

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 4

(Senators Kagan and Ferguson)

Education, Energy, and the Environment and
Budget and Taxation

Rules and Executive Nominations

**Charitable Organizations - Charitable Donation and Tax-Exempt Status -
Revocation (Keeping Charities Nonpartisan Act of 2026)**

This emergency bill prohibits certain charitable organizations and private foundations from participating or intervening in a political campaign on behalf of or in opposition to a candidate for public office, including through publication of or distribution of statements. The prohibition does not apply to a church or convention or association of churches. A second or subsequent violation is subject to a civil penalty of up to \$1,000. Willful violations are subject to a revocation of exempt status under the income tax, sales and use tax, and property tax for up to two years. The Secretary of State (SOS) or Attorney General must attempt by mediation to enter into a settlement agreement with an apparent violator before assessing a civil penalty or revoking tax-exempt status. The prohibition must be interpreted and applied in the same manner as the prohibition on political campaign activity under Internal Revenue Code (IRC) § 501(c)(3) (“Johnson Amendment”) was interpreted and applied by the Internal Revenue Service (IRS) as of January 19, 2025. The bill is contingent on any action by the President of the United States or IRS or change in federal law that, in whole or in part, prevents the enforcement of or renders null and void the Johnson Amendment with respect to any charitable organization to which the bill’s prohibition applies.

Fiscal Summary

State Effect: As discussed below, general and special fund revenues may increase beginning as early as FY 2026 to the extent tax exemptions are revoked under the bill. General fund revenues may increase further to the extent civil penalties are assessed under the bill. General fund expenditures for the Office of the Attorney General (OAG) and/or SOS may increase beginning as early as FY 2026, as discussed below. Charitable Enforcement Fund expenditures are potentially also affected.

Local Effect: Local income tax and property tax revenues increase beginning as early as FY 2026 to the extent tax exemptions are revoked under the bill. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: A person that is recognized by IRS as authorized to receive donations that are deductible from federal income tax under IRC § 170 and solicits or receives charitable contributions from the public is considered a charitable organization for purposes of Title 6 of the Business Regulation Article (Maryland Solicitations Act). For purposes of the bill’s prohibition on political campaign activity only, a private foundation within the meaning of IRC § 509 is also considered a charitable organization. The bill also specifies that “charitable purpose,” as it applies to Title 6.5 of the Business Regulation Article (Protection of Charitable Assets), does not include participating in or intervening in a political campaign (as specified) unless the activity is performed by a church or convention or association of churches.

Application

The bill’s prohibition applies to each charitable organization (within the bill’s meaning, and which includes a private foundation in this context), other than a church or convention or association of churches, that (1) is incorporated or otherwise established under State law or the laws of another state; (2) is authorized to receive donations that are deductible from federal income tax under IRC § 170; and (3) is required to register with SOS or, if exempt from the registration requirement, conducts business or other activities in the State.

Notice of Violation and Related Civil Penalties

If SOS or the Attorney General finds or has reasonable grounds to believe that a charitable organization has violated the bill’s prohibition, SOS or the Attorney General must provide specified written notice to the charitable organization, which may be in the form of a cease-and-desist order. A charitable organization that violates the bill’s prohibition is subject to (1) for a first violation, a warning, and (2) for a second or subsequent violation, a civil penalty of up to \$1,000 per violation, which must be paid to the general fund. Each consecutive five-day period that a violation continues is a separate violation.

Willful Violations

If SOS and the Attorney General, acting jointly, find or have reasonable grounds to believe that a charitable organization has willfully violated the bill’s prohibition, SOS and the

Attorney General may order a revocation of tax-exempt status under the Maryland income tax, sales and use tax, and property tax. The revocation must remain in effect for two years or until the charitable organization enters into a settlement agreement with SOS or the Attorney General, after which the charitable organization may reapply to the Comptroller or the Director of the State Department of Assessments and Taxation (SDAT) for any affected tax-exempt status. A charitable organization that receives a violation notice must accept any offer for mediation within 15 days or, for a notice that assesses a civil penalty or revokes a tax-exempt status, pay the amount of each civil penalty assessed or request an administrative hearing with SOS within 30 days.

Required Mediation, Limitation on Other Enforcement Remedies

Before assessing a civil penalty or ordering a revocation of tax-exempt status, SOS or the Attorney General must attempt to enter into a settlement agreement by mediation with the apparent violators and any representative of the apparent violators. A settlement agreement entered into under the bill may not include certain stipulations or conditions – specifically: (1) payment by the apparent violator of the cost of the investigation; (2) payment by the apparent violator of refunds to donors; or (3) payment by the apparent violator of contributions received to charitable or public safety beneficiaries or for charitable or public safety purposes represented in the solicitations that generated the contributions.

Certain other enforcement remedies available to the Attorney General under the Maryland Solicitations Act – specifically, seeking a circuit court order to restrain further violation or solicitations, recover a civil penalty, enforce compliance, or secure other appropriate relief – do not apply to the enforcement of the bill’s prohibition on political campaign activity.

Regulations

SOS, in consultation with the Attorney General, the Comptroller, and the Director of SDAT, must adopt regulations to carry out the bill’s provisions, including criteria to be used in determining the amount of any civil penalties assessed under the bill.

Current Law:

Johnson Amendment

By definition under the IRC, a 501(c)(3) organization may not participate in or intervene in, including the publishing or distributing of statements, any political campaign on behalf of or in opposition to any candidate for public office. This prohibition is commonly referred to as the Johnson Amendment. The constitutionality of the prohibition was challenged in the case of *National Religious Broadcasters v. Bessent*. In a July 2025 joint motion for

entry of consent judgement, the parties agreed that the Johnson Amendment does not prohibit speech concerning electoral politics in religious services and proposed a settlement agreement which sought to permanently enjoin IRS from enforcing the Johnson Amendment against the plaintiffs based on such speech. In an opinion and order dated March 31, 2026, the U.S. District Court for the Eastern District of Texas dismissed the case for lack of subject matter jurisdiction. The U.S. Department of the Treasury and IRS have subsequently announced plans to develop and issue additional guidance on the application of the Johnson Amendment to religious organizations.

Maryland Solicitations Act

Title 6 of the Business Regulation Article (Maryland Solicitations Act) governs charitable giving in the State and specifies related powers and duties of SOS and the Attorney General. Subject to certain exemptions for religious organizations, schools affiliated with a religious organization, and other specified organizations, a charitable organization generally must register and receive a registration letter from SOS before the charitable organization solicits charitable contributions in the State; has charitable contributions solicited on its behalf in the State; or solicits charitable contributions outside of the State, if the charitable organization is in the State. “Charitable organization,” as it applies to Title 6, means a person that (1) is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization and solicits or receives charitable contributions from the public or (2) an ambulance, firefighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public.

Protection of Charitable Assets

Title 6.5 of the Business Regulation Article (Protection of Charitable Assets) requires the Attorney General to represent the public interest in the protection of charitable assets and specifies related powers and duties of the Attorney General. “Charitable asset” is defined as property that is given, received, or held for a charitable purpose, as specified. “Charitable purpose” is defined as the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose whose achievement is beneficial to the community.

State Revenues: Should the bill’s contingency be met, general fund revenues may increase by an indeterminate amount beginning as early as fiscal 2026 to the extent civil penalties are assessed under the bill. General fund revenues may increase further – as may Blueprint for Maryland’s Future Fund and Annuity Bond Fund revenues – to the extent income tax, sales and use tax, and property tax exemptions are revoked under the bill. Any such effects cannot be reliably predicted at this time.

State Expenditures: OAG and SOS have each separately advised the Department of Legislative Services (DLS) that the bill, should its contingency be met, necessitates the hiring of at least one assistant Attorney General and one investigator, with related estimated costs totaling upward of \$220,000 annually. OAG and SOS may also incur additional hearing and litigation costs. While DLS cannot independently verify OAG and SOS personnel needs at this time, it is assumed that general fund expenditures for OAG and/or SOS may increase beginning as early as fiscal 2026. Charitable Enforcement Fund expenditures are potentially also affected to the extent such funds are available to support SOS expenses under the bill.

Local Revenues: Local income tax and property tax revenues increase by an indeterminate amount beginning as early as fiscal 2026 to the extent income and property tax exemptions are revoked under the bill. Any such effects cannot be reliably predicted at this time.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 514 (Delegate Rosenberg) - Economic Matters.

Information Source(s): Office of the Attorney General; Comptroller's Office; Secretary of State; Maryland State Board of Elections; State Department of Assessments and Taxation; U.S. Department of the Treasury; *Tax Analysts*; Department of Legislative Services

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