

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution,
which was referred to the Committee on _____.

To amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to add definitions for the terms “Bundled contribution”, “bundling”, “control”, “covered contractor”, “political action committee”, “prohibited recipient”, and “related party”; to amend definitions for the terms “contribution”, “expenditure”, and “political committee”; to prohibit registered lobbyists from bundling contributions; to amend the powers and the duties of the Director of Campaign Finance to require all reports filed with the Election Board be filed electronically; to include political action committees in the list of entities required to file reports; to clarify the filing date of reports; to establish campaign restrictions for covered contractors during prohibited periods prior to an election; to amend the reporting provisions for any person other than a political committee or candidate; to prohibit contributions in excess of \$25 in the form of a money order; to amend the penalty provisions to provide increased civil penalties, provide concurrent prosecution authority for misdemeanor violations for the United States Attorney for the District of Columbia and the Office of the Attorney General for the District of Columbia, and provide for felony prosecution of all violations committed knowingly; to give covered contractors an opportunity to cure violations prior to the commencement of an enforcement action; and to provide a separate penalty provision for covered contractor violations.

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

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

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

1 “(3A) “Bundled contribution” means any contribution that has been forwarded or
2 arranged to be forwarded from one or more persons (other than oneself) to an elected public
3 official, a candidate for elected office, a political party, or a political committee.”.

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

5 “(3B) “Bundling” means forwarding or arranging to forward one or more contributions
6 from one or more persons (other than oneself) to an elected public official, a candidate for
7 elected office, a political party, or a political committee.”.

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

9 “(10)(A) “Contribution” means:

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

14 “(I) The election campaign of a candidate;

15 “(II) Any operations of a political, exploratory, inaugural,
16 transition, legal defense, or political action committee; or

17 “(III) The campaign to obtain signatures on any initiative,
18 referendum, or recall measure, or to bring about the ratification or defeat of any initiative,
19 referendum, or recall measure, or any operations of a political committee or political action
20 committee involved in such a campaign;

21 “(ii) A contract, promise, or agreement, whether or not legally enforceable, to
22 make a contribution for any such purpose;

23 “(iii) A transfer of funds between:

24 “(I) Political committees;

- 1 “(II) Political action committees;
- 2 “(III) A political committee and an exploratory committee;
- 3 “(IV) A political committee and a political action committee; or
- 4 “(V) Candidates for elected District office

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

11 “(B) Notwithstanding subparagraph (A) of this paragraph, the term “contribution” shall
12 not be construed to include:

13 “(i) Personal or other services provided without compensation by a person
14 (including an accountant or an attorney) volunteering a portion or all of the person's time to or on
15 behalf of a candidate or a political, political action, exploratory, inaugural, transition, or legal
16 defense committee;

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

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

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

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

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

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

12 “(viii) One or more transfers of funds between two candidates for elected office,
13 so long as the aggregate amount transferred between the candidates during that calendar year
14 does not exceed \$300.”.

15 (4) New paragraphs (10A) and (10B) are added to read as follows:

16 “(10A) “Control” or “controlling interest” means the direct or indirect authority, whether
17 acting alone or in conjunction with others, to direct or cause to direct the financial management
18 policies of an entity. A voting interest of 40 percent or more creates a rebuttable presumption of
19 control or of a controlling interest.

20 “(10B) “Covered Contractor” includes any individual or sole proprietor, business,
21 corporation, firm, partnership or association seeking or holding a contract to provide goods or
22 services to the District of Columbia, or seeking or holding a grant from the District of Columbia,

1 as well as any subsidiaries, political committees, section 527 organizations, or other entities
2 controlled by the person seeking or holding a contract or grant.”.

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

4 “(21)(A) “Expenditure” means:

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

7 “(I) The election campaign of a candidate;

8 “(II) Any operations of a political, political action, exploratory, inaugural,
9 transition, or legal defense committee; or

10 “(III) The campaign to obtain signatures on any initiative, referendum, or
11 recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall
12 measure, or any operations of a political committee or political action committee, involved in
13 such a campaign;

14 “(ii) A contract, promise, or agreement, whether or not legally enforceable, to
15 make an expenditure;

16 “(iii) A transfer of funds between:

17 “(I) Political committees;

18 “(II) Political action committees;

19 “(III) A political committee and an exploratory committee;

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

21 “(V) Candidates for elected District office.

22 “(B) Notwithstanding subparagraph (A) of this paragraph, the term “expenditure” shall
23 not be construed to include the incidental expenses (as defined by the Elections Board or Ethics
24 Board) made by or on behalf of a person in the course of volunteering that person's time on

1 behalf of a candidate or a political, political action, exploratory, inaugural, transition, or legal
2 defense committee or the use of real or personal property and the cost of invitations, food, or
3 beverages voluntarily provided by a person to a candidate in rendering voluntary personal
4 services on the person's residential premises for candidate-related activity if the aggregate value
5 of such activities by such person on behalf of any candidate does not exceed \$500 with respect to
6 any election.

7 “(C) Notwithstanding subparagraph (A) of this paragraph, the term “expenditure” shall
8 not be construed to include one or more transfers of funds between candidates, so long as the
9 aggregate amount transferred between the candidates during that calendar year does not exceed
10 \$300.”.

11 (6) New paragraph (43A) is added to read as follows:

12

13 “(43A) “Political action committee” means any committee, club, association,
14 organization, or other group of individuals that is:

15 “(A) Organized for the purpose of, or engaged in, promoting or opposing:

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

17 “(ii) A political party; or

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

19 “(B) Not controlled by or coordinated with any public official or candidate, or controlled
20 by or coordinated with anyone acting on behalf of a public official or candidate.”.

21 (7) Paragraph (44) is amended to read as follows:

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

4 “(A) Organized for the purpose of, or engaged in, promoting or opposing:

5 (i) The nomination or election of a person to District public office;

6 (ii) A District political party; or

7 (iii) Any District initiative, referendum, or recall; and

8 “(B) Controlled by or coordinated with any public official or candidate, or
9 controlled by or coordinated with anyone acting on behalf of a public official or candidate.”.

10 (8) A new paragraph (45A) is added to read as follows:

11 “(45A) “Prohibited recipient” includes:

12 “(A) Any elected District official who is or could be involved in
13 influencing the award of a contract or grant to a covered contractor.

14 “(B) Any candidate for elective District office who is or could be
15 involved in influencing the award of a contract or grant to a covered contractor.

16 “(C) Any political committee affiliated with a District candidate or
17 official described in subparagraphs (A) and (B), including any principal campaign, exploratory,
18 inaugural, transitional or legal defense committee.

19 “(D) Any constituent-service program or fund, or substantially similar
20 entity, controlled, operated, or managed by:

21 “(1) Any elected public official; or

22 “(2) Any person under the supervision, direction, or control of a
23 public official.

1 “(E) Any political party.

2 “(F) Any entity or organization:

3 “(1) Which a candidate or public official described in
4 subparagraphs (A) and (B), or a member of his or her immediate family, controls; or

5 “(2) In which a candidate or public official described in
6 subparagraphs (A) and (B) has an ownership interest of 10 percent or more.”.

7 (9) A new paragraph (48A) is added to read as follows:

8 “(48A) “Related party,” with respect to any entity (including a political committee or
9 political action committee), means:

10 “(A) A person controlling, controlled by, or in common control with, the entity;

11 “(B) If the entity is an organization, an officer or director of, or a person
12 performing similar functions with respect to, the organization; or

13 “(C) An officer or director of, or a person performing similar functions with
14 respect to, a person described in subparagraph (A).”.

15 (b) Section 231 (D.C. Official Code § 1-1162.31) is amended to by adding a new
16 subsection (h) to read as follows:

17 “(h) The following persons shall not bundle contributions:

18 “(1) Any lobbyist required to register under Title II of this Act; or

19 “(2) Any person acting on behalf of a lobbyist required to register under Title II of
20 this Act.”.

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

1 (d) Section 303(a)(1)(B) (D.C. Official Code § 1-1163.03(a)(1)(B)) is amended to read
2 as follows:

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

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

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

7 “(1A) Require that all reports filed with the Elections Board pursuant to this title be
8 submitted electronically, 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 electronic submission of reports, pursuant
11 to this paragraph.”.

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

13 “(7) Assure dissemination of statistics, summaries, and reports prepared under
14 this title, including a biennial report summarizing the receipts and expenditures of candidates for
15 public office in the prior 2-year period, and the receipts and expenditures of political, political
16 action, exploratory, inaugural, transition, and legal defense committees during the prior 2-year
17 period. The Director of Campaign Finance shall make available to the Mayor, Council, and the
18 general public the first biennial summary report by January 31, 2013, and shall present the
19 summary report on the same date every 2 years thereafter. The report shall describe the receipts
20 and expenditures of candidates for Mayor, the Attorney General, the Chairman and members of
21 the Council, the President and members of the State Board of Education, shadow Senator, and
22 shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner.

1 The report shall provide, at a minimum, the following data, as well as other information that the
2 Director of Campaign Finance considers appropriate:

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

7 “(B) A summary of each candidate’s receipts, in dollar amount and
8 percentage terms, by the size of the donation, including donations of \$500 or more; donations of
9 \$250 or more but less than \$500; donations of \$100 or more but less than \$250; and donations of
10 less than \$100;

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

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

16 “(E) A summary of the receipts and expenditures of political, political
17 action, exploratory, inaugural, transition, and legal defense committees, using categories
18 considered appropriate by the Director of Campaign Finance;”.

19

20 (f) Section 306 (D.C. Official Code § 1-1163.06) is amended to read as follows:

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

22 “Upon application made by any individual holding public office, any candidate, any

1 person required to submit filings to the Elections Board under this title, any person who
2 reasonably anticipates being required to submit filings to the Elections Board under this title in
3 connection with the pending election or any subsequent election, any covered contractor, or any
4 political, political action, exploratory, inaugural, transition, or legal defense committee, the
5 Elections Board shall provide within a reasonable period of time an advisory opinion with
6 respect to any specific transaction or activity inquired of, as to whether such transaction or
7 activity would constitute a violation of any provision of this title or of any provision of Title I of
8 the Election Code over which the Elections Board has primary jurisdiction.”.

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

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

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

13 “(2) The facts on which the opinion is based are accurate; and

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

16 (g) The lead in language for Section 307 (D.C. Official Code § 1-1163.07) is amended to
17 read as follows:

18 “Political, political action, exploratory, transition, and inaugural committees, which are
19 established pursuant to this subtitle, shall be subject to the following requirements:”.

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

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

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

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

5 “(2) The treasurer of each political committee or political action committee
6 engaged in obtaining signatures on any initiative, referendum, or recall petition, or engaged in
7 promoting or opposing the ratification of any initiative, referendum, or recall measure placed
8 before the electors of the District of Columbia, and each candidate required to register under this
9 title;

10 “(3) The treasurer of each exploratory, inaugural, and transition committee; and

11 “(4) The treasurer of each political action committee.

12 “(b) The reports shall be filed on the 10th day of March, June, August, October, and
13 December in the 7 months preceding the date on which, and in each year during which, an
14 election is held for the office sought, and on the 8th day next preceding the date on which the
15 election is held, and also by the 31st day of January of each year. In addition, the reports shall be
16 filed on the 31st day of July of each year in which there is no election. The reports shall be
17 complete as of the date prescribed by the Director of Campaign Finance, which shall not be more
18 than 5 days before the date of filing, except that any contribution received within thirty (30) days
19 of the election shall be reported within 24 hours after its receipt. Any report filed within 30 days
20 of the election shall, within 24 hours, be posted on the Office of Campaign Finance’s website by
21 the Director of Campaign Finance.”.

22 (2) Subsection (e) is amended to read as follows:

1 “(e)(1) A report or statement required by this subtitle to be filed by a treasurer of a
2 committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the
3 person filing the report or statement.

4 “(e)(2) The oath or affirmation required under subsection (e)(1) of this section, which
5 shall be given under penalty of perjury, shall state that the filer has used all reasonable diligence
6 in the preparation of the report or statement, and that to the best of his or her knowledge it is true
7 and complete. Any such oath or affirmation by a candidate shall also state that the candidate has
8 used all reasonable diligence to ensure that:

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

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

13 (3) New subsections (f) and (g) are added to read as follows:

14 “(f) Each political committee affiliated with a candidate (including principal campaign,
15 inaugural, transition, and exploratory committees) required to file disclosure reports shall also
16 file a separate schedule, made publicly available as part of their campaign finance disclosure
17 reports, setting forth:

18 “(1) The name, address, and employer of each person reasonably known by the
19 committee to have provided two or more bundled contributions to the campaign in excess of
20 \$15,000 in the aggregate during the reporting period; and

21 “(2) The aggregate amount of bundled contributions provided by each such
22 person.”.

23 (4) A new subsection (g) is added to read as follows:

1 “(g) Prior to awarding any contract to procure goods or services with the District of
2 Columbia, or seeking a grant with the District of Columbia, the District of Columbia or any of its
3 purchasing agents or agencies or those of its independent authorities shall receive a sworn
4 statement from the covered contractor made under penalty of perjury that the covered contractor
5 and any of the persons affiliated with the contractor and subject to the same prohibitions on
6 campaign contributions and expenditures are in compliance with section 334a of this Act. The
7 covered contractor shall also assume a continuing duty to report any violations of section 334a of
8 this Act that may occur during the negotiation for a contract or agreement and throughout the
9 time period in which the prohibitions apply.”.

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

11 “Sec. 313. Additional Identifications and Certifications Required from Political
12 Committees and Political Action Committees.

13 “(a) Every political committee and every political action committee shall, in its statement
14 of organization, identify all related parties. Every person who files statements with the Director
15 of Campaign Finance has a continuing obligation to provide the Director with correct and up-to-
16 date information.

17 “(b) Every political action committee must certify, in each report filed with the Director
18 of Campaign Finance, that the contributions it has received and the expenditures it has made
19 have not been controlled or directed by any public official or candidate, by any principal
20 campaign, inaugural, exploratory, transition, or legal defense committee of a public official or
21 candidate, or by any political party.

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

1 (j) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

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

3 “(c) No person shall receive or make any contribution in the form of cash or a money
4 order in an amount of \$25 or more.”.

5 (2) A new subsection (j) is added to read as follows:

6 “(j) For the purposes of determining applicable contribution limits pursuant to this title,
7 contributions attributable to an entity shall include any contributions made by a related party.”.

8 (k) Section 334(a)(1) (D.C. Official Code § 1-1163.34(a)(1)) is amended to read as
9 follows:

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

13 (l) A new section 334a is added to read as follows:

14 “334a. Covered Contractor Campaign Restrictions.

15 “(a) Neither the District of Columbia nor any of its purchasing agents or agencies or
16 those of its independent authorities shall enter into an agreement or otherwise contract to procure
17 goods, services or equipment or to sell property from any covered contractor who:

18 “(1) Seeks or holds contracts or grants with the District with a cumulative value of
19 \$250,000 or more; and

20 “(2) Has solicited or made any contribution or expenditure to a prohibited
21 recipient between the following dates:

22 “(A) If the covered contractor’s bids or proposals were unsuccessful,
23 between the date on which the covered contractor knows that a solicitation will be issued, and

1 termination of negotiations or notification by the District that the covered contractor's bids or
2 proposals were unsuccessful;

3 “(B) If the covered contractor received the contracts or grants, between the
4 date on which the contractor knows that a solicitation will be issued, and one year after final
5 payment is made on the contracts or grants.

6 “(b) No covered contractor who seeks or holds grants or contracts to procure goods,
7 services or equipment or to sell property with the District of Columbia with a cumulative value
8 of \$250,000 or more shall solicit or make any contribution or expenditure to a prohibited
9 recipient between the following dates:

10 “(1) If the covered contractor's bids or proposals are unsuccessful, the date on
11 which the contractor knows that a solicitation will be issued, and the date on which negotiations
12 are terminated or the covered contractor is notified by the District that the covered contractor's
13 bids or proposals were unsuccessful;

14 “(2) If the covered contractor received the contracts or grants, between the date
15 on which the contractor knows that a solicitation will be issued, and one year after final payment
16 is made on the contracts or grants.

17 “(c) The prohibition on contributions and expenditures in paragraphs (a) and (b) shall
18 apply to any related party, including trusts, limited liability corporations, general partners of such
19 limited liability corporations, and political committees. If a covered contractor is a corporation,
20 the prohibition on contributions and expenditures in paragraphs (a) and (b) shall also apply to
21 any officer or director of the corporation, or to any principal who has a controlling interest in the
22 corporation.

1 “(d) Immediate family members of a covered contractor, and of its officers, directors,
2 and principals, may make campaign contributions to, and expenditures in support of, a prohibited
3 recipient, but these contributions and expenditures shall not exceed in the aggregate \$300 per
4 person per election.

5 “(e) For the purpose of this section and section 335a, any payment of money in
6 an amount greater than \$500, or any payment of in-kind services valued at more than \$500, to an
7 organization controlled by a candidate or a member of the candidate’s immediate family
8 constitutes a contribution.

9 “(f) The restrictions in this section shall apply beginning on the date when the
10 cumulative value of the grants or contracts held or sought by a covered contractor reaches or
11 exceeds \$250,000. If the cumulative value of the contracts or grants sought or held by a covered
12 contractor reaches or exceeds \$250,000, but subsequently falls below \$250,000, the restrictions
13 in this section shall then cease to apply; provided, that a covered contractor may not make
14 political contributions to a prohibited recipient until one year after the date on which the
15 aggregate value of the contractor’s contracts or grants falls below \$250,000.

16 “(g) The value of a contract or grant sought or held by a covered contractor shall
17 be determined by the total amount of payment to be made under the contract or grant, including
18 the value of any option under a contract.”.

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

20 “Sec. 335. Penalties.

21 “(a)(1) Except for violations subject to civil penalties identified under paragraph (2), any
22 person who violates any provision of subtitles A through E of this title or of Title I of the
23 Election Code may be assessed a civil penalty by the Elections Board under paragraph (3) of this

1 subsection of not more than \$2,000, or 3 times the amount of an unlawful contribution,
2 expenditure, gift, honorarium, or receipt of outside income, whichever is greater, for each such
3 violation. For the purposes of this section, each occurrence of a violation of subtitles A through
4 E of this title, and each day of noncompliance with a disclosure requirement of subtitles A
5 through E of this title or an order of the Elections Board, shall constitute a separate offense.

6 “(2)(A) Any candidate or other person charged with the responsibility under this
7 Title for the filing of any reports or other documents required to be filed pursuant to this Title
8 who fails, neglects, or omits to file any such report or document at the time and in the manner
9 prescribed by law, or who omits or incorrectly states any of the information required by law to be
10 included in such report or document, shall, in addition to any other penalty provided by law, be
11 liable to a penalty of not more than \$4,000 for the first offense and not more than \$10,000 for the
12 second and each subsequent offense.

13 “(B) Any political committee or political action committee that violates
14 Subtitle B of this Title shall be subject to a civil penalty not to exceed \$4,000 for the first
15 offense, and not more than \$10,000 for the second and each subsequent offense.

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

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

1 “(3) A civil penalty shall be assessed by the Elections Board by order only after
2 the person charged with a violation has been given an opportunity for a hearing, and the
3 Elections Board has determined, by decision incorporating its findings of facts, that a violation
4 did occur, and the amount of the penalty. Any hearing under this section shall be of record and
5 shall be held in accordance with the Administrative Procedure Act.

6 “(4) Notwithstanding the provisions of paragraph (3) of this subsection, the
7 Elections Board may issue a schedule of fines for violations of subtitles A through E of this title,
8 which may be imposed ministerially by the Director of Campaign Finance. A civil penalty
9 imposed under the authority of this paragraph may be reviewed by the Elections Board in
10 accordance with the provisions of paragraph (3) of this subsection. The aggregate amount of
11 penalties imposed under the authority of this paragraph may not exceed \$4,000.

12 “(5) If the person against whom a civil penalty is assessed fails to pay the
13 penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty
14 in the Superior Court of the District of Columbia. The petition shall designate the person against
15 whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent
16 by registered or certified mail to the respondent and his attorney of record, and if the respondent
17 is a political, political action, exploratory, inaugural, transition, or legal defense committee, to
18 the chairman of the committee, and then the Elections Board shall certify and file in court the
19 record upon which the order sought to be enforced was issued. The court shall have jurisdiction
20 to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole
21 or in part, the order and the decision of the Elections Board or it may remand the proceedings to
22 the Elections Board for further action as it may direct. The court may determine de novo all

1 issues of law, but the Election Board’s findings of fact, if supported by substantial evidence,
2 shall be conclusive.

3 “(b) Except as provided in subsection (c) of this section, any person who violates any of
4 the provisions of subtitles A through E of this title shall be subject to criminal prosecution and,
5 upon conviction, shall be fined not more than \$5,000 or imprisoned for not longer than 6 months,
6 but not both.

7 “(c) Any person who knowingly violates any of the provisions of subtitles A through E
8 of this title shall be subject to criminal prosecution and, upon conviction, shall be fined not more
9 than \$10,000 or imprisoned for not longer than 5 years, or both.

10 “(d) Prosecutions pursuant to subsection (b) may be brought by the United States
11 Attorney for the District of Columbia, in the name of the United States or the Attorney General
12 for the District of Columbia, in the name of the District of Columbia. If the Attorney General for
13 the District of Columbia initiates an investigation for the purpose of prosecution, pursuant to
14 subsection (b), he shall promptly notify the United States Attorney for the District of Columbia.
15 Prosecutions pursuant to subsection (c) shall be brought by the United States Attorney for the
16 District of Columbia in the name of the United States.

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

21 “(f)(1) Notwithstanding any other provision of this subsection, a candidate or political
22 committee shall not be subject to prosecution under this title if it:

23 “(A) Determines that it has committed a violation of this title: and

1 “(B) Prior to any notification of the violation by the Director of Campaign
2 Finance, or the commencement of any criminal prosecution, cures the violation within 90 days of
3 the violation’s occurrence.”.

4 (n) A new section 335a is added to read as follows:

5 “335a. Covered Contractor Penalties.

6 “(a) In addition to any penalties prescribed in section 335, any covered contractor that
7 knowingly solicits or makes unlawful campaign contributions to, or expenditures in support of, a
8 prohibited recipient in violation of this Act shall be subject to a fine of up to three times the
9 amount of the unlawful contribution or expenditure and such violation shall be considered a
10 breach of the terms of the contract or grant. At the discretion of the District, the existing
11 contracts or grants of the covered contractor may be terminated and the covered contractor may
12 be disqualified from eligibility for future District contracts or grants for a period of four calendar
13 years from the date of determination that a violation of this Act has occurred.

14 “(b) If a covered contractor, or those persons subject to the same prohibitions as the
15 covered contractor, unknowingly solicited or made campaign contributions or expenditures in
16 violation of section 334a of this Act, the covered contractor may cure the violation if, within 30
17 days of such violation, the covered contractor seeks and receives full reimbursement of the
18 unlawful contribution or expenditure from the prohibited recipient or recipients. If the prohibited
19 recipient or recipients are unable or unwilling to reimburse the full amount of the unlawful
20 contribution or expenditure because it would cause an unreasonable financial hardship, the
21 covered contractor will be considered in violation of section 334a, but the effort to seek a cure
22 may be considered in the determination of penalties.

1 “(c) In addition to any penalties prescribed in section 335, any prohibited recipient who
2 knowingly solicits or accepts a campaign contribution or expenditure in violation of section 334a
3 of this Act shall be subject to a fine up to three times the amount of the unlawful contribution or
4 expenditure. If the prohibited recipient in violation of this Act is a political committee affiliated
5 with a candidate or public official, or an entity or organization controlled by a candidate or
6 public official, the name of the candidate or public official shall be prominently displayed on the
7 web page of the Office of Campaign Finance.”.

8 Sec. 3. Fiscal impact statement.

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

12 Sec. 4. Effective date.

13 This act shall take effect following approval by the Mayor (or in the event of veto by the
14 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
15 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
16 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
17 Columbia Register.