
OLR Bill Analysis

HB 5556 (as amended by House "A" and "B")*

AN ACT CONCERNING CHANGES TO CAMPAIGN FINANCE LAWS AND OTHER ELECTION LAWS.

SUMMARY:

This bill modifies state election laws affecting campaign finance, the Citizens' Election Program (CEP), the State Elections Enforcement Commission (SEEC), and certain absentee voting and nominating procedures. Principally, the bill:

1. expands reporting and disclaimer requirements for independent expenditures;
2. exempts from the definition of "independent expenditure," expenditures of up to \$250 in the aggregate made by a human being acting alone to benefit a candidate for a single election;
3. defines "campaign-related disbursements" and "covered transfers" and establishes reporting requirements for them;
4. raises the limits on various contributions from individuals, to political committees (known as PACs) and party committees;
5. eliminates certain campaign finance reporting requirements under specified circumstances;
6. specifies that qualified CEP candidates can pay a campaign treasurer under a written services agreement, in addition to the \$1,000 currently permitted under the program from a committee's surplus funds (§ 15);
7. requires a PAC's treasurer, rather than its chairperson, to report most changes to information on the registration statement it files with the SEEC (the chairperson remains responsible for filing the

initial statement and reporting any committee officer changes) (§§ 13 & 16);

8. narrows a residency requirement for candidates for the municipal office of state senator and representative;
9. allows military and overseas voters to return their voted absentee ballots by fax or email;
10. authorizes candidate committees, other than those for participating CEP candidates, to distribute surplus funds to charitable 501(c)(19) organizations following an unsuccessful primary or election; and
11. authorizes the SEEC to waive penalties associated with certain reports that were due in January 2012.

The bill also makes several conforming changes. Among them, it conforms the expenditure exemption for volunteer services to the parallel contribution exemption that PA 11-48 made for volunteer services (§ 3).

Finally, the bill makes technical changes, including replacing the terms “campaign treasurer” with “treasurer” and “deputy campaign treasurer” with “deputy treasurer” throughout the campaign finance statutes (§ 12).

*House Amendment “A” eliminates provisions from the underlying bill that (1) increased gubernatorial CEP grants, (2) increased organization expenditure limits for participating legislative candidates, (3) established civil penalties for failure to abide by the bill’s disclaimer requirements, and (4) subjected contributions of \$50 or less to the same reporting requirements as larger contributions. It (1) specifies that entities’ disclaimer provisions apply to their donors who give an aggregate of \$1,000 or more; (2) exempts an individual’s expenditures of \$250 or less from the definition of independent expenditure, and thus from the disclaimer requirements; and (3) specifies that the “top five” donors are those whose aggregate donations during the two

preceding years are the largest. It also makes minor and technical changes.

*House Amendment "B" adds the provision on nonparticipating candidate surplus distributions.

EFFECTIVE DATE: Upon passage

§§ 1-3 & 6 — CAMPAIGN FINANCE DEFINITIONS

State campaign finance laws regulate campaign contributions and expenditures, including who can make and accept them and when. The bill changes both definitions.

Current law defines "expenditure," in part, as any advertisement that (1) refers to one or more clearly identified candidates; (2) is broadcast by radio or television, other than on a public access channel, or appears in a newspaper, magazine, or on a billboard; and (3) is broadcast or appears during the 90-day period preceding a primary or an election.

The bill expands the definition to include communications, not only advertisements, and those that are broadcast by public access channel, satellite, Internet, or a paid-for telephone communications or sent by mail. The bill exempts from the definition of expenditure communications made (1) before the 90-day period preceding the primary or election in which the clearly identified candidate is running and (2) for the purpose of influencing any state or local government legislative or administrative action.

Current law also defines "expenditure," in part, as any gift, subscription, loan, advance, payment, or deposit of money or anything of value made "on behalf" of a political party. The bill expands the definition to cover anything of value that promotes either the success or defeat of a political party, not just made on one's behalf.

The bill makes the same change to the similar definition of "contribution." It specifies that any gift, subscription, loan, advance, payment, or deposit of money or anything of value that promotes

either the success or defeat of a political party, not just made on one's behalf, is considered a contribution.

Current law exempts as an expenditure travel expenses over \$200 per election for volunteers to any single candidate and over \$400 per calendar year for volunteers to all state central or town committees. The bill eliminates this exemption. (It leaves in place a similar exemption under the definition of contribution that applies to all travel expenses incurred by a volunteer.)

The bill establishes reporting and disclosure requirements for "campaign-related disbursements," which it defines as (1) independent expenditures or (2) covered transfers. It defines "covered transfer" as any transfer or payment of funds, by an entity that is required to disclose spending, in an aggregate of \$1,000 or more in the two years after the initial transfer or payment to a recipient who uses the money to make a campaign-related disbursement.

By law, an "entity" is an organization, corporation, cooperative association, limited partnership, professional association, limited liability company, or limited liability partnership, whether organized in this or another state. The bill specifies that entities include both for- and not-for-profit corporations and 501(c) and 527 organizations.

The bill expands the definition of "lawful purposes of the committee" for legislative leadership committees' and PACs' permissible expenditures (see BACKGROUND). For the former, it includes spending funds to defray members' costs associated with legislative or constituency-related business that the state does not pay for or reimburse. (Legislative caucus committees may already spend funds for these purposes.) For the latter, it includes promoting a political party, including party-building activities. Under the bill, "party building activities" include political meetings, conferences, events, conventions, and their associated expenses.

The law defines "social media" as an electronic medium where users may create and view user-generated content, such as uploaded or downloaded videos or still photographs, blogs, video blogs,

podcasts, or instant messages. Currently it applies only in the context of certain de minimis activities that are exempt from the definition of contribution. The bill applies the definition to the campaign finance statutes generally.

INDEPENDENT EXPENDITURES

Existing law requires an individual, entity, or committee that 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 in a primary or general election campaign to electronically file a report with the SEEC. The bill expands the definition of independent expenditure and changes the reports' deadlines and required information.

§ 4 — Definitions

Current law defines "independent expenditure" as 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 bill exempts from this definition expenditures of up to \$250 in the aggregate made by a human being to benefit a candidate for a single election. The human being must have acted alone.

The law creates a rebuttable presumption that certain expenditures are not independent expenditures and thus, are coordinated and considered contributions for campaign finance purposes. The bill expands the rebuttable presumption to cover expenditures made by a person or an entity on or after January 1st in an election year that benefit a candidate when the person or entity has hired (1) an individual as an employee or consultant and the individual was an employee of, or consultant to, the candidate during any part of the 18-month period preceding the expenditure or (2) a campaign-related vendor that has been hired by the candidate during the same election cycle.

Under the bill, "campaign-related vendors" include vendors that provide polling, mail design, mail strategy, political strategy, general

campaign advice, or phone banking services.

§ 8 — Reporting Deadlines

The bill changes the deadlines for filing independent expenditure reports. The individual, entity, or committee must file the report within 24, rather than 48, hours of any independent expenditure made more than 90 days before the primary or general election. If the expenditure is made 90 days or less before the primary or general election, the report must be filed within 12, rather than 24, hours.

§ 8 — Information that Must be Disclosed

The bill requires an entity to disclose slightly different information in its reports to the SEEC based on whether it pays for an independent expenditure from its general treasury or a segregated bank account consisting only of direct donations. If a donor restricts his or her donation to a nonprofit entity from being used for a campaign-related disbursement, and the entity consents and segregates it into an account not used for these disbursements, the donor's identity need not be disclosed ("restricted donor"). The identity of a donor who does not restrict his or her donation to a nonprofit entity may be disclosed ("unrestricted donor").

General Treasury. With certain exceptions, the bill requires entities that pay for independent expenditures out of their general treasury to disclose in their reports the sources of all donations, including any dues payments, (1) of \$1,000 or more in the aggregate and (2) made on or after January 1st during the year in which there will be an election for the office for which the candidate who was the subject is running. The report must disclose the amount of each donation and the aggregate given. The entity need not disclose funds received in a commercial transaction or as an investment

Segregated Account. Entities that make independent expenditures out of a segregated bank account must disclose in their reports (1) donors who gave an aggregate of \$1,000 or more on or after January 1st during the year in which there will be an election for the office for which the candidate who was the subject is running, (2) each donation

amount, and (3) the aggregate amount given by each unrestricted donor.

§ 10 — BOARD AUTHORIZATIONS FOR CAMPAIGN-RELATED DISBURSEMENTS

The bill requires the governing board, if any, of an entity incorporated, organized, or operating in this state to vote to pre-authorize each campaign-related disbursement it makes over \$4,000. Prior to the vote, the board must be informed of the money's specific use, including whether it may target or benefit a candidate. No later than 48 hours after the vote, the entity must publicly disclose on its website individual board members' votes and details on the expenditure. It must also file the required disclosure report with the SEEC.

After making or obligating to make an independent expenditure, the entity must do at least one of the following:

1. include in any periodic financial or activity report to its shareholders, members, or donors the (a) identity of the individual making any campaign-related disbursement and his or her business address; (b) disbursement amount, date, and recipient; (c) candidates or ballot issues to which the disbursement is related; and (d) identity of individuals who donated over \$1,000 to the entity for campaign-related disbursements during the period that the report covers or
2. provide a link on its website to the disclosure reports it has filed with the SEEC.

§ 9 — DISCLAIMER REQUIREMENTS

By law, printed, video, and audio political advertisements must include certain attributions, which the bill refers to as disclaimers. Since independent expenditures are not, by definition, considered contributions, the bill makes a technical change to the independent expenditure disclaimer provisions by substituting "donation" for "contribution" and "donor" for "contributor."

The bill also expands certain disclaimer requirements. Generally, it:

1. requires all entities that are permitted to make independent expenditures, not only 501(c) and 527 organizations, to list five of their top unrestricted donors (contributors under current law);
2. requires all entities making independent expenditures to also provide an address to a website listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors' addresses; and
3. expands the disclaimer requirements to cover individuals, not only entities.

By law, "individual" means a human being, sole proprietorship, or a professional service corporation owned by a single human being. Under the bill, the individual disclaimer requirements do not apply to expenditures (1) made by a human being acting alone, (2) in an amount of \$250 or less in the aggregate, and (3) that benefit a candidate for a single election (see "independent expenditure" definition, § 5).

Table 1 lists each type of independent expenditure, its current disclaimer requirements, and changes under the bill. When a disclaimer is on a flyer or leaflet, or in a newspaper, magazine or similar literature, the bill requires it to be printed in at least an eight-point, uniform font.

Table 1: Disclaimer Requirements under Current Law and the Bill

<i>Type of Independent Expenditure</i>		<i>Disclaimer Requirements</i>	
<i>Current Law</i>	<i>The Bill (lists changes, otherwise the same)</i>	<i>Current Law</i>	<i>The Bill (lists changes, otherwise the same)</i>
Written communication, including one that is typed, printed, or web-based	Includes billboards	The material must bear upon its face: ● "Paid for by" and the name of the entity, the chief executive officer (CEO) or equivalent, and the principal business address;	<ul style="list-style-type: none"> ● Adds individuals and requires them to include "Paid for by" and their name and address ● Requires all entities, not just 501(c) and 527 tax-exempt organizations to include at least five of the

		<ul style="list-style-type: none"> • “This message was made independent of any candidate or political party;” and • In the case of a 501(c) or a 527 tax-exempt organization, “Top Five Contributors,” followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months. 	<p>unrestricted donors who gave an aggregate of \$1,000 or more and whose aggregate donations during the two years preceding the expenditure are the largest</p> <ul style="list-style-type: none"> • Requires entities to provide an address to a website listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors’ addresses
Television or Internet video advertising	Adds videos broadcast by satellite	<p>The end of the advertisement 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; • 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;” and • In the case of a 501(c) or a 527 tax-exempt organization, “The top five contributors to the organization responsible for this advertisement,” followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months. 	<ul style="list-style-type: none"> • Adds individuals and requires them to include a clearly identifiable image of themselves • Requires all entities, not just 501(c) and 527 tax-exempt organizations to include a written message listing at least five of the unrestricted donors who gave an aggregate of \$1,000 or more and whose aggregate donations during the two years preceding the expenditure are the largest • Requires entities to provide an address to a website listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors’ addresses
Radio or Internet audio advertising	Adds audio communication broadcast by satellite	<p>The communication must end with a personal audio statement by the CEO or equivalent:</p> <ul style="list-style-type: none"> • identifying the entity paying for the expenditure; • indicating that the message was made 	<ul style="list-style-type: none"> • Adds individuals and requires them to identify themselves • Requires all entities, not just 501(c) and 527 tax-exempt organizations to list at the end at least five of the unrestricted donors who gave an aggregate of

		<p>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; " and</p> <ul style="list-style-type: none"> • In the case of a 501(c) or a 527 tax-exempt organization (1) "The top five contributors to the organization responsible for this advertisement," followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months or (2) an audio message providing a website that lists the same if the advertisement is 30 seconds or less. 	<p>\$1,000 or more and whose aggregate donations during the two years preceding the expenditure are the largest</p> <ul style="list-style-type: none"> • Requires entities to provide an address to a website listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors' addresses
<p>"Robo Calls" (i.e., automated telephone calls)</p>	<p>Adds non-automated telephone calls</p>	<ul style="list-style-type: none"> • The narrative of the telephone call must identify the entity and its CEO or equivalent. • In the case of a 501(c) or a 527 organization, the narrative must also include a message stating, "The top five contributors to the organization responsible for this telephone call are," followed by a list of the five people or entities making the largest reportable contributions during the previous 12 months. 	<ul style="list-style-type: none"> • Requires all entities, not just 501(c) and 527 tax-exempt organizations to include in the narrative at least five of the unrestricted donors who gave an aggregate of \$1,000 or more and whose aggregate donations during the two years preceding the expenditure are the largest • Requires entities to provide an address to a website listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors' addresses

§ 9 — Disclosing Individual Donors

In addition to the requirements in Table 1, the bill requires entities making independent expenditures to list their donors as individuals. If

a donor is another entity that made a covered transfer to the receiving entity, then the individual donors to the entity making the transfer must be listed (1) in the required website listing and (2) if applicable, as one of the five unrestricted donors whose aggregate donations during the two years preceding the expenditure are the largest. Under the bill, a “covered transfer” is any transfer or payment of funds, by an entity that is required to disclose spending, in an aggregate of \$1,000 or more in the two years after the initial transfer or payment to a recipient who uses the money to make a campaign-related disbursement.

§ 9 — *Slate Promotions*

The bill specifies that disclaimers by individual candidates are not required for any print, television, or social media promotion by a party committee for a slate of candidates. Rather, the party committee must use the appropriate disclaimer as required by existing law and the bill.

§ 9 — *Groups of Two or More Individuals*

Existing law requires groups of two or more individuals acting together that spend up to \$1,000 for a printed communication supporting or opposing a referendum question to include a disclaimer. A business entity, organization, or association must include the words “paid for by,” the name of the chief executive officer, and the name of the entity, organization, or association. The bill additionally requires them to (1) list at least five of their unrestricted donors whose aggregate donations during the two years preceding the expenditure are in the five largest amounts and (2) include a website address listing all their unrestricted donors along with their addresses.

CONTRIBUTIONS

§§ 2 & 3 — *Exemptions*

The law places limits on contributions made to benefit candidate committees, party committees, and PACs and subjects the contributions to campaign finance reporting requirements. However, it creates exemptions for certain items and services under the definition of contribution. Thus, these items and services need not be reported as contributions.

The bill exempts from the definition of contribution (and thus from reporting requirements) the use of offices that serve as headquarters and the use of telephones, computers, and similar equipment provided by a party, legislative caucus, or legislative leadership committee for the committee. (The bill also eliminates a provision under current law that includes office equipment provided by such a committee as an “organization expenditure” – see ORGANIZATION EXPENDITURES below.)

The law exempts under the definition of contribution certain costs associated with hosting a house party (i.e., cost of invitations, food, drinks, and using real and personal property) for candidates and committees. The bill increases, from \$400 to \$800, the maximum amount an individual acting alone can spend per primary, election, or calendar year, whichever applies, on a single candidate, party committee, slate committee, or PAC. And, it conforms the parallel “house party” exemption under the definition of expenditure to this definition.

§ 7, 18 & 19 — Increased Limits

Current law prohibits an individual from contributing more than \$15,000 in the aggregate during a single primary and election to (1) candidate committees, (2) exploratory committees, and (3) slate PACs for justice of the peace in a primary. The bill increases this aggregate contribution limit to \$30,000. The bill also removes the \$15,000 aggregate limit on labor PAC contributions to party committees and PACs other than exploratory or referendum committees.

The bill increases the limits on contributions from individuals to most PACs and party committees, as Table 4 shows.

Table 4: Individual Contribution Limits

<i>Recipient</i>	<i>Current Law</i>	<i>The Bill</i>
State Central Committee	\$5,000	\$10,000
Town Committee, Legislative Leadership Committee, Legislative Caucus Committee	1,000	2,000
Most other PACs (except a referendum)	750	1,000

PAC, labor PAC, exploratory committee, or slate committee for justice of the peace in a primary)		
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§ 5 — Deposits

The bill extends the deadline by which treasurers must deposit contributions into their committee's depository account from no later than 14 days to no later than 20 days after receiving the contribution.

ORGANIZATION EXPENDITURES

By law, organization expenditures are made by legislative caucus, legislative leadership, or party committees for the benefit of candidates or their committees. They are not considered campaign contributions, but the law places restrictions and limits on those made to benefit legislative candidates participating in the CEP.

The bill:

1. eliminates one type of organization expenditure (for office equipment) and
2. makes changes to what qualifies as another type of organization expenditure (i.e., party candidate listing).

§§ 1 & 2 — Office Equipment

The bill eliminates from the definition of "organization expenditure" the use of offices, phones, computers, and similar equipment that do not result in an additional cost to the party, legislative caucus, or legislative leadership committee. It instead creates a contribution exemption for similar activities (see CONTRIBUTIONS above). Thus, as noted above, payments for these activities need not be reported.

§ 1 — Party Candidate Listings

By law, a party candidate listing is a communication that identifies one or more candidates and meets several criteria (e.g., distributed through public advertising, mail, or electronic mail). The bill eliminates the current requirement that party candidate listings treat

all candidates in the listing substantially similarly. It instead allows these listings to contrast candidates with their opponents.

OTHER CAMPAIGN FINANCE REPORTING REQUIREMENTS

§§ 14 & 17 — *Eliminated Reports*

The bill eliminates certain campaign finance reporting requirements for specified candidates and committees, which Table 5 shows. The candidates and committees remain responsible for filing termination reports when they dissolve.

Table 5: Eliminated Campaign Finance Statements

Section	Candidate or Committee	Eliminated Reporting Requirement
§ 14	Special election candidate and exploratory committees	Quarterly campaign finance reports
§ 14	Candidates in a municipal election who do not qualify for ballot access	Campaign finance report on the 7th day preceding the election
§§ 14 & 17	Candidates in a state election who do not qualify for ballot access	(1) Campaign finance report on the 7th day preceding the election and (2) weekly supplemental campaign finance statements under the CEP
§ 14	Candidates who are unsuccessful in a primary	Periodic campaign finance reports following the primary

§ 14 — *State Central Committees*

Current law requires state central committees to file campaign disclosure statements on the 12th day preceding any regular or special election. For special elections, the bill limits the requirement to only those for which the committee makes or receives a contribution or expenditure. It retains the requirement for all regular elections.

The bill also extends this reporting requirement to primaries and referenda for which a state central committee makes or receives a contribution or expenditure.

§ 17 — *Supplemental Campaign Finance Statement Schedule*

By law, a candidate committee in a primary or general election with at least one candidate participating in the CEP must file supplemental weekly campaign finance statements according to a specified schedule. The bill extends, by one week, the deadline for filing the initial supplemental statement.

Under the bill, candidate committees must file the initial supplemental statement for a primary on the second, rather than the first, Thursday following the July filing deadline for quarterly campaign finance statements. Similarly, for a general election, they must file on the second, rather than the first, Thursday following the October filing deadline for quarterly campaign finance statements.

§ 22 — Penalties for January 2012 Filings

The bill authorizes the SEEC to waive any penalty it imposed because a campaign finance report was not received in a timely manner when (1) the filing was due to be received by the SEEC during January 2012 and (2) the commission determines that the treasurer's actions were such that the filing reasonably should have been received on or before the applicable deadline.

§ 26 — Timely Submission to SEEC

The bill prohibits the SEEC from levying a penalty on a treasurer for failure to file a hard copy of a campaign finance statement in a timely manner if the treasurer (1) has a copy of the statement time stamped by the SEEC showing timely receipt or (2) has return receipt from the U.S. Postal Service or a similar receipt from a commercial delivery service confirming timely receipt.

§§ 20 & 21 — ENDORSEMENTS AND NOMINATIONS

Under the bill, a party endorsement for a candidate running for the municipal office of state senator or representative (i.e., in a single-town legislative district) is valid only when the candidate's name appears on the party's enrollment list within the senatorial or assembly district in which he or she will run. The bill requires the same for a candidate filing a primary petition for nomination to the municipal office of state senator or representative. This conforms to the change made in PA 11-173 for candidates for district office, requiring that such a candidate's name must appear on the party enrollment list for the district and not elsewhere in the municipality.

§§ 23-25 — MILITARY AND OVERSEAS ABSENTEE VOTING

The bill allows active duty members of the armed forces, their

spouses or dependent family members living where they are stationed, and other U. S. citizens living or traveling outside the country on election day to return their voted absentee ballots by email or fax. The law already allows these military and overseas voters to request and receive absentee ballots electronically.

When military and overseas voters return their completed ballots electronically, they must include (1) the cover sheet as required by the bill and (2) if applicable, the secretary of the state-prescribed certification. (In order for the ballot to be counted, military and overseas voters who request and receive an absentee ballot electronically must currently return them by mail along with a signed certification.)

Under the bill, these ballots are counted with other absentee ballots if they are received by the time polls close. To be counted, the voter must not also mail a hard copy.

By June 1, 2012, the bill requires the secretary of the state to prescribe a cover sheet for transmitting completed absentee ballots electronically. The cover sheet must provide instructions for returning the ballot and include the elector's name, telephone number, and fax number or email address from which the ballot is sent. The cover sheet must include the following statement:

“I understand that by faxing or emailing my voted ballot I am voluntarily waiving my right to a secret ballot only to the extent that the appropriate election official must receive and process my ballot.

Signature: Date: “

The bill's provisions apply to two types of overseas absentee ballots. The first is a blank ballot that members of the armed forces and their family members living with them may use to vote in a regular election and that town clerks must make available beginning 90 days before the election before the candidates are known. For this ballot, town clerks subsequently send the list of candidates as soon as it is available.

The second is a blank ballot that any elector living or traveling abroad or members of the armed forces and their family members living with them may use to vote in a primary or regular election. Town clerks send this together with the list of candidates and questions to be voted on, as soon as they are available.

PENALTIES

§ 11 — Joint Liability

The bill makes the candidate, his or her treasurer, and his or her agent, if applicable, jointly and severally liable for paying any penalty the SEEC levies if it finds that a prohibited expenditure is coordinated with the candidate, his or her committee, or agent. If the candidate is a participating CEP candidate, he or she must return grant money in an amount that the SEEC determines.

BACKGROUND

Legislative Caucus and Legislative Leadership Committees

By law, a majority of a party's members from one house of the General Assembly can designate a single legislative caucus committee. The House speaker and majority leader and the Senate president pro tempore and majority leader may establish one legislative leadership committee each. The House and Senate minority leaders may establish two each.