



House of Representatives

General Assembly

File No. 445

February Session, 2010

Substitute House Bill No. 5471

House of Representatives, April 12, 2010

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING INDEPENDENT EXPENDITURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-601 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this chapter and [sections 9-700 to 9-716, inclusive]
4 chapter 157:

5 (1) "Committee" means a party committee, political committee or a
6 candidate committee organized, as the case may be, for a single
7 primary, election or referendum, or for ongoing political activities, to
8 aid or promote the success or defeat of any political party, any one or
9 more candidates for public office or the position of town committee
10 member or any referendum question.

11 (2) "Party committee" means a state central committee or a town
12 committee. "Party committee" does not mean a party-affiliated or

13 district, ward or borough committee which receives all of its funds
14 from the state central committee of its party or from a single town
15 committee with the same party affiliation. Any such committee so
16 funded shall be construed to be a part of its state central or town
17 committee for purposes of this chapter and sections 9-700 to 9-716,
18 inclusive.

19 (3) "Political committee" means (A) a committee organized by a
20 business entity or organization, (B) persons other than individuals, or
21 two or more individuals organized or acting jointly conducting their
22 activities in or outside the state, (C) an exploratory committee, (D) a
23 committee established by or on behalf of a slate of candidates in a
24 primary for the office of justice of the peace, but does not mean a
25 candidate committee or a party committee, (E) a legislative caucus
26 committee, or (F) a legislative leadership committee.

27 (4) "Candidate committee" means any committee designated by a
28 single candidate, or established with the consent, authorization or
29 cooperation of a candidate, for the purpose of a single primary or
30 election and to aid or promote such candidate's candidacy alone for a
31 particular public office or the position of town committee member, but
32 does not mean a political committee or a party committee.

33 (5) "Exploratory committee" means a committee established by a
34 candidate for a single primary or election (A) to determine whether to
35 seek nomination or election to (i) the General Assembly, (ii) a state
36 office, as defined in subsection (e) of section 9-610, or (iii) any other
37 public office, and (B) if applicable, to aid or promote [said] such
38 candidate's candidacy for nomination to the General Assembly or any
39 such state office.

40 (6) "National committee" means the organization which according to
41 the bylaws of a political party is responsible for the day-to-day
42 operation of the party at the national level.

43 (7) "Organization" means all labor organizations, (A) as defined in
44 the Labor-Management Reporting and Disclosure Act of 1959, as from

45 time to time amended, or (B) as defined in subdivision (9) of section
46 31-101, employee organizations as defined in subsection (d) of section
47 5-270 and subdivision (6) of section 7-467, bargaining representative
48 organizations for teachers, any local, state or national organization, to
49 which a labor organization pays membership or per capita fees, based
50 upon its affiliation or membership, and trade or professional
51 associations which receive their funds exclusively from membership
52 dues, whether organized in or outside of this state, but does not mean
53 a candidate committee, party committee or a political committee.

54 (8) "Business entity" means the following, whether organized in or
55 outside of this state: Stock corporations, banks, insurance companies,
56 business associations, bankers associations, insurance associations,
57 trade or professional associations which receive funds from
58 membership dues and other sources, partnerships, joint ventures,
59 private foundations, as defined in Section 509 of the Internal Revenue
60 Code of 1986, or any subsequent corresponding internal revenue code
61 of the United States, as from time to time amended; trusts or estates;
62 corporations organized under sections 38a-175 to 38a-192, inclusive,
63 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, and
64 chapters 594 to 597, inclusive; cooperatives, and any other association,
65 organization or entity which is engaged in the operation of a business
66 or profit-making activity; but does not include professional service
67 corporations organized under chapter 594a and owned by a single
68 individual, nonstock corporations which are not engaged in business
69 or profit-making activity, organizations, as defined in subdivision [(6)]
70 (7) of this section, candidate committees, party committees and
71 political committees as defined in this section. For purposes of this
72 chapter, corporations which are component members of a controlled
73 group of corporations, as those terms are defined in Section 1563 of the
74 Internal Revenue Code of 1986, or any subsequent corresponding
75 internal revenue code of the United States, as from time to time
76 amended, shall be deemed to be one corporation.

77 (9) "Individual" means a human being, a sole proprietorship, or a
78 professional service corporation organized under chapter 594a and

79 owned by a single human being.

80 (10) "Person" means an individual, committee, firm, partnership,
81 organization, association, syndicate, company trust, corporation,
82 limited liability company or any other legal entity of any kind but does
83 not mean the state or any political or administrative subdivision of the
84 state.

85 (11) "Candidate" means an individual who seeks nomination for
86 election or election to public office whether or not such individual is
87 elected, and for the purposes of this chapter and sections 9-700 to 9-
88 716, inclusive, an individual shall be deemed to seek nomination for
89 election or election if such individual has (A) been endorsed by a party
90 or become eligible for a position on the ballot at an election or primary,
91 or (B) solicited or received contributions, made expenditures or given
92 such individual's consent to any other person to solicit or receive
93 contributions or make expenditures with the intent to bring about such
94 individual's nomination for election or election to any such office.
95 "Candidate" also means a slate of candidates which is to appear on the
96 ballot in a primary for the office of justice of the peace. For the
97 purposes of sections 9-600 to 9-610, inclusive, as amended by this act,
98 and section 9-621, as amended by this act, "candidate" also means an
99 individual who is a candidate in a primary for town committee
100 members.

101 (12) "Campaign treasurer" means the individual appointed by a
102 candidate or by the chairperson of a party committee or a political
103 committee to receive and disburse funds on behalf of the candidate or
104 committee.

105 (13) "Deputy campaign treasurer" means the individual appointed
106 by the candidate or by the chairperson of a committee to serve in the
107 capacity of the campaign treasurer if the campaign treasurer is unable
108 to perform the campaign treasurer's duties.

109 (14) "Solicitor" means an individual appointed by a campaign
110 treasurer of a committee to receive, but not to disburse, funds on

111 behalf of the committee.

112 (15) "Referendum question" means a question to be voted upon at
113 any election or referendum, including a proposed constitutional
114 amendment.

115 (16) "Lobbyist" means a lobbyist, as defined in section 1-91 and
116 "communicator lobbyist" means a communicator lobbyist, as defined
117 in section 1-91.

118 (17) "Business with which he is associated" means any business in
119 which the contributor is a director, officer, owner, limited or general
120 partner or holder of stock constituting five per cent or more of the total
121 outstanding stock of any class. Officer refers only to the president,
122 executive or senior vice-president or treasurer of such business.

123 [(18) "Independent expenditure" means an expenditure that is made
124 without the consent, knowing participation, or consultation of, a
125 candidate or agent of the candidate committee and is not a coordinated
126 expenditure.

127 (19) "Coordinated expenditure" means an expenditure made by a
128 person:

129 (A) In cooperation, consultation, in concert with, at the request,
130 suggestion or direction of, or pursuant to a general or particular
131 understanding with (i) a candidate, candidate committee, political
132 committee or party committee, or (ii) a consultant or other agent acting
133 on behalf of a candidate, candidate committee, political committee or
134 party committee;

135 (B) For the production, dissemination, distribution or publication, in
136 whole or in substantial part, of any broadcast or any written, graphic
137 or other form of political advertising or campaign communication
138 prepared by (i) a candidate, candidate committee, political committee
139 or party committee, or (ii) a consultant or other agent acting on behalf
140 of a candidate, candidate committee, political committee or party
141 committee;

142 (C) Based on information about a candidate's plans, projects or
143 needs, provided by (i) a candidate, candidate committee, political
144 committee or party committee, or (ii) a consultant or other agent acting
145 on behalf of a candidate, candidate committee, political committee or
146 party committee, with the intent that such expenditure be made;

147 (D) Who, in the same election cycle, is serving or has served as the
148 campaign chairperson, campaign treasurer or deputy treasurer of a
149 candidate committee, political committee or party committee
150 benefiting from such expenditure, or in any other executive or
151 policymaking position as a member, employee, fundraiser, consultant
152 or other agent of a candidate, candidate committee, political committee
153 or party committee;

154 (E) For fundraising activities (i) with or for a candidate, candidate
155 committee, political committee or party committee, or a consultant or
156 other agent acting on behalf of a candidate, candidate committee,
157 political committee or party committee, or (ii) for the solicitation or
158 receipt of contributions on behalf of a candidate, candidate committee,
159 political committee or party committee, or a consultant or other agent
160 acting on behalf of a candidate, candidate committee, political
161 committee or party committee;

162 (F) Based on information about a candidate's campaign plans,
163 projects or needs, that is directly or indirectly provided by said
164 candidate, the candidate's candidate committee, a political committee
165 or a party committee, or a consultant or other agent acting on behalf of
166 said candidate, candidate committee, political committee or party
167 committee, to the person making the expenditure or said person's
168 agent, with an express or tacit understanding that said person is
169 considering making the expenditure; or

170 (G) For a communication that clearly identifies a candidate during
171 an election campaign, if the person making the expenditure, or said
172 person's agent, has informed said candidate, the candidate's candidate
173 committee, a political committee or a party committee, or a consultant
174 or other agent acting on behalf of said candidate, candidate committee,

175 political committee or party committee, concerning the
176 communication's contents, intended audience, timing, location or
177 mode or frequency of dissemination.]

178 [(20)] (18) "Federal account" means a depository account that is
179 subject to the disclosure and contribution limits provided under the
180 Federal Election Campaign Act of 1971, as amended from time to time.

181 [(21)] (19) "Public funds" means funds belonging to, or under the
182 control of, the state or a political subdivision of the state.

183 [(22)] (20) "Legislative caucus committee" means a committee
184 established under subdivision (2) of subsection (e) of section 9-605 by
185 the majority of the members of a political party who are also state
186 representatives or state senators.

187 [(23)] (21) "Legislative leadership committee" means a committee
188 established under subdivision (3) of subsection (e) of section 9-605 by a
189 leader of the General Assembly.

190 [(24)] (22) "Immediate family" means the spouse or a dependent
191 child of an individual.

192 [(25)] (23) "Organization expenditure" means an expenditure by a
193 party committee, legislative caucus committee or legislative leadership
194 committee for the benefit of a candidate or candidate committee for:

195 (A) The preparation, display or mailing or other distribution of a
196 party candidate listing. As used in this subparagraph, "party candidate
197 listing" means any communication that meets the following criteria: (i)
198 The communication lists the name or names of candidates for election
199 to public office, (ii) the communication is distributed through public
200 advertising such as broadcast stations, cable television, newspapers or
201 similar media, or through direct mail, telephone, electronic mail,
202 publicly accessible sites on the Internet or personal delivery, (iii) the
203 treatment of all candidates in the communication is substantially
204 similar, and (iv) the content of the communication is limited to (I) for
205 each such candidate, identifying information, including photographs,

206 the office sought, the office currently held by the candidate, if any, the
207 party enrollment of the candidate, a brief statement concerning the
208 candidate's positions, philosophy, goals, accomplishments or
209 biography and the positions, philosophy, goals or accomplishments of
210 the candidate's party, (II) encouragement to vote for each such
211 candidate, and (III) information concerning voting, including voting
212 hours and locations;

213 (B) A document in printed or electronic form, including a party
214 platform, a copy of an issue paper, information pertaining to the
215 requirements of this title, a list of registered voters and voter
216 identification information, which document is created or maintained
217 by a party committee, legislative caucus committee or legislative
218 leadership committee for the general purposes of party or caucus
219 building and is provided (i) to a candidate who is a member of the
220 party that has established such party committee, or (ii) to a candidate
221 who is a member of the party of the caucus or leader who has
222 established such legislative caucus committee or legislative leadership
223 committee, whichever is applicable;

224 (C) A campaign event at which a candidate or candidates are
225 present;

226 (D) The retention of the services of an advisor to provide assistance
227 relating to campaign organization, financing, accounting, strategy, law
228 or media; or

229 (E) The use of offices, telephones, computers and similar equipment
230 which does not result in additional cost to the party committee,
231 legislative caucus committee or legislative leadership committee.

232 [(26)] (24) "Solicit" means (A) requesting that a contribution be
233 made, (B) participating in any fund-raising activities for a candidate
234 committee, exploratory committee, political committee or party
235 committee, including, but not limited to, forwarding tickets to
236 potential contributors, receiving contributions for transmission to any
237 such committee or bundling contributions, (C) serving as chairperson,

238 treasurer or deputy treasurer of any such committee, or (D)
239 establishing a political committee for the sole purpose of soliciting or
240 receiving contributions for any committee. "Solicit" does not include (i)
241 making a contribution that is otherwise permitted under this chapter,
242 (ii) informing any person of a position taken by a candidate for public
243 office or a public official, (iii) notifying the person of any activities of,
244 or contact information for, any candidate for public office, or (iv)
245 serving as a member in any party committee or as an officer of such
246 committee that is not otherwise prohibited in this subdivision.

247 [(27)] (25) "Agent" means any person acting at the direction of [an
248 individual] another person.

249 (26) "Entity" means the following, whether organized in this or any
250 other state: An organization, corporation, cooperative association,
251 limited partnership, professional association, limited liability
252 company, and limited liability partnership.

253 Sec. 2. (NEW) (*Effective from passage*) (a) As used in chapters 155 and
254 157 of the general statutes, the term "independent expenditure" means
255 an expenditure, as defined in section 9-601b of the general statutes,
256 that is made without the consent, coordination, or consultation of, a
257 candidate or agent of the candidate, candidate committee, political
258 committee or party committee.

259 (b) When the State Elections Enforcement Commission evaluates an
260 expenditure to determine whether such expenditure is an independent
261 expenditure, there shall be a rebuttable presumption that the following
262 expenditures are not independent expenditures:

263 (1) An expenditure made by a person in cooperation, consultation or
264 in concert with, at the request, suggestion or direction of, or pursuant
265 to a general or particular understanding with (A) a candidate,
266 candidate committee, political committee or party committee, or (B) a
267 consultant or other agent acting on behalf of a candidate, candidate
268 committee, political committee or party committee;

269 (2) An expenditure made by a person for the production,
270 dissemination, distribution or publication, in whole or in substantial
271 part, of any broadcast or any written, graphic or other form of political
272 advertising or campaign communication prepared by (A) a candidate,
273 candidate committee, political committee or party committee, or (B) a
274 consultant or other agent acting on behalf of a candidate, candidate
275 committee, political committee or party committee;

276 (3) An expenditure made by a person based on information about a
277 candidate's, political committee's, or party committee's plans, projects
278 or needs, provided by (A) a candidate, candidate committee, political
279 committee or party committee, or (B) a consultant or other agent acting
280 on behalf of a candidate, candidate committee, political committee or
281 party committee, with the intent that such expenditure be made;

282 (4) An expenditure made by an individual who, in the same election
283 cycle, is serving or has served as the campaign chairperson, campaign
284 treasurer or deputy treasurer of a candidate committee, political
285 committee or party committee benefiting from such expenditure, or in
286 any other executive or policymaking position, including as a member,
287 employee, fundraiser, consultant or other agent, of a candidate,
288 candidate committee, political committee or party committee;

289 (5) An expenditure made by a person who is an officer, director,
290 member, employee, fundraiser, consultant or other agent who serves
291 the entity, political committee or party committee in an executive or
292 policymaking position or serves as or has served in the same election
293 cycle as the candidate or the campaign chairperson, campaign
294 treasurer or deputy treasurer of a candidate committee, political
295 committee or party committee benefiting from such expenditure, or in
296 any other executive or policymaking position of the candidate
297 committee, political committee or party committee;

298 (6) An expenditure made by a person for fundraising activities (A)
299 with or for a candidate, candidate committee, political committee or
300 party committee, or a consultant or other agent acting on behalf of a
301 candidate, candidate committee, political committee or party

302 committee, or (B) for the solicitation or receipt of contributions on
303 behalf of a candidate, candidate committee, political committee or
304 party committee, or a consultant or other agent acting on behalf of a
305 candidate, candidate committee, political committee or party
306 committee;

307 (7) An expenditure made by a person based on information about a
308 candidate's campaign plans, projects or needs, that is directly or
309 indirectly provided by a candidate, the candidate's candidate
310 committee, a political committee or a party committee, or a consultant
311 or other agent acting on behalf of such candidate, candidate
312 committee, political committee or party committee, to the person
313 making the expenditure or such person's agent, with an express or tacit
314 understanding that such person is considering making the
315 expenditure; and

316 (8) An expenditure made by a person for a communication that
317 clearly identifies a candidate during an election campaign, if the
318 person making the expenditure, or such person's agent, has informed
319 the candidate who benefits from the expenditure, that candidate's
320 candidate committee, a political committee or a party committee, or a
321 consultant or other agent acting on behalf of the benefiting candidate
322 or candidate committee, political committee, or party committee,
323 concerning the communication's contents, or of the intended audience,
324 timing, location or mode or frequency of dissemination. As used in this
325 subdivision, a communication "clearly identifies a candidate" when
326 that communication contains the name, nickname, initials, photograph
327 or drawing of the candidate or an unambiguous reference to that
328 candidate, which includes, but is not limited to, a reference that can
329 only mean that candidate.

330 Sec. 3. Subsection (a) of section 9-601a of the general statutes is
331 repealed and the following is substituted in lieu thereof (*Effective from*
332 *passage*):

333 (a) As used in this chapter and [sections 9-700 to 9-716, inclusive]
334 chapter 157, "contribution" means:

335 (1) Any gift, subscription, loan, advance, payment or deposit of
336 money or anything of value, made for the purpose of influencing the
337 nomination for election, or election, of any person or for the purpose of
338 aiding or promoting the success or defeat of any referendum question
339 or on behalf of any political party;

340 (2) A written contract, promise or agreement to make a contribution
341 for any such purpose;

342 (3) The payment by any person, other than a candidate or campaign
343 treasurer, of compensation for the personal services of any other
344 person which are rendered without charge to a committee or candidate
345 for any such purpose;

346 (4) An expenditure [when made by a person with the cooperation
347 of, or in consultation with, any candidate, candidate committee or
348 candidate's agent or which is made in concert with, or at the request or
349 suggestion of, any candidate, candidate committee or candidate's
350 agent, including a coordinated expenditure] that is not an independent
351 expenditure; or

352 (5) Funds received by a committee which are transferred from
353 another committee or other source for any such purpose.

354 Sec. 4. Subsections (a) and (b) of section 9-602 of the general statutes
355 are repealed and the following is substituted in lieu thereof (*Effective*
356 *from passage*):

357 (a) Except with respect to an individual acting [on his own] alone, or
358 with respect to a group of two or more individuals acting together that
359 receives funds or makes or incurs expenditures not exceeding one
360 thousand dollars in the aggregate, no contributions may be made,
361 solicited or received and no expenditures may be made, directly or
362 indirectly, in aid of or in opposition to the candidacy for nomination or
363 election of any individual or any party or referendum question, unless
364 (1) the candidate or chairman of the committee has filed a designation
365 of a campaign treasurer and a depository institution situated in this

366 state as the depository for the committee's funds, or (2) the candidate
367 [or, in the event of a referendum question, a group of individuals] has
368 filed a certification in accordance with the provisions of section 9-604,
369 [or 9-605, as the case may be.] In the case of a political committee, the
370 filing of the statement of organization by the chairman of such
371 committee, in accordance with the provisions of section 9-605, as
372 amended by this act, shall constitute compliance with the provisions of
373 this subsection.

374 (b) No contribution in aid of or in opposition to the candidacy of
375 any person or to any party or referendum question shall be made at
376 any time, except to the committee's campaign treasurer whose
377 designation is on file with the proper authority, a solicitor [,] or a
378 candidate who is exempt from the requirement to form a candidate
379 committee and has filed a certification. [, or a group of individuals
380 which have joined solely to support or oppose a referendum question
381 and have filed a certification.]

382 Sec. 5. Subsection (d) of section 9-605 of the general statutes is
383 repealed and the following is substituted in lieu thereof (*Effective from*
384 *passage*):

385 (d) A group of two or more individuals who have joined solely to
386 promote the success or defeat of a referendum question shall not be
387 required to file as a political committee, make such designations in
388 accordance with subsections (a) and (b) of this section or file
389 statements pursuant to section 9-608, if the group does not receive or
390 expend in excess of one thousand dollars for the entire campaign. [and
391 the agent of such individuals files a certification with the proper
392 authority or authorities as required under section 9-603 before an
393 expenditure is made. The certification shall include the name of the
394 group, or the names of the persons who comprise the group, and the
395 name and address of the agent which shall appear on any
396 communication paid for or sponsored by the group as required by
397 section 9-621. If the group receives or expends in excess of one
398 thousand dollars, the agent] If the group receives funds or makes or

399 incurs expenditures exceeding one thousand dollars in the aggregate,
400 the group shall complete the statement of organization and file as a
401 political committee not later than three business days thereafter. The
402 [agent] group shall provide the designated campaign treasurer with all
403 information required for completion of the statements for filing as
404 required by section 9-608. [The filing of a certification under this
405 subsection shall not relieve the group from compliance with the
406 provisions of this chapter, and the group shall be considered a political
407 committee established solely for a referendum question for purposes
408 of the limitations on contributions and expenditures.]

409 Sec. 6. Subsection (e) of section 9-612 of the 2010 supplement to the
410 general statutes is repealed and the following is substituted in lieu
411 thereof (*Effective from passage*):

412 (e) (1) Any individual, entity or committee acting alone may [,
413 independent of any candidate, agent of the candidate, or committee,]
414 make unlimited independent expenditures. [to promote the success or
415 defeat of any candidate's campaign for election, or nomination at a
416 primary, to any office or position.] Except as provided in subdivision
417 (2) of this subsection, any such individual, [who makes] entity or
418 committee that makes or obligates to make an independent
419 expenditure or expenditures in excess of one thousand dollars, [to
420 promote the success or defeat of any candidate's campaign for election,
421 or nomination at a primary, to any such office or position] in the
422 aggregate, shall file statements according to the same schedule and in
423 the same manner as is required of a campaign treasurer of a candidate
424 committee under section 9-608.

425 (2) Any [person who] individual, entity or committee that makes or
426 obligates to make an independent expenditure or expenditures [, as
427 defined in section 9-601, intended] to promote the success or defeat of
428 a candidate for the office of Governor, Lieutenant Governor, Secretary
429 of the State, State Treasurer, State Comptroller, Attorney General, state
430 senator or state representative, which exceeds one thousand dollars, in
431 the aggregate, during a primary campaign or a general election

432 campaign, as defined in section 9-700, on or after January 1, 2008, shall
433 file a report of such independent expenditure to the State Elections
434 Enforcement Commission. The report shall be in the same form as
435 statements filed under section 9-608. If the [person] individual, entity
436 or committee makes or obligates to make such independent
437 expenditure or expenditures more than twenty days before the day of
438 a primary or election, the [person] individual, entity or committee shall
439 file such report not later than forty-eight hours after such payment or
440 obligation. If the [person] individual, entity or committee makes or
441 obligates to make such independent expenditure or expenditures
442 twenty days or less before the day of a primary or election, the person
443 shall file such report not later than twenty-four hours after such
444 payment or obligation. The report shall be filed under penalty of false
445 statement.

446 (3) The independent expenditure report [in subdivision (2) of this
447 subsection shall include a statement (A) identifying] shall (A) identify
448 the candidate for whom the independent expenditure or expenditures
449 is intended to promote the success or defeat, [and (B) affirming that the
450 expenditure is not a coordinated expenditure] (B) affirm under penalty
451 of false statement that the expenditure is an independent expenditure,
452 and (C) provide any information that the State Elections Enforcement
453 Commission requires to facilitate compliance with the provisions of
454 this chapter or chapter 157.

455 (4) Any person may file a complaint with the commission upon the
456 belief that (A) any such independent expenditure report or statement
457 is false, or (B) any [person who] individual, entity or committee that is
458 required to file an independent expenditure report under [subdivision
459 (2) of] this subsection has failed to do so. The commission shall make a
460 prompt determination on such a complaint.

461 (5) (A) If [a person] an individual, entity or committee fails to file a
462 report required under subdivision (2) of this subsection for an
463 independent expenditure or expenditures made or obligated to be
464 made more than twenty days before the day of a primary or election,

465 the person shall be subject to a civil penalty, imposed by the State
466 Elections Enforcement Commission, of not more than five thousand
467 dollars. If [a person] an individual, entity or committee fails to file a
468 report required under subdivision (2) of this subsection for an
469 independent expenditure or expenditures made or obligated to be
470 made twenty days or less before the day of a primary or election, [the
471 person] such individual, entity or committee shall be subject to a civil
472 penalty, imposed by the State Elections Enforcement Commission, of
473 not more than ten thousand dollars. (B) If any such failure is knowing
474 and wilful, the person responsible for the failure shall also be fined not
475 more than five thousand dollars or imprisoned not more than five
476 years, or both.

477 Sec. 7. Section 9-613 of the general statutes is amended by adding
478 subsection (g) as follows (*Effective from passage*):

479 (NEW) (g) Notwithstanding the provisions of this section, a
480 business entity, acting alone, may make independent expenditures.

481 Sec. 8. Section 9-614 of the general statutes is amended by adding
482 subsection (d) as follows (*Effective from passage*):

483 (NEW) (d) Notwithstanding the provisions of this section, an
484 organization, acting alone, may make independent expenditures.

485 Sec. 9. Section 9-620 of the general statutes is repealed and the
486 following is substituted in lieu thereof (*Effective from passage*):

487 (a) A political committee formed solely to aid or promote the
488 success or defeat of a referendum question shall not make
489 contributions to, or for the benefit of, a party committee, a political
490 committee, a national committee, a committee of a candidate for
491 federal or out-of-state office or a candidate committee, except in the
492 distribution of a surplus, as provided in subsection (e) of section 9-608.

493 (b) A political committee formed solely to aid or promote the
494 success or defeat of a referendum question shall not receive
495 contributions from a national committee or from a committee of a

496 candidate for federal or out-of-state office.

497 (c) No person, [as defined in subdivision (9) of section 9-601,] other
498 than an individual or a committee, shall make a contribution to a
499 political committee formed solely to aid or promote the success or
500 defeat of a referendum question, or to any other person, [as defined in
501 subdivision (9) of section 9-601,] to aid or promote the success or
502 defeat of a referendum question, in excess of ten cents for each
503 individual residing in the state or political subdivision thereof in
504 which such referendum question is to be voted upon, in accordance
505 with the last federal decennial census.

506 [(d) Any such person other than an individual or a committee which
507 makes expenditures or has expenses incurred but not paid in excess of
508 one thousand dollars in the state or political subdivision thereof in
509 which a referendum question is to be voted upon, shall file all
510 designations and sworn financial statements required to be filed by
511 political committees and comply with all provisions of this chapter
512 which apply to political committees.]

513 Sec. 10. Section 9-621 of the general statutes is repealed and the
514 following is substituted in lieu thereof (*Effective from passage*):

515 (a) No individual shall make or incur any expenditure with the
516 [cooperation of, at the request or suggestion of,] consent of, in
517 coordination with or in consultation with any candidate, candidate
518 committee or candidate's agent, no group of two or more individuals
519 acting together that receives funds or makes or incurs expenditures not
520 exceeding one thousand dollars in the aggregate and has not formed a
521 political committee shall make or incur any expenditure, and no
522 candidate or committee shall make or incur any expenditure including
523 an organization expenditure for a party candidate listing, as defined in
524 subparagraph (A) of subdivision [(25)] (23) of section 9-601, as
525 amended by this act, for any written, typed or other printed
526 communication, or any web-based, written communication, which
527 promotes the success or defeat of any candidate's campaign for
528 nomination at a primary or election or promotes or opposes any

529 political party or solicits funds to benefit any political party or
530 committee unless such communication bears upon its face (1) the
531 words "paid for by" and the following: (A) In the case of such an
532 individual, the name and address of such individual; (B) in the case of
533 a committee other than a party committee, the name of the committee
534 and its campaign treasurer; [or] (C) in the case of a party committee,
535 the name of the committee; or (D) in the case of a group of two or more
536 individuals that receives funds or makes or incurs expenditures not
537 exceeding one thousand dollars in the aggregate and has not formed a
538 political committee, the name of the group and the name and address
539 of its agent, and (2) the words "approved by" and the following: (A) In
540 the case of an individual, group or committee other than a candidate
541 committee making or incurring an expenditure with the [cooperation
542 of, at the request or suggestion of,] consent of, in coordination with or
543 in consultation with any candidate, candidate committee or
544 candidate's agent, the name of [such individual] the candidate; or (B)
545 in the case of a candidate committee, the name of the candidate.

546 (b) In addition to the requirements of subsection (a) of this section:

547 (1) No candidate or candidate committee or exploratory committee
548 established by a candidate shall make or incur any expenditure for
549 television advertising or Internet video advertising, which promotes
550 the success of such candidate's campaign for nomination at a primary
551 or election or the defeat of another candidate's campaign for
552 nomination at a primary or election, unless (A) at the end of such
553 advertising there appears simultaneously, for a period of not less than
554 four seconds, (i) a clearly identifiable photographic or similar image of
555 the candidate making such expenditure, (ii) a clearly readable printed
556 statement identifying such candidate, and indicating that such
557 candidate has approved the advertising, and (iii) a simultaneous,
558 personal audio message, in the following form: "I am (candidate's
559 name) and I approved this message", and (B) the candidate's name and
560 image appear in, and the candidate's voice is contained in, the
561 narrative of the advertising, before the end of such advertising;

562 (2) No candidate or candidate committee or exploratory committee
563 established by a candidate shall make or incur any expenditure for
564 radio advertising or Internet audio advertising, which promotes the
565 success of such candidate's campaign for nomination at a primary or
566 election or the defeat of another candidate's campaign for nomination
567 at a primary or election, unless (A) the advertising ends with a
568 personal audio statement by the candidate making such expenditure
569 (i) identifying such candidate and the office such candidate is seeking,
570 and (ii) indicating that such candidate has approved the advertising in
571 the following form: "I am (candidate's name) and I approved this
572 message", and (B) the candidate's name and voice are contained in the
573 narrative of the advertising, before the end of such advertising; and

574 (3) No candidate or candidate committee or exploratory committee
575 established by a candidate shall make or incur any expenditure for
576 automated telephone calls which promote the success of such
577 candidate's campaign for nomination at a primary or election or the
578 defeat of another candidate's campaign for nomination at a primary or
579 election, unless the candidate's name and voice are contained in the
580 narrative of the call, before the end of such call.

581 (c) No business entity, organization, association, committee, or
582 group of two or more individuals who have joined solely to promote
583 the success or defeat of a referendum question [and is required to file a
584 certification in accordance with subsection (d) of section 9-605,] shall
585 make or incur any expenditure for any written, typed or other printed
586 communication which promotes the success or defeat of any
587 referendum question unless such communication bears upon its face
588 the words "paid for by" and the following: (1) In the case of a business
589 entity, organization or association, the name of the business entity,
590 organization or association and the name of its chief executive officer
591 or equivalent; (2) in the case of a political committee, the name of the
592 committee and the name of its campaign treasurer; (3) in the case of a
593 party committee, the name of the committee; or (4) in the case of such a
594 group of two or more individuals, the name of the group [as it appears
595 on the certification filed in accordance with subsection (d) of section 9-

596 605,] and the name and address of its agent.

597 (d) The provisions of subsections (a), (b) and (c) of this section do
598 not apply to (1) any editorial, news story, or commentary published in
599 any newspaper, magazine or journal on its own behalf and upon its
600 own responsibility and for which it does not charge or receive any
601 compensation whatsoever, (2) any banner, (3) political paraphernalia
602 including pins, buttons, badges, emblems, hats, bumper stickers or
603 other similar materials, or (4) signs with a surface area of not more
604 than thirty-two square feet.

605 (e) The campaign treasurer of a candidate committee which
606 sponsors any written, typed or other printed communication for the
607 purpose of raising funds to eliminate a campaign deficit of that
608 committee shall include in such communication a statement that the
609 funds are sought to eliminate such a deficit.

610 (f) The campaign treasurer of an exploratory committee or
611 candidate committee established by a candidate for nomination or
612 election to the office of Treasurer which committee sponsors any
613 written, typed or other printed communication for the purpose of
614 raising funds shall include in such communication a statement
615 concerning the prohibitions set forth in subsection (n) of section 1-84,
616 subsection (f) of section 9-612 and subsection (f) of section 9-613.

617 (g) In the event a campaign treasurer of a candidate committee is
618 replaced pursuant to subsection (c) of section 9-602, nothing in this
619 section shall be construed to prohibit the candidate committee from
620 distributing any printed communication subject to the provisions of
621 this section that has already been printed or otherwise produced, even
622 though such communication does not accurately designate the
623 successor campaign treasurer of such candidate committee.

624 (h) (1) No entity shall make or incur an independent expenditure for
625 any written, typed or other printed communication, or any web-based,
626 written communication, that promotes the success or defeat of any
627 candidate for nomination or election or promotes or opposes any

628 political party or solicits funds to benefit any political party or
629 committee, unless such communication bears upon its face the words
630 "Paid for by" and the name of the entity, the name of its chief executive
631 officer or equivalent, and its principal business address and the words
632 "This message was made independent of any candidate or political
633 party."

634 (2) In addition to the requirements of subdivision (1) of this
635 subsection, no entity shall make or incur an independent expenditure
636 for television advertising or Internet video advertising, that promotes
637 the success or defeat of any candidate for nomination or election or
638 promotes or opposes any political party or solicits funds to benefit any
639 political party or committee, unless at the end of such advertising there
640 appears simultaneously, for a period of not less than four seconds, (A)
641 a clearly identifiable video, photographic or similar image of the
642 entity's chief executive officer or equivalent, and (B) a simultaneous,
643 personal audio message, in the following form: "I am (name of
644 entity's chief executive officer or equivalent), (title) of (entity).
645 This message was made independent of any candidate or political
646 party, and I approved its content."

647 (3) In addition to the requirements of subdivision (1) of this
648 subsection, no entity shall make or incur an independent expenditure
649 for radio advertising or Internet audio advertising, that promotes the
650 election or defeat of any candidate for nomination or election or
651 promotes or opposes any political party or solicits funds to benefit any
652 political party or committee, unless the advertising ends with a
653 personal audio statement by the entity's chief executive officer or
654 equivalent (A) identifying the entity paying for the expenditure, and
655 (B) indicating that the message was made independent of any
656 candidate or political party, using the following form: "I am (name
657 of entity's chief executive officer or equivalent), (title), of
658 (entity). This message was made independent of any candidate or
659 political party, and I approved its content."

660 (4) In addition to the requirements of subdivision (1) of this

661 subsection, no entity shall make or incur an independent expenditure
662 for automated telephone calls that promote the election or defeat of
663 any candidate for nomination or election or promotes or opposes any
664 political party or solicits funds to benefit any political party or
665 committee, unless the narrative of the telephone call identifies the
666 entity making the expenditure and its chief executive officer or
667 equivalent.

668 Sec. 11. Section 9-622 of the general statutes is repealed and the
669 following is substituted in lieu thereof (*Effective from passage*):

670 The following persons shall be guilty of illegal practices and shall be
671 punished in accordance with the provisions of section 9-623:

672 (1) Any person who, directly or indirectly, individually or by
673 another person, gives or offers or promises to any person any money,
674 gift, advantage, preferment, entertainment, aid, emolument or other
675 valuable thing for the purpose of inducing or procuring any person to
676 sign a nominating, primary or referendum petition or to vote or refrain
677 from voting for or against any person or for or against any measure at
678 any election, caucus, convention, primary or referendum;

679 (2) Any person who, directly or indirectly, receives, accepts,
680 requests or solicits from any person, committee, association,
681 organization or corporation, any money, gift, advantage, preferment,
682 aid, emolument or other valuable thing for the purpose of inducing or
683 procuring any person to sign a nominating, primary or referendum
684 petition or to vote or refrain from voting for or against any person or
685 for or against any measure at any such election, caucus, primary or
686 referendum;

687 (3) Any person who, in consideration of any money, gift, advantage,
688 preferment, aid, emolument or other valuable thing paid, received,
689 accepted or promised to the person's advantage or any other person's
690 advantage, votes or refrains from voting for or against any person or
691 for or against any measure at any such election, caucus, primary or
692 referendum;

693 (4) Any person who solicits from any candidate any money, gift,
694 contribution, emolument or other valuable thing for the purpose of
695 using the same for the support, assistance, benefit or expenses of any
696 club, company or organization, or for the purpose of defraying the cost
697 or expenses of any political campaign, primary, referendum or
698 election;

699 (5) Any person who, directly or indirectly, pays, gives, contributes
700 or promises any money or other valuable thing to defray or towards
701 defraying the cost or expenses of any campaign, primary, referendum
702 or election to any person, committee, company, club, organization or
703 association, other than to a campaign treasurer, except that this
704 subdivision shall not apply to any expenses for postage, telegrams,
705 telephoning, stationery, express charges, traveling, meals, lodging or
706 photocopying incurred by any candidate for office or for nomination to
707 office, so far as may be permitted under the provisions of this chapter;

708 (6) Any person who, in order to secure or promote the person's own
709 nomination or election as a candidate, or that of any other person,
710 directly or indirectly, promises to appoint, or promises to secure or
711 assist in securing the appointment, nomination or election of any other
712 person to any public position, or to any position of honor, trust or
713 emolument; but any person may publicly announce the person's own
714 choice or purpose in relation to any appointment, nomination or
715 election in which the person may be called to take part, if the person is
716 nominated for or elected to such office;

717 (7) Any person who, directly or indirectly, individually or through
718 another person, makes a payment or promise of payment to a
719 campaign treasurer in a name other than the person's own, and any
720 campaign treasurer who knowingly receives a payment or promise of
721 payment, or enters or causes the same to be entered in the person's
722 accounts in any other name than that of the person by whom such
723 payment or promise of payment is made;

724 (8) Any person who knowingly and wilfully violates any provision
725 of this chapter;

726 (9) Any person who offers or receives a cash contribution in excess
727 of one hundred dollars to promote the success or defeat of any political
728 party, candidate or referendum question;

729 (10) Any person who solicits, makes or receives a contribution that
730 is otherwise prohibited by any provision of this chapter;

731 (11) Any department head or deputy department head of a state
732 department who solicits a contribution on behalf of, or for the benefit
733 of, any candidate for state, district or municipal office or any political
734 party;

735 (12) Any municipal employee who solicits a contribution on behalf
736 of, or for the benefit of, any candidate for state, district or municipal
737 office, any political committee or any political party, from (A) an
738 individual under the supervision of such employee, or (B) the spouse
739 or a dependent child of such individual;

740 (13) Any person who makes [a coordinated] an expenditure, that is
741 not an independent expenditure, for a candidate without the
742 knowledge of [said] such candidate. No candidate shall be civilly or
743 criminally liable with regard to any such [coordinated] expenditure;

744 (14) Any chief of staff of a legislative caucus who solicits a
745 contribution on behalf of or for the benefit of any candidate for state,
746 district or municipal office from an employee of the legislative caucus;

747 (15) Any chief of staff for a state-wide elected official who solicits a
748 contribution on behalf of or for the benefit of any candidate for state,
749 district or municipal office from a member of such official's staff; or

750 (16) Any chief of staff for the Governor or Lieutenant Governor who
751 solicits a contribution on behalf of or for the benefit of any candidate
752 for state, district or municipal office from a member of the staff of the
753 Governor or Lieutenant Governor, or from any commissioner or
754 deputy commissioner of any state agency.

755 Sec. 12. Section 9-718 of the general statutes is repealed and the

756 following is substituted in lieu thereof (*Effective from passage*):

757 (a) Notwithstanding any provision of the general statutes, no party
758 committee, legislative caucus committee or legislative leadership
759 committee [, as defined in section 9-601,] shall make an organization
760 expenditure [, as defined in subdivision (25) of section 9-601,] for the
761 benefit of a participating candidate or the candidate committee of a
762 participating candidate in the Citizens' Election Program for the office
763 of state senator in an amount that exceeds ten thousand dollars for the
764 general election campaign.

765 (b) Notwithstanding any provision of the general statutes, no party
766 committee, legislative caucus committee or legislative leadership
767 committee [, as defined in section 9-601,] shall make an organization
768 expenditure [, as defined in subdivision (25) of section 9-601,] for the
769 purposes described in subparagraph (A) of subdivision [(25)] (23) of
770 section 9-601, as amended by this act, for the benefit of a participating
771 candidate or the candidate committee of a participating candidate in
772 the Citizens' Election Program for the office of state senator for the
773 primary campaign.

774 (c) Notwithstanding any provision of the general statutes, no party
775 committee, legislative caucus committee or legislative leadership
776 committee [, as defined in section 9-601,] shall make an organization
777 expenditure [, as defined in subdivision (25) of section 9-601,] for the
778 benefit of a participating candidate or the candidate committee of a
779 participating candidate in the Citizens' Election Program for the office
780 of state representative in an amount that exceeds three thousand five
781 hundred dollars for the general election campaign.

782 (d) Notwithstanding any provision of the general statutes, no party
783 committee, legislative caucus committee or legislative leadership
784 committee [, as defined in section 9-601,] shall make an organization
785 expenditure [, as defined in subdivision (25) of section 9-601,] for the
786 purposes described in subparagraph (A) of subdivision [(25)] (23) of
787 section 9-601, as amended by this act, for the benefit of a participating
788 candidate or the candidate committee of a participating candidate in

789 the Citizens' Election Program for the office of state representative for
790 the primary campaign.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-601
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	9-601a(a)
Sec. 4	<i>from passage</i>	9-602(a) and (b)
Sec. 5	<i>from passage</i>	9-605(d)
Sec. 6	<i>from passage</i>	9-612(e)
Sec. 7	<i>from passage</i>	9-613
Sec. 8	<i>from passage</i>	9-614
Sec. 9	<i>from passage</i>	9-620
Sec. 10	<i>from passage</i>	9-621
Sec. 11	<i>from passage</i>	9-622
Sec. 12	<i>from passage</i>	9-718

Statement of Legislative Commissioners:

Clarified language in sections 2, 5 and 7 and corrected an internal reference in section 1.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes changes regarding independent expenditures to conform state law to the recent U.S. Supreme Court decision and results in no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5471*****AN ACT CONCERNING INDEPENDENT EXPENDITURES.*****SUMMARY:**

This bill removes the prohibition on independent expenditures made by business entities and organizations (e.g., labor unions) and authorizes them to make unlimited independent expenditures. It establishes reporting and attribution requirements for independent expenditures similar to those under existing law for independent expenditures made by individuals. By removing the prohibition, it conforms state law to the recent U.S. Supreme Court decision in *Citizens United v. Federal Election Commission* (see BACKGROUND).

The bill removes a requirement that groups of two or more individuals register as a political committee (known as a PAC) upon receiving any funds or making or incurring any expenditures to promote or oppose a candidate, political party, or referendum question. Instead, it requires them to register upon receiving or raising \$1,000.

The bill also makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

DEFINITIONS

By law, a "business entity" is a stock corporation; bank; insurance company; business association; bankers' association; insurance association; trade or professional association that receives funds from membership dues and other sources; partnership; joint venture; private foundation; trust or estate; cooperative; or any other profit-making association, organization, or entity, whether organized in or outside of this state. It does not include professional service

corporations owned by a single individual; non-stock corporations that are not engaged in business or profit-making activity; organizations (defined below); or candidate committees, party committees, or PACs.

An “organization” is a labor organization; employee organization; bargaining representative organization for teachers; any local, state, or national organization to which a labor organization pays membership or per capita fees based upon its affiliation or membership; or a trade or professional association that receives its funds exclusively from membership dues, whether organized in or outside of this state. It does not include a candidate committee, party committee, or PAC.

Under the bill, entities may include business entities and organizations. Specifically, the bill defines “entity” as an organization, corporation, cooperative association, limited partnership, professional association, limited liability company, or limited liability partnership, whether organized in this or another state.

By law, “committee” means a party committee, a PAC (formed by two or more individuals, a labor organization, or a business), or candidate committee organized for a single primary, election, or referendum, or for ongoing political activities, to promote or oppose a political party, a candidate for public office or town committee member, or a referendum question.

By law, an “individual” is a human being; proprietor; or professional service organization owned by a single human being. A “person” is an individual, committee, firm, partnership, organization, association, syndicate, company trust, corporation, limited liability company, or any other legal entity other than the state or one of its political or administrative subdivisions. The bill expands the meaning of “agent” to include the entities defined as a person, rather than an individual, as under current law.

INDEPENDENT EXPENDITURES

The bill removes the prohibition on independent expenditures by business entities and organizations, thus authorizing them to make

unlimited independent expenditures just as individuals may under existing law. Existing law does not limit expenditures by committees that are not coordinated with a candidate.

The bill also (1) redefines independent expenditure; (2) eliminates coordinated expenditures and in so doing, partly redefines contribution; and (3) establishes a rebuttable presumption that certain expenditures are not independent expenditures.

Under the bill, “independent expenditure” means an expenditure that is made without the consent, coordination, or consultation of a (1) candidate or candidate’s agent, (2) candidate committee, (3) PAC, or (4) party committee. The definition under current law includes expenditures made without the consent, participation, or consultation of a candidate or candidate committee’s agent and explicitly excludes all items defined as coordinated expenditures.

The bill redefines “contribution,” in part, as an expenditure that is not an independent expenditure. Under current law, it means an expenditure that is made in cooperation with, or at the request of, a candidate or his or her committee or agent, including a coordinated expenditure.

Rebuttable Presumption

The bill eliminates coordinated expenditures (considered contributions under current law). Instead, it creates a rebuttable presumption that certain expenditures are not independent expenditures and thus, are considered contributions for campaign finance purposes. It also specifies that the State Elections Enforcement Commission (SEEC) evaluates expenditures to determine whether they are independent expenditures.

Under the rebuttable presumption, the expenditures that are considered contributions are generally the same as coordinated expenditures under current law, with one exception. The bill specifies that the following also is not an independent expenditure: one made by a person who is an officer, director, member, employee, fundraiser,

consultant, or other agent serving the entity, PAC, or party committee in an executive or policymaking position and who serves as or has served in the same election cycle as the candidate, campaign chairperson, campaign treasurer, or deputy treasurer of a candidate committee, PAC, or party committee benefiting from the expenditure, or in any other executive or policymaking position in the candidate committee, PAC, or party committee.

Reporting Requirements

The bill subjects entities and committees that make independent expenditures to the same reporting requirements as the law establishes for individuals who make these expenditures. It also sets new ones.

Under current law, any individual who makes or obligates to make an independent expenditure or expenditures exceeding \$1,000 in the aggregate to promote the success or defeat of a statewide office or legislative candidate must file a report with the SEEC. The bill extends this requirement to entities and committees and to independent expenditures made for any purpose, not only to promote the success or defeat of a candidate.

Current law requires the report to include a statement identifying the candidate whom the expenditure promotes or opposes. It is filed under penalty of false statement, which is a class A misdemeanor. Anyone can file a complaint with the SEEC alleging a false report or statement, or that a report was not filed at all. The SEEC must promptly decide the complaint

The bill requires the report to also (1) affirm, under penalty of false statement, that the expenditure is an independent expenditure and (2) provide any other information that the SEEC requires to facilitate compliance with campaign finance laws or the Citizens' Election Program.

Existing deadlines for filing reports apply. If the independent expenditure is made more than 20 days before the primary or general election, the individual, entity, or committee must file the report

within 48 hours of doing so. Reports for independent expenditures made 20 days or less before the primary or general election must be filed within 24 hours.

As under current law, an individual, entity, or committee that fails to file a report for an independent expenditure made more than 20 days before the primary or general election is subject to a civil penalty of up to \$5,000, which the SEEC imposes. An individual, entity, or committee that fails to file a report for an independent expenditure made 20 days or less before the primary or general election is subject to a civil penalty of up to \$10,000. A knowing and willful failure to file is punishable by an additional fine of up to \$5,000, up to five years in prison, or both.

Attribution Requirements

By law, printed, video, and audio political communications paid for by people or committees must generally include an attribution. The bill expands the attribution law to cover political communications paid for by entities, including businesses and organizations, making independent expenditures to (1) promote the success or defeat of any candidate, (2) promote or oppose any political party, or (3) solicit funds to benefit any political party or committee. The attribution requirements are similar to those under existing law for candidates, candidate committees, and other committees. Table 1 shows the bill's attribution requirements.

Table 1: Attributions Requirements for Communications Made Using Independent Expenditures

<i>Type of Political Communication</i>	<i>Requirement</i>
Written communication, including one that is typed, printed, or web-based	<p>The material must bear upon its face:</p> <ul style="list-style-type: none"> ▪ "Paid for by" and the name of the entity, the chief executive officer (CEO) or equivalent, and the principal business address and ▪ "This message was made independent of any candidate or political party."

Television or Internet video advertising	<p>The end of the video must show, for at least four seconds:</p> <ul style="list-style-type: none"> ▪ a clearly identifiable image of the entity's CEO or equivalent and ▪ a simultaneous, personal audio message, stating "I am (name of entity's CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content."
Radio or Internet audio advertising	<p>The communication must include a personal audio statement by the CEO or equivalent:</p> <ul style="list-style-type: none"> ▪ identifying the entity paying for the expenditure and ▪ indicating that the message was made independent of any candidate or political party, using the following form: "I am (name of entity's CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content."
"Robo Calls" (i.e., automated telephone calls)	<p>The narrative of the telephone call must identify the entity and its CEO or equivalent</p>

The bill also changes the standard for determining when communications paid for by individuals must include an attribution. Under current law, the requirement applies to communications paid for by individuals (1) cooperating with, (2) at the request or suggestion of, or (3) acting in consultation with, a candidate or his or her agent or committee to promote or defeat a candidate. Under the bill, it applies to individuals (1) acting with the consent of, (2) coordinating with, or (3) acting in consultation with, a candidate or his her agent or committee to promote or defeat a candidate.

Finally, the bill extends to a group of two or more individual who make expenditures under \$1,000 the attribution requirements for written, typed, printed, or written web-based communications.

Illegal Practices

The bill makes a conforming change by making it illegal to make an expenditure other than an independent expenditure for a candidate

without his or her knowledge. As under current law, a candidate is not liable for any such expenditure.

GROUPS OF TWO OR MORE INDIVIDUALS

The bill removes the requirement that a group of two or more individuals acting together that spends up to \$1,000 to support or oppose a candidate or a referendum question must designate a campaign treasurer and depository institution or file a certification that the group's expenditures will not exceed \$1,000. It also eliminates the requirement that a group of individuals that spends \$1,000 or less in support or opposition to a referendum must file a certification with the SEEC or town clerk, whichever is applicable.

BACKGROUND

Related Case

On January 21, 2010, the U. S. Supreme Court ruled in *Citizens United v. Federal Election Commission*, 558 U.S.,___(2010), that corporations and unions have the same political speech rights as individuals under the First Amendment. It found no compelling government interest for prohibiting corporations and unions from using their general treasury funds to make election-related independent expenditures. Thus, it struck down a federal law that banning this practice and also overruled two of its prior decisions. Additionally, in an 8-1 decision, the Court ruled that the disclaimer and disclosure requirements associated with electioneering communications are constitutional.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (03/24/2010)