
OLR Bill Analysis

SB 5

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 endorsement procedures. Principally, the bill:

1. expands reporting, disclaimer, and attribution requirements for independent expenditures;
2. expands the definition of expenditure;
3. 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;
4. defines "campaign-related disbursements" and "covered transfers" and establishes reporting requirements for them;
5. raises the limits on various contributions from individuals to political committees (known as PACs) and party committees and raises the aggregate limit on contributions an individual can make in a single election cycle;
6. specifies that the \$1,000 payment the law allows CEP candidates to pay their treasurers from surplus funds is in addition to any payments made to the treasurer under a written services agreement;
7. authorizes candidate committees, other than those for participating CEP candidates, to distribute surplus funds to charitable 501(c)(19) (veterans') organizations following an

unsuccessful primary or election;

8. 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); and
9. authorizes the SEEC to waive penalties associated with certain reports that were due in January 2012 and modifies what constitutes a timely filing.

The bill also makes several conforming changes, including conforming the expenditure exemptions for uncompensated volunteer services and the costs associated with hosting a house party to the parallel contribution exemptions that PA 11-48 made for these services and costs (§§ 2 & 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 (§§ 1 & 12).

EFFECTIVE DATE: Upon passage

§§ 1-3 & 6 — CAMPAIGN FINANCE DEFINITIONS

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

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 immediately preceding a primary or an election.

The bill expands the definition to include any communication, not

only an advertisement, if it is (1) broadcast as provided by law or by public access channel, satellite, Internet, or as a paid-for telephone communication or sent by mail and (2) broadcast or appears on or after January 1 of the year in which the candidate is seeking election.

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 those made on one’s behalf. It makes the same change to the 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 those made on one’s behalf, is considered a contribution.

By law, volunteer services provided by individuals are not considered campaign contributions or expenditures. Individuals are considered volunteers if they do not receive compensation for the services they perform. The bill expands the contribution exemption and applies it to individuals volunteering their time, regardless of whether they may receive compensation in the future for similar services, not only the same services as under current law. It also applies this new definition to expenditures.

The bill establishes reporting and disclosure requirements for “campaign-related disbursements,” which it defines as independent expenditures or 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. Covered transfers do not include dues, fees, or assessments that are transferred between affiliate entities and paid by individuals on a regular, periodic basis in accordance with a per-individual calculation made on a regular basis.

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.

Under the bill, “affiliated” means that:

1. the entity’s governing instrument requires it to be bound by decisions of another entity;
2. the entity’s governing board includes people who are specifically designated representatives of the other entity or who are members of the governing board, officers, or paid executive staff of the other entity, or whose service on the governing board is contingent upon the approval of the other entity; or
3. the entity is chartered by the other entity.

“Affiliated” includes entities that are an affiliate of the other entity or where both of the entities are an affiliate of the same entity.

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, this definition applies only in the context of certain de minimis activities that are exempt from the

definition of contribution. The bill applies the definition to all state campaign finance laws.

§§ 4, 8, & 10 — 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 acting alone to benefit a candidate for a single election.

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 vendor" includes a vendor that provides polling, mail design, mail strategy, political strategy, general campaign advice, or phone banking services.

§ 8 — Reporting Deadlines

The bill establishes earlier deadlines for filing independent expenditure reports. It requires the individual, entity, or committee to file these reports within 24, rather than 48, hours after making, or obligating to make, an independent expenditure 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 after making or obligating to make the expenditure.

§ 8 — Information that Must be Disclosed

The bill requires entities 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.

For a nonprofit entity specifically, whether making an independent expenditure from its general treasury or a segregated account, if a donor restricts his or her donation from being used for a campaign-related disbursement, and the nonprofit entity consents and puts 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 must be disclosed if it meets the criteria described below ("unrestricted donor").

Segregated Account. If any entity, nonprofit or for-profit, engages in an independent expenditure and makes a campaign-related disbursement from a segregated bank account, it must disclose in its 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 donor, other than a restricted donor. A segregated account cannot accept transfers of funds from the entity.

General Treasury. If any entity, nonprofit or for-profit, engages in an independent expenditure and makes a campaign-related

disbursement from its general treasury 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, it must disclose in its reports the sources of all donations to the treasury, including dues payments, of \$1,000 or more in the aggregate, other than those from restricted donors. The bill does not specify or limit the period of time during which the donations must have occurred.

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.

§ 10 — Campaign-Related Disbursements

The bill requires an entity incorporated, organized, or operating in this state to publicly disclose on its website any campaign-related disbursement no later than 48 hours after making or obligating to make it and file the required disclosure report electronically 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 regular 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 more than \$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 AND ATTRIBUTION 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 at least five of their top unrestricted donors (contributors under current law), provided the donors gave an aggregate amount of at least \$1,000, and requires the list to cover two years, rather than one year;
2. requires all entities making independent expenditures to also provide an address of 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.

Additionally, under current law, the independent expenditure disclaimer requirements apply only to advertisements that (1) promoted a candidate’s election or defeat, (2) promoted or opposed a political party, or (3) solicited funds for a political party or PAC. Under the bill, they apply to any communication that refers to one or more clearly identified candidates.

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, § 4).

Table 1 lists each type of independent expenditure and its disclaimer requirements under current law and 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	<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; • “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 	<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 in the communication 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 a website address 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 	<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 in the communication a written message listing at least five of the unrestricted donors who gave an aggregate of \$1,000 or more and

		<p>tax-exempt organization, a written message stating “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</p>	<p>whose aggregate donations during the two years preceding the expenditure are the largest</p> <ul style="list-style-type: none"> ● Requires entities to provide a website address 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 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 ● In the case of a 501(c) or a 527 tax-exempt organization, an audio message stating (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 	<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 of the advertisement 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 a website address listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors’ addresses
“Robo Calls” (i.e., automated telephone calls)	Adds non-automated telephone calls	<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 	<ul style="list-style-type: none"> ● Requires all entities, not just 501(c) and 527 tax-exempt organizations, to include at the end of the narrative at least five of the unrestricted donors who gave an aggregate of \$1,000 or more and whose aggregate donations during the

		<p>making the largest reportable contributions during the previous 12 months</p>	<p>two years preceding the expenditure are the largest</p> <ul style="list-style-type: none"> ● Requires entities to provide a website address listing all unrestricted donors who gave an aggregate of \$1,000 or more and the donors' addresses
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Disclosing Individual Donors

To satisfy the disclaimer, the bill requires entities 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 in the required website listing. Additionally, if an unrestricted donor to the entity making the covered transfer is also one of the top five donors to the entity making the independent expenditure, then the disclaimer must list at least five of the top donors to the entity making the covered transfer.

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 applicable disclaimer as required by current law and the bill.

Referenda

Existing law requires a business entity, organization, or association that makes or incurs an expenditure for a printed communication supporting or opposing a referendum question to include a disclaimer with 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 and their addresses.

§§ 2, 3, 5, 7, 18, & 19 — 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. Thus, these items and services need not be reported as contributions.

The bill exempts from the definition of contribution any office or office equipment provided by a party, legislative caucus, or legislative leadership committee for the committee's use. The committee must use the office as its headquarters. Office equipment includes telephones, computers, and similar equipment. (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.)

§ 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. It also removes the \$15,000 aggregate limit on labor PAC contributions to party committees and PACs other than exploratory or referendum committees.

The bill otherwise increases the limits on contributions from individuals to most PACs and party committees, as Table 2 shows.

Table 2: 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 PAC, labor PAC, exploratory committee, or slate committee for justice of the peace in a primary)	750	1,000

§ 5 — Deposits

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

§§ 1 & 2 — 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 (i.e., 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 (1) eliminates the current requirement that party candidate listings treat all candidates in the communication substantially similarly and (2) allows these listings to contrast candidates with their opponents.

§§ 14 & 17 — OTHER CAMPAIGN FINANCE REPORTING REQUIREMENTS

§§ 14 & 17 — Eliminated Reports

The bill eliminates certain campaign finance reporting requirements for specified candidates and committees, which Table 3 shows. The candidates and committees remain responsible for filing termination reports when they dissolve.

Table 3: 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 and do not otherwise qualify for ballot access	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 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. The statement must be complete as of the 19th day preceding the election, primary, or referendum.

§ 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 (generally July 10). 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 (generally October 10).

§§ 20 & 21 — ENDORSEMENTS

Under the bill, a party endorsement for a candidate running for a municipal office to be voted on at a municipal election, or for town committee member, is valid only when the candidate's name appears on the party's last-completed enrollment list within the municipality or political subdivision, whichever applies, in which he or she will run.

Similarly, a party endorsement for a candidate running for the municipal office of state senator or state representative (i.e., in a single-town legislative district) to be voted on at a state election is valid only when the candidate's name appears on the party's last-completed enrollment list within the senatorial or assembly district, whichever applies, in which he or she will run.

§§ 11, 22, & 23 — PENALTIES

§ 11 — *Joint Liability*

The bill makes a 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.

§ 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 in 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.

§ 23 — *Timely Submission to SEEC*

The bill prohibits the SEEC from levying a penalty on a treasurer for failing 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 a return receipt from the U.S. Postal Service or a similar receipt from a commercial delivery service confirming timely receipt.

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 each establish two.

Related Bills

SB 1120 (File 495) increases the limit on contributions by individuals to state central committees.

sSB 1127, favorably reported by the Government Administration and Elections Committee, allows state contractors, prospective state contractors, their principals, and their spouses and dependent children to contribute up to \$1,000 to the town committee of the municipality where they reside.

HB 6580 (File 467) increases the maximum penalties for failure to file an independent expenditure report.

HB 6632 (File 472) increases the limit on contributions by individuals to town committees.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 13 Nay 1 (04/05/2013)

