

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 998 Session of 2015

INTRODUCED BY PILEGGI, FOLMER, RAFFERTY, SCAVELLO, TOMLINSON,
VANCE, COSTA, McILHINNEY, DINNIMAN, HAYWOOD, SABATINA AND
TEPLITZ, SEPTEMBER 10, 2015

REFERRED TO STATE GOVERNMENT, SEPTEMBER 10, 2015

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," in primary and election expenses, further
12 providing for definitions, for reporting by candidate and
13 political committees and other persons and for late
14 contributions and independent expenditures and providing for
15 independent expenditures and electioneering communications.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The General Assembly finds and declares as
19 follows:

20 (1) The Commonwealth has a compelling interest in:

21 (i) Providing voters with relevant information about
22 where political campaign money comes from and how it is
23 spent so that voters can make informed choices in
24 elections.

1 (ii) Reducing the risk or appearance of undue
2 influence by ensuring political spending is
3 comprehensively disclosed.

4 (iii) Promoting compliance by candidates and
5 political groups with campaign finance laws.

6 (2) Under existing law, a person that purchases
7 political advertisements that expressly advocate for the
8 election or defeat of a candidate is subject to disclosure
9 requirements, but a person that purchases advertisements to
10 influence elections without expressly advocating for a
11 candidate is not subject to disclosure requirements.

12 (3) As a result, Pennsylvania has seen a proliferation
13 of advertisements featuring candidates that are distributed
14 during the campaign season and are intended to influence
15 elections, but are not required to be reported under existing
16 law.

17 (4) Disclosure of expenditures intended to influence
18 elections should begin at an amount that is reasonable and
19 intended to promote full disclosure of the expenditures.

20 (5) It is the intent of the General Assembly to subject
21 all persons that make expenditures to influence elections,
22 whether through express advocacy or election-targeted issue
23 advocacy, to disclosure requirements.

24 Section 2. Section 1621(e) of the act of June 3, 1937
25 (P.L.1333, No.320), known as the Pennsylvania Election Code,
26 added October 4, 1978 (P.L.893, No.171), is amended and the
27 section is amended by adding subsections to read:

28 Section 1621. Definitions.--As used in this article, the
29 following words have the following meanings:

30 * * *

(e) The words "independent expenditure" shall mean an expenditure by a person [made for the purpose of influencing an election], other than a political committee or candidate, expressly advocating the election or defeat of a clearly identified candidate, made without cooperation or consultation with any candidate or any political committee authorized by that candidate and which is not made in concert with or at the request or suggestion of any candidate or political committee or agent thereof.

* * *

(n) The words "electioneering communication" shall mean a communication by a person, other than a political committee or candidate, that is publicly distributed within 90 days before a primary, municipal or general election and refers to a clearly identified candidate. The term does not include:

(1) A communication distributed by a means other than by any communications media.

(2) Any membership communication.

(3) A communication appearing in a news article, opinion or commentary, provided that the communication is not distributed via any communications media owned or controlled by any candidate, political committee or the person purchasing the communication.

(4) A communication made in any candidate debate or forum or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum.

(5) Any other communication exempted by regulation by the Secretary of the Commonwealth that is consistent with this article.

(o) The words "clearly identified candidate" shall mean that

1 the name, a photograph or a drawing of the candidate appears or
2 the identity of the candidate is otherwise apparent by
3 unambiguous reference.

4 (p) The words "communications media" shall mean television,
5 radio, newspaper or other periodical, sign, publicly accessible
6 Internet website, mail or telephone.

7 (q) The words "membership communication" shall mean a
8 newsletter or periodical, telephone call or other routine
9 communication distributed solely to the members, shareholders or
10 employees of an organization or institution.

11 (r) The words "responsible party" shall mean a natural
12 person who shares or exercises discretion or control over the
13 activities of any entity required to file reports in accordance
14 with section 1626(g). The term includes an officer, director,
15 partner, proprietor or other natural person who exercises
16 discretion or control over the activities of an entity.

17 (s) The word "sign" shall mean any outdoor billboard, panel
18 or similar display having an area of at least 90 square feet.

19 Section 2. Section 1626(g) of the act, added October 4, 1978
20 (P.L.893, No.171), is amended to read:

21 Section 1626. Reporting by Candidate and Political
22 Committees and other Persons.--

23 * * *

24 (g) Every person, other than a political committee or
25 candidate, who makes independent expenditures [expressly
26 advocating the election or defeat of a clearly identified
27 candidate, or question appearing on the ballot, other than by
28 contribution to a political committee or candidate, in an
29 aggregate amount in excess of one hundred dollars (\$100) during
30 a calendar year shall file with the appropriate supervisor, on a

1 form prepared by the Secretary of the Commonwealth, a report
2 which shall include the same information required of a candidate
3 or political committee receiving such a contribution and,
4 additionally, the name of the candidate or question supported or
5 opposed. Reports required by this subsection shall be filed on
6 dates on which reports by political committees making
7 expenditures are required to report under this section.] or
8 electioneering communications in an aggregate amount exceeding
9 one thousand dollars (\$1,000) during a calendar year shall file
10 a report, on a form prepared by the Secretary of the
11 Commonwealth, with the appropriate supervisor. The following
12 shall apply:

13 (1) The report shall include the following information:

14 (i) The following information relating to the person making
15 the independent expenditure or electioneering communication:

16 (A) The full name and mailing address of the person.

17 (B) If the person is not an individual, the full name and
18 mailing address of its officers, one of whom shall be an
19 individual named as its treasurer.

20 (C) A concise statement of the person's purposes or goals.

21 (D) The name, office sought and party affiliation of any
22 candidate whom the person is supporting or opposing and, if the
23 person is supporting the entire ticket of any party, the name of
24 the party.

25 (E) If the person files reports with the Federal Election
26 Commission or any out-of-State agency, a statement to that
27 effect, including the name of the agency.

28 (ii) (A) The full name and mailing address of each person
29 to whom any independent expenditure or electioneering
30 communication has been made during the calendar year in an

aggregate amount in excess of one hundred dollars (\$100).

(B) The amount, date and purpose of each independent expenditure or electioneering communication.

(C) The name of, and office sought by each candidate on whose behalf the independent expenditure or electioneering communication was made.

(iii) The full name and mailing address of each person who has made contributions to the person making the independent expenditure or electioneering communication during the calendar year in an aggregate amount in excess of one hundred dollars (\$100), the total of all contributions from the person during the calendar year, and the amount and date of all contributions from the person during the calendar year.

(iv) If the person that made a contribution under subparagraph (iii) is not an individual, the following information:

(A) the full name and mailing address of any person who, directly or otherwise, owns a legal or equitable interest of fifty percent or greater in the entity.

(B) One responsible party, if the aggregate amount of contributions made by such entity during the election period exceeds one thousand two hundred dollars (\$1,200).

(v) The aggregate amount of all contributions made to the person that made the independent expenditure or electioneering communication.

(2) Reports required by this subsection shall be filed on dates on which reports by political committees making expenditures are required to report under this section.

(3) If a person is required to file another report under this section, the person shall not be required to file a report

1 under this subsection if all of the information has already been
2 filed in the other report. The Secretary of the Commonwealth
3 shall promulgate regulations that exempt a person from reporting
4 duplicative information under this article.

5 * * *

6 Section 3. Section 1628 of the act, amended February 13,
7 1998 (P.L.72, No.18), is amended to read:

8 Section 1628. Late Contributions [and], Independent
9 Expenditures and Electioneering Communications.--Any candidate
10 or political committee, authorized by a candidate and created
11 solely for the purpose of influencing an election on behalf of
12 that candidate, which receives any contribution or pledge of
13 five hundred dollars (\$500) or more, and any person making an
14 independent expenditure[, as defined by this act,] or
15 electioneering communication of five hundred dollars (\$500) or
16 more after the final preelection report has been deemed
17 completed shall report such contribution, pledge or expenditure
18 to the appropriate supervisor. Such report shall be sent by the
19 candidate, chairman or treasurer of the political committee
20 within twenty-four (24) hours of receipt of the contribution. It
21 shall be the duty of the supervisor to confirm the substance of
22 such report. The report shall be made by telegram, mailgram,
23 overnight mail or facsimile transmission. Any candidate in his
24 own behalf, or chairman, treasurer or candidate in behalf of the
25 political committee may also comply with this section by
26 appearing personally before such supervisor and reporting such
27 late contributions or pledges.

28 Section 4. The act is amended by adding a section to read:

29 Section 1643. Independent Expenditures and Electioneering
30 Communications.--All independent expenditures and electioneering

1 communications shall prominently include the statement:
2 Paid for by (name of person paying for the independent
3 expenditure or electioneering communication). Learn more
4 about (name of person paying for the independent expenditure
5 or electioneering communication) at www.dos.pa.gov.
6 Section 5. This act shall take effect in 60 days.