and donations of  
15 less than \$100;

16                   “(C) The total amount of a candidate’s receipts and expenditures for  
17 primary and general elections, respectively, when applicable;

18                   “(D) A summary of each candidate’s expenditures, in dollar amount and  
19 percentage terms, by operating expenditures, transfers to other authorized committees, loan  
20 repayments, and refunds of contributions; and

21                   “(E) A summary of the receipts and expenditures of political committees  
22 and political action committees using categories considered appropriate by the Director of  
23 Campaign Finance;”.

1 (3) A new paragraph (7A) is added to read as follows:

2 “(7A) Require a candidate for public office and the treasurer of any political  
3 committee, political action committee, or independent expenditure committee to attend a training  
4 program conducted by the Director of Campaign Finance concerning compliance with this title.

5 Such training shall:

6 “(A) Be conducted in person, although online materials may be used to  
7 supplement the training;

8 “(B) Be completed in accordance with a schedule to be published by the  
9 Director of Campaign Finance, or by individual request as the Director of Campaign Finance  
10 deems appropriate; and

11 “(C) Upon completion, result in the completion of an oath or affirmation  
12 to follow the District’s campaign finance laws, to be developed by the Director of Campaign  
13 Finance. The names of the participants shall be posted on the website of the Office of Campaign  
14 Finance;”.

15 (g) Section 306 (D.C. Official Code § 1-1163.06) is amended as follows:

16 (1) The first sentence of subsection (a) is amended to read as follows:

17 “Upon application made by any individual holding public office, any candidate, any  
18 person required to submit filings to the Elections Board under this title, any person who  
19 reasonably anticipates being required to submit filings to the Elections Board under this title in  
20 connection with a pending election or any subsequent election, or any political committee,  
21 political action committee, or other person under the jurisdiction of the Elections Board, the  
22 Elections Board shall provide within a reasonable period of time an advisory opinion, with  
23 respect to any specific transaction or activity inquired of, as to whether such transaction or

1 activity would constitute a violation of any provision of this title or of any provision of Title I of  
2 the Election Code over which the Elections Board has primary jurisdiction.”.

3 (2) A new subsection (c) is added to read as follows:

4 “(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a  
5 person in reliance on an advisory opinion from the Elections Board is lawful if:

6 “(1) The person requested the advisory opinion;

7 “(2) The facts on which the opinion is based are full and accurate, to the best  
8 knowledge of the person; and

9 “(3) The person, in good faith, substantially complies with any recommendations  
10 in the opinion.”.

11 (h) Section 307 (D.C. Official Code § 1-1163.07) is amended as follows:

12 (1) The lead-in text is amended by striking the phrase “Political, exploratory,  
13 transition, and inaugural committees, which are established pursuant to this subtitle,” and  
14 inserting the phrase “Political committees, political action committees, and independent  
15 expenditure committees” in its place.

16 (2) Paragraph (1) is amended by adding a new subparagraph (C-i) to read as  
17 follows:

18 “(C-i) The name, address, and position of all directors and officers;”.

19 (3) Paragraph (4) is amended as follows:

20 (A) Strike the phrase “No contribution and no expenditure shall” and  
21 insert the phrase “No contribution or expenditure may” in its place.

22 (B) Strike the phrase “No expenditure shall” and insert the phrase “No  
23 expenditure may” in its place.

1 (1) Paragraph (5)(A) is amended as follows:

2 (A) Strike the phrase “contribution and expenditure” and insert the phrase  
3 “contribution or expenditure” in its place.

4 (B) Strike the phrase “for or” and insert the phrase “accepted or made” in  
5 its place.

6 (i) Section 309 (D.C. Official Code § 1-1163.09) is amended as follows:

7 (1) Subsections (a) and (b) are amended to read as follows:

8 “(a) The following individuals shall file with the Director of Campaign Finance, and  
9 with the principal campaign committee, if applicable, reports of receipts and expenditures on  
10 forms to be prescribed or approved by the Director of Campaign Finance:

11 “(1) The treasurer of each political committee;

12 “(2) The treasurer of each political action committee; and

13 “(3) The treasurer of each independent expenditure committee.

14 “(b)(1) The reports required by subsection (a) of this section shall be filed on the 10th day of  
15 March, June, August, October, and December in the 7 months preceding the date on which, and  
16 in each year during which, an election is held for the office sought, and ~~on the day~~ 8 days prior  
17 to an election, and also by the 31st day of January of each year. In addition, the reports shall be  
18 filed on the 31st day of July of each year in which there is no election. The reports shall be  
19 complete as of the date prescribed by the Director of Campaign Finance, which shall not be more  
20 than 5 days before the date of filing, **except that any contribution of \$200 or more received**  
21 **after the closing date prescribed by the Director of Campaign Finance for the last report**  
22 **required to be filed before the election shall be reported within 24 hours after its receipt.**

1 (2) Subsection (c) is amended as follows:

2 (A) A new paragraph (2A) is added to read as follows:

3 “(2A) For each contribution by a business contributor, any information provided by that  
4 business contributor in accordance with section 313(b) of this chapter;”.

5 (B) Paragraph (4) is amended by striking the final word “and”.

6 (C) Paragraph (8) is amended by striking the semicolon and inserting the  
7 phrase “, and for each expenditure made by a political action committee or independent  
8 expenditure committee, the name of any candidate, initiative, referendum, or recall in support of  
9 or opposition to which the expenditure is directed;” in its place.

10 (3) Subsection (e) is amended to read as follows:

11 “(e)(1) A report or statement required by this subtitle shall be verified by the oath or  
12 affirmation of the person filing the report or statement.

13 “(2) The oath or affirmation required under this subsection shall be given under  
14 penalty of perjury and shall state that the filer has used all reasonable diligence in the preparation  
15 of the report or statement and the report or statement is true and complete to the best of the  
16 filer’s knowledge.

17 “(3) An oath or affirmation by a candidate shall also state that the candidate has  
18 used all reasonable diligence to ensure that:

19 “(A) The candidate and the candidate’s political committees are in  
20 compliance with this subtitle; and

21 “(B) The candidate’s political committees have advised their contributors  
22 of the obligations imposed on those contributors by this title.

1 “(4) The Elections Board shall, by published regulations of general applicability,  
2 prescribe the manner in which contributions and expenditures in the nature of debts and other  
3 contracts, agreements, and promises to make contributions or expenditures shall be reported. The  
4 regulations shall provide that they be reported in separate schedules. In determining aggregate  
5 amounts of contributions and expenditures, amounts reported as provided in the regulations shall  
6 not be considered until actual payment is made.”.

7 (5) A new subsection (f) is added to read as follows:

8 “(f) Each political committee (including principal campaign, inaugural, transition, and  
9 exploratory committees) shall, in a separate schedule of its report to be filed under subsection (a)  
10 of this section, disclose the:

11 “(1) Name, address, and employer of each person reasonably known by the  
12 committee to have bundled in excess of \$10,000 during the reporting period; and

13 “(2) For each person, the total of the bundling.

14 (j) Section 311 (D.C. Official Code § 1-1163.11) is amended as follows:

15 (1) The lead-in text is amended by striking the phrase “political committee” and  
16 inserting the phrase “political committee, political action committee, and independent  
17 expenditure committee” in its place.

18 (2) Paragraph (2) is amended by striking the word “political”.

19 (3) Paragraph (4) is amended by striking the word “political”.

20 (k) Section 313 (D.C. Official Code § 1-1163.13) is amended to read as follows:

21 “Sec. 313. Additional identifications and certifications.

22 “(a)(1) Every political action committee and every independent expenditure committee  
23 shall certify, in each report filed with the Director of Campaign Finance, that the contributions it

1 has received and the expenditures it has made have not been controlled or directed by any public  
2 official or candidate, by any political committee, or by any political party.

3 “(2) Every independent expenditure committee shall further certify, in each  
4 report filed with the Director of Campaign Finance, that it has made no contributions or transfer  
5 of funds to any public official or candidate, any political committee, or any political action  
6 committee.

7 “(b)(1) A business contributor to a political committee, political action committee, or  
8 independent expenditure committee shall provide the committee with the identities of the  
9 contributor’s affiliated entities that have also contributed to the committee.

10 “(2) A business contributor shall comply with all requests from the Office of  
11 Campaign Finance to provide information about its individual owners, the identity of affiliated  
12 entities, the individual owners of affiliated entities, the contributions or expenditures made by  
13 such entities, and any other information the deemed relevant to enforcing the provisions of this  
14 act.

15 “(3) Any person other than a political committee, political action committee, or  
16 independent expenditure committee that makes one or more independent expenditures in an  
17 aggregate amount of \$50 or more within a calendar year, other than by contribution to a  
18 committee or candidate, shall, in a report filed with the Director of Campaign Finance, identify  
19 the name and address of the person, identify the person’s affiliated entities **that have also made**  
20 **an independent expenditure**, the amount and object of the expenditures, and the names of any  
21 candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures  
22 are directed. The report shall be filed on the dates which reports by committees are filed, unless

1 the value of the independent expenditure totals \$1000 or more in a 2-week period, in which case  
2 the report shall be filed within 14 days of the independent expenditure.

3 “(c) Statements required by this section shall be filed on the dates on which reports by  
4 committees are filed, but the content of the filings need not be cumulative.”.

5 “(d) Every person who files statements with the Director of Campaign Finance has a  
6 continuing obligation to provide the Director with correct and up-to-date information.”.

7 (l) Section 315 (D.C. Official Code § 1-1163.15) is amended by adding a new subsection  
8 (c) to read as follows:

9 “(c) Any advertisement supporting or opposing a candidate, initiative, referendum, or  
10 recall that is disseminated to the public by a political committee, political action committee, or  
11 independent expenditure committee or any other person shall disclose, in the advertisement, the  
12 identity of the advertisement’s sponsor.”.

13 (m) Section 319 (D.C. Official Code § 1-1163.19) is amended as follows:

14 (1) Subsection (b) is amended by striking the phrase “Exploratory committees  
15 shall not receive individual contributions” and inserting the phrase “No person, including a  
16 business contributor, may make contributions” in its place.

17 (n) Section 322 (D.C. Official Code § 1-1163.22) is amended to read as follows:

18 “Sec. 322. Contributions to inaugural committees.

19 “No person, including a business contributor, may make any contribution to or for an  
20 inaugural committee, and the Mayor or Mayor-elect shall not receive any contribution to or for  
21 an inaugural committee from any person, that when aggregated with all other contributions to or  
22 for the inaugural committee received from such person, exceeds \$10,000 in an aggregate  
23 amount; provided, that the \$10,000 limitation shall not apply to contributions made by the Mayor



1 or Mayor-elect for the purpose of funding his or her own inaugural committee within the  
2 District.”.

3 (o) Section 325 (D.C. Official Code § 1-1163.25) is amended by striking the phrase “of  
4 Columbia”.

5 (p) Section 326 (D.C. Official Code § 1-1163.26) is amended to read as follows:

6 “Sec. 326. Contributions to transition committees.

7 “(a) No person, including a business contributor, may make any contribution to or for a  
8 transition committee, and the Mayor or Mayor-elect may not receive any contribution to or for a  
9 transition committee from any person, that when aggregated with all other contributions to or for  
10 the transition committee received from the person, exceed \$2,000 in an aggregate amount;  
11 provided, that the \$2,000 limitation shall not apply to contributions made by the Mayor or  
12 Mayor-elect for the purpose of funding his or her own transition committee within the District.

13 “(b) No person, including a business contributor, may make any contribution to a  
14 transition committee, and the Chairman of the Council or Chairman-elect may not receive any  
15 contribution to a transition committee from any person, that when aggregated with all other  
16 contributions to the transition committee received from the person, exceeds \$1,000 in an  
17 aggregate amount; provided, that the \$1,000 limitation shall not apply to contributions made by  
18 the Chairman of the Council or Chairman-elect for the purpose of funding his or her own  
19 transition committee within the District.

20 (q) Section 333 (D.C. Official Code § 1-1163.33) is amended to read as follows:

21 “Sec. 333. Contribution limitations.

22 “(a) No person, including a business contributor, may make any contribution, and no  
23 person may receive any contribution from any contributor, that when aggregated with all other

1 contributions received from that contributor relating to a campaign for nomination as a candidate  
2 or election to public office, including both the primary and general election or special elections,  
3 exceeds:

4 “(1) In the case of a contribution in support of a candidate for Mayor or for the  
5 recall of the Mayor, \$2,000;

6 “(2) In the case of a contribution in support of a candidate for Attorney General  
7 or for the recall of the Attorney General, \$1,500;

8 “(3) In the case of a contribution in support of a candidate for Chairman of the  
9 Council or for the recall of the Chairman of the Council, \$1,500;

10 “(4) In the case of a contribution in support of a candidate for member of the  
11 Council elected at-large or for the recall of a member of the Council elected at-large, \$1,000;

12 “(5) In the case of a contribution in support of a candidate for member of the  
13 State Board of Education elected at-large or for member of the Council elected from a ward or  
14 for the recall of a member of the State Board of Education elected at-large or for the recall of a  
15 member of the Council elected from a ward, \$500;

16 “(6) In the case of a contribution in support of a candidate for member of the  
17 State Board of Education elected from an election ward or for the recall of a member of the State  
18 Board of Education elected from an election ward or for an official of a political party, \$200; and

19 “(7) In the case of a contribution in support of a candidate for a member of an  
20 Advisory Neighborhood Commission, \$25.

21 “(a-1) A business contributor shall certify for each contribution that it makes that no  
22 affiliated entities have contributed an amount that when aggregated with the business  
23 contributor’s contribution would exceed the limits imposed by this act.

1           “(b)(1) No person, including a business contributor, may make any contribution in any  
2 one election for Mayor, Attorney General, Chairman of the Council, each member of the  
3 Council, and each member of the State Board of Education (including primary and general  
4 elections, but excluding special elections), that when combined with all other contributions made  
5 by that contributor in that election to candidates and political committees exceeds \$8,500.

6           “(2) All contributions to a candidate’s principal political committee shall be  
7 treated as contributions to the candidate and shall be subject to the contribution limitations  
8 contained in this section.

9           “(b-1) Any entity, whether or not considered distinct under Title 29 of the Official Code  
10 of the District of Columbia, may be an affiliated entity for purposes of this act.

11           “(c)(1) No political committee or political action committee may receive in any one  
12 election, including primary and general elections, any contribution in the form of cash or money  
13 order from any one person that in the aggregate exceeds \$100.

14           “(2) No person may make any contribution in the form of cash or money order  
15 which in the aggregate exceeds \$100 in any one election to any one political committee or  
16 political action committee, including primary and general elections.

17           “(d) No person may make contributions to any one political action committee in any one  
18 election, including primary and general elections, but excluding special elections, that in the  
19 aggregate exceed \$5,000.

20           “(e) No contributor may make a contribution or cause a contribution to be made in the  
21 name of another person, and no person may knowingly accept a contribution made by one person  
22 in the name of another person.

1           “(f) “An independent expenditure is not considered a contribution to or an expenditure  
2 by or on behalf of the candidate for the purposes of the limitations specified in this section.”?.

3           “(g) All contributions made by a person directly or indirectly to or for the benefit of a  
4 particular candidate or that candidate’s political committee that are in any way earmarked,  
5 encumbered, or otherwise directed through an intermediary or conduit to that candidate or  
6 political committee shall be treated as contributions from that person to that candidate or political  
7 committee and shall be subject to the limitations established by this act.

8           “(h)(1) No candidate or member of the immediate family of a candidate may make a loan  
9 or advance from his or her personal funds for use in connection with a campaign of that  
10 candidate for nomination for election, or for election, to a public office unless a written  
11 instrument fully discloses the terms, conditions, and parts to the loan or advance. The amount of  
12 any loan or advance shall be included in computing and applying the limitations contained in this  
13 section only to the extent of the balance of the loan or advance that is unpaid at the time of  
14 determination.

15           “(2) For the purposes of this subsection, the term “immediate family” means the  
16 candidate’s spouse, domestic partner, parent, brother, sister, or child, and the spouse or domestic  
17 partner of a candidate’s parent, brother, sister, or child.

18           “(i) No contributions made to support or oppose initiative or referendum measures shall  
19 be affected by the provisions of this section.”.

20           “(r) Section 334(a)(1) (D.C. Official Code § 1-1163.34(a)(1)) is amended to read as  
21 follows:

1           “(1) In direct proportion to his or her share of the partnership profits, according to  
2 instructions that shall be provided by the partnership to the political committee, political action  
3 committee, or candidate; or”.

4           (s) Section 335 (D.C. Official Code § 1-1163.35) is amended to read as follows:

5           “Sec. 335. Penalties.

6           “(a)(1) Except for violations subject to civil penalties identified under paragraph (2) of  
7 this subsection, any person who violates any provision of subtitles A through E of this title or of  
8 Title I of the Election Code may be assessed a civil penalty for each violation of not more than  
9 \$2,000, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or  
10 receipt of outside income, whichever is greater, by the Elections Board pursuant to paragraph (3)  
11 of this subsection. For the purposes of this section, each occurrence of a violation of subtitles A  
12 through E of this title, and each day of noncompliance with a disclosure requirement of subtitles  
13 A through E of this title or an order of the Elections Board, shall constitute a separate offense.

14           “(2)(A) A candidate or other person charged with the responsibility under this  
15 Title for the filing of any reports or other documents required to be filed pursuant to this title  
16 who fails, neglects, or omits to file any such report or document at the time and in the manner  
17 prescribed by law, or who omits or incorrectly states any of the information required by law to be  
18 included in such report or document, ~~shall~~, in addition to any other penalty provided by law, may  
19 be assessed a civil penalty of not more than \$4,000 for the first offense and not more than  
20 \$10,000 for the second and each subsequent offense.

21           “(B) A political committee, political action committee, or independent  
22 expenditure committee that violates subtitle B of this title shall be subject to a civil penalty not to

1 exceed \$4,000 for the first offense, and not more than \$10,000 for the second and each  
2 subsequent offense.

3 “(C) A person who makes a contribution, gift, or expenditure in violation  
4 of subtitles A through E of this title may be assessed a civil penalty by the Elections Board not to  
5 exceed \$4,000, or 3 times the amount of the unlawful contribution, gift, or expenditure,  
6 whichever amount is greater.

7 “(D) A person who aids, abets, or participates in the violation of any  
8 provision of subtitles A through E of this title or of Title I of the Election Code shall be subject  
9 to a civil penalty not to exceed \$1,000.

10 “(3) A civil penalty shall be assessed by the Elections Board by order. An order  
11 assessing a civil penalty may be issued only after the person charged with a violation has been  
12 given an opportunity for a hearing and the Elections Board has determined, by a decision  
13 incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any  
14 hearing under this section shall be on the record and shall be held in accordance with the  
15 Administrative Procedure Act.

16 “(4) Notwithstanding the provisions of paragraph (3) of this subsection, the  
17 Elections Board may issue a schedule of fines that may be imposed administratively by the  
18 Director of Campaign Finance for violations of subtitles A through E of this title. A civil penalty  
19 imposed under the authority of this paragraph may be reviewed by the Elections Board in  
20 accordance with the provisions of paragraph (3) of this subsection. The aggregate amount of  
21 penalties imposed under the authority of this paragraph may not exceed \$4,000.

22 “(5) If a person against whom a civil penalty is assessed fails to pay the penalty,  
23 the Elections Board shall file a petition for enforcement of its order assessing the penalty in the

1 Superior Court of the District of Columbia. The petition shall designate the person against  
2 whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent  
3 by registered or certified mail to the respondent and the respondent's attorney of record, and if  
4 the respondent is a political committee, political action committee, or independent expenditure  
5 committee, to the chairperson of the committee, and the Elections Board shall certify and file in  
6 court the record upon which the order sought to be enforced was issued. The court shall have  
7 jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting  
8 aside, in whole or in part, the order and the decision of the Elections Board or it may remand the  
9 proceedings to the Elections Board for further action as it may direct. The court may determine  
10 de novo all issues of law, but the Election Board's findings of fact, if supported by substantial  
11 evidence, shall be conclusive.

12 “(b) Except as provided in subsection (c) of this section, any person who violates any of  
13 the provisions of subtitles A through E of this title shall be subject to criminal prosecution and,  
14 upon conviction, shall be fined ~~not more than \$1,000~~ **not more than the amount set forth in**  
15 **section 101 of the Criminal Fine Proportionality Amendment Act of 2012 (D.C. Law 19-**  
16 **317; D.C. Official Code § 22-3571.01)** or imprisoned for not longer than 6 months, but not both.

17 “(c) Any person who knowingly violates any of the provisions of subtitles A through E  
18 of this title shall be subject to criminal prosecution and, upon conviction, shall be fined ~~not more~~  
19 ~~than \$10,000~~ **not more than the amount set forth in section 101 of the Criminal Fine**  
20 **Proportionality Amendment Act of 2012 (D.C. Law 19-317; D.C. Official Code § 22-**  
21 **3571.01)** or imprisoned for not longer than 5 years, or both.

22 “(d) Prosecutions pursuant to subsection (b) may be brought by the United States  
23 Attorney for the District of Columbia, in the name of the United States, or by the Attorney

1 General for the District of Columbia, in the name of the District of Columbia. If the Attorney  
2 General for the District of Columbia initiates an investigation for the purpose of prosecution  
3 pursuant to subsection (b) of this section, he shall promptly notify the United States Attorney for  
4 the District of Columbia. Prosecutions pursuant to subsection (c) of this section shall be brought  
5 by the United States Attorney for the District of Columbia in the name of the United States.

6 “(e) All actions of the Elections Board, the United States Attorney for the District of  
7 Columbia, or the Attorney General for the District of Columbia to enforce the provisions of  
8 subtitles A, B, D, and E of this title shall be initiated within 6 years of the actual occurrence of  
9 the alleged violation.”.

10  
11 **~~Sec. 3. Transition provisions; applicability.~~**

12 ~~—— All provisions of this act shall take effect on November 30, 2014, or the effective date~~  
13 ~~of this act pursuant to section 5, whichever is later.~~

14 **Sec. 3. Applicability.**

15 **This act shall apply upon the latest of either:**

16 (a) **The inclusion of the fiscal effect of this Act in an approved budget and financial**  
17 **plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a**  
18 **certification published by the Council in the District of Columbia Register.**

19 (b) **January 31, 2015; or**

20 (c) **The effective date of this act pursuant to Section 5.**

21 Sec. 4. Fiscal impact statement.

22 The Council adopts the fiscal impact statement in the committee report as the fiscal  
23 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
24 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).





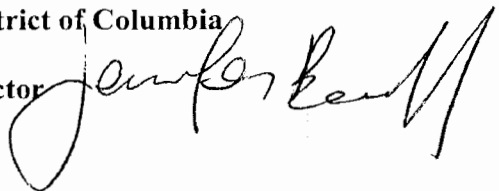
**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Office of the Budget Director**



Jennifer Budoff  
Budget Director

**FISCAL IMPACT STATEMENT**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jennifer Budoff, Budget Director 

**DATE:** November 5, 2013

**SHORT TITLE:** "Campaign Finance Reform and Transparency Amendment Act of 2013"

**TYPE:** Amendment #1 (draft shared November 5, 2013)

**REQUESTED BY:** Councilmember Kenyan McDuffie

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**Conclusion**

This amendment will not have an adverse impact on the District's budget and financial plan because there is no cost associated with the amendment.

**Background**

This amendment comprises several changes to Bill 20-76:

- Clarifies the definition of the term "affiliated entity," to ensure that the contributions of individuals are not to be aggregated with the contributions of businesses they own or control.
- Modifies the definitions of "contribution" and "expenditure" to remove promises and agreements for future contributions/expenditures from the scope of the definitions.
- Adds a rebuttable presumption to the definition of "control," such that an ownership interest of 40% shall constitute "control" unless rebutted.
- Makes several minor technical amendments.
- Links civil fine amounts to the Criminal Fine Proportionality Amendment Act.
- Adds an applicability section, including necessary language to make the bill subject to inclusion of its fiscal effect in an approved budget and financial plan. This language is necessary due to the Chief Financial Officer's fiscal impact statement for the underlying bill, which states that funds are not sufficient to

implement the bill because of a \$303,000 one-time cost in FY 2014. This amendment's applicability section states that the act would apply upon the latest of 1) the funding of its fiscal impact, 2) January 31, 2015, or 3) the effective date of the act.

**Analysis of Impact on Spending**

This amendment will not adversely impact spending.

**Analysis of Impact on Revenue**

This amendment will not adversely impact revenue.