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2 Councilmember Tommy Wells

Councilmember Mary M. Cheh

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7 A BILL

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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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17 Councilmembers Mary M. Cheh and Tommy Wells introduced the following bill, which was
18 referred to the Committee on _____.

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20 To amend the Campaign Finance Reform Amendment Act of 2012 to establish new definitions
21 for affiliate, District contractor, and elected official; to establish restrictions, cures, and
22 penalties on campaign contributions from certain persons, businesses, or contractors,
23 immediate family and affiliates that currently have or intend to seek a contract to provide
24 goods or services to the District of Columbia government; to prohibit corporate
25 contributions.

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27 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
28 bill may be cited as the “Campaign Finance Reform Amendment Act of 2012”.

29 Sec. 2. The Board of Ethics and Government Accountability Establishment and
30 Comprehensive Ethics Reform Amendment Act of 2011, adopted on second reading on
31 December 12, 2011 (Enrolled version of Bill 19-511) is amended as follows:

32 (a) By amending section 101 to include new paragraphs (2A), (13A), and (14A) to read
33 as follows:

34 “(2A) “Affiliate” or “affiliated person” means an individual or business that directly, or
35 indirectly through one or more intermediaries, controls, is controlled by, or is under common
36 control with, the individual or business.

37 “(13A) “District contractor” includes any individual who is a Board member, officer, or

1 manager for, or who holds a 10 percent or greater ownership interest in, a business that has or is
2 actively seeking a contract to provide goods or services to the District of Columbia government.

3 “(14A) “Elected official” means the Mayor, the Chairman and members of the Council,
4 the President and members of the Board of Education, the Delegate to Congress for the District
5 of Columbia, United States Senator and Representative, and advisory neighborhood
6 commissioners of the District of Columbia.

7 (b) A new section 223A is added to read as follows:

8 “Sec. 223A. Disclosure of external fundraising activities.

9 “(a) As used in this section, the term:

10 “(1) “Control” means the possession, directly or indirectly, of the power to direct
11 or cause the direction of the management or policies of the covered entity

12 “(2) “Covered entity” means a nonprofit charitable organization.

13 “(3) “Elected official” means the Mayor, the Chairman, and the Members of the
14 Council.

15 “(4) “Immediate family” means the elected official's spouse or domestic partner,
16 and any parent, brother, or sister, or child of the public official, and the spouse or domestic
17 partner of any such parent, brother, sister, or child.

18 “(5) “Personally solicit” means to request or otherwise encourage donations or
19 other support through person-to-person contact or through the direct request by mail or electronic
20 mail; provided, that this does not include the solicitation of funds through the media, through
21 oral remarks, or through the contemporaneous dispatch of like items of mass-produced
22 correspondence.

23 “(b) An elected official may serve as an honorary member of a covered entity’s
24 fundraising event or otherwise personally solicit funds on behalf of the covered entity; provided,

1 that:

2 “(1) Neither the elected official, nor the official’s immediate family, stand to gain
3 financially from the covered entity or control the covered entity; and

4 “(2) District resources are not used to solicit the funds.

5 “(c) Each elected official shall, on a quarterly basis, file with the Office of Campaign
6 Finance a listing of each covered entity on whose behalf the elected official personally solicited
7 funds on a form to be developed and published by the Director each year in the District of
8 Columbia Register and posted on the Office’s website.

9 “(d) This section shall not be construed in any way to limit the ability of an elected
10 official to engage in political fundraising activities.”

11 (c) Section 309 is amended as follows:

12 (1) Paragraph (c)(2) is amended by striking the phrase “if any, or each person”
13 and inserting “if any, and status as a District contractor, or each person” in its place.

14 (2) Subsection (e) is amended by adding a new paragraph (4) to read as follows:

15 “(4) All contributions within the calendar year in an aggregate amount or value in
16 excess of \$50 or more that do not contain a confirmation that the contributing entity is not a
17 District contractor shall be returned.”

18 (d) By adding a new section 334A to read as follows:

19 “Sec. 334A. Pay-to-play prohibitions.

20 “(a) No District contractor, during the period of application for and performance under
21 any contract, shall directly or indirectly make any contribution, promise expressly or impliedly to
22 make any contribution, or solicit contributions, to or for any organization authorized to make
23 contributions to or expenditures for the benefit of candidates who may vote on or have approval
24 of the award of a contract to the District contractor or its affiliate, including a campaign

1 committee for a candidate for election or reelection to a public office; a political committee; a
2 political party committee; a Political Action Committee; an exploratory committee; a legal
3 defense committee; a transition committee; an inaugural committee; a constituent-service
4 program.

5 “(b) No agency or department of the District of Columbia government shall award any
6 contract, whether no-bid or sole-sourced, or chosen through a competitive process, to provide
7 goods or services to the District of Columbia government, to any person, business, or contractor,
8 and any immediate family, affiliated companies, affiliated persons, or business with which he or
9 she is associated, who has made within the three previous calendar years one or more
10 contributions totaling in aggregate in excess of \$2,000, to any organization authorized to make
11 contributions to or expenditures for the benefit of candidates who may vote on or have approval
12 of the award of a contract to such person, business, or contractor, a campaign committee for a
13 candidate for election or reelection to a public office; a political committee; a political party
14 committee; a Political Action Committee; an exploratory committee; a legal defense committee;
15 a transition committee; an inaugural committee; a constituent-service program.

16 “(c) No person, business, or contractor who has been awarded a contract with the District
17 of Columbia government may invest in a financial venture in which a public official has at least
18 a 5 percent interest, if that official is in a position to vote on or have approval of a contract to
19 such person, business, or contractor.

20 “(d) No public official or public employee may solicit campaign contributions or
21 investments in exchange for the prior award of a contract or the promise of a contract with the
22 District of Columbia government.

23 “(e) No person who has acted as a fundraiser by directly soliciting contributions for the
24 election or reelection campaign of a candidate or public official and secured in excess of \$10,000

1 in contributions in the aggregate during any one election, nor his immediate family, employer, or
2 employee, shall knowingly receive any contract, lease, or appointment to any Board or office
3 with the District of Columbia government within three years of such fundraising.

4 “(f) “Disclosure requirements for such contribution activities shall be covered by regular
5 campaign reports made by political committees, campaign committees, and PACs, and financial
6 disclosure statements for those required to file pursuant to section 225, made to the Office of
7 Campaign Finance.

8 “(g) No violation of this section will occur if the amount contributed in excess of the
9 aggregate amounts stated in this section to a campaign committee, party committee, political
10 committee, or PAC by a person, business, or contractor, and any immediate family, affiliated
11 companies, affiliated persons, or business with which he or she is associated, that has or intends
12 to seek a contract to provide goods or services to the District of Columbia government:

13 “(1) Is completely refunded within five business days after it is accepted; or

14 “(2) Is completely refunded on or before the tenth business day after notification
15 to the recipient by the Office of Campaign Finance that a contribution was received in excess of
16 the amount permitted.

17 “(h) Whoever violates this section shall:

18 “(1) Be subject to any penalties and fines pursuant to this chapter, including those
19 levied by the Office of Campaign Finance pursuant to its authority;

20 “(2) If the contract terms have not yet been performed:

21 “(A) The contract or contracts awarded in violation of this section shall be
22 voided;

1 “(B) Payment of immediate restitution shall be made to the District of
2 Columbia government of money paid for performance of the contract by the person, business, or
3 contractor; and

4 “(C) Payment of costs associated with securing a new contract shall be
5 made to the District of Columbia government by the person, business, or contractor to the
6 District.

7 “(3) If the contract terms have been performed:

8 “(A) The person, business, or contractor shall be ineligible to bid, respond
9 to an invitation to bid, or a request for proposals for three years; and

10 “(B) If a person, business, or contractor violates this section two or more
11 times within a 36-month period, all contracts between the District of Columbia government and
12 that person, business, or contractor shall be void, and that person, business, or contractor shall
13 not bid, respond to an invitation to bid, or requests for proposal for five years from the date of
14 the last violation.”.

15 (e) A new section 334B is added to read as follows:

16 “Sec. 334B. Limitations on corporate contributions.

17 “(a) It shall be unlawful for any entity, a s defined in section 102 of the District of
18 Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July
19 2, 2011 (D.C. Law 18-378; D.C. Official Code § 29-101.02), to make any campaign contribution
20 or expenditure to or for any candidate, political action committee, political party committee,
21 exploratory committee, legal defense committee, transition committee, inaugural committee, or
22 constituent-service program, or for any candidate, political action committee, political party
23 committee, exploratory committee, legal defense committee, transition committee, inaugural
24 committee, or constituent-service program to accept any campaign contribution or expenditure

1 from any entity. Any contribution made in the personal name of any employee of a corporation
2 or other business entity, for which the employee received or will receive reimbursement from the
3 corporation or other business entity, shall be considered as a contribution by the corporation or
4 other business entity, in violation of this section.

5 “(b) Any voluntary payroll deduction and/or contribution made by employees of a
6 corporation or other business entity shall not be deemed a contribution of a corporation or other
7 business entity, notwithstanding that the contributions were sent to the recipient by the
8 corporation or other business entity.”.

9 Sec. 4. Fiscal impact statement.

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

13 Sec. 5. Effective date.

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