



Am. Sub. H.B. 119
123rd General Assembly
(As Passed by the General Assembly)

Reps. Amstutz, Logan, Sulzer, Maier, Sykes, Olman, Ford, Trakas, Ogg, Sullivan, Perry, O'Brien, Peterson

Sens. Spada, Schafrath, Watts, Gardner, Furney, Blessing, Latta, Cupp, Mumper, Hagan

Effective date: *

ACT SUMMARY

- Generally provides for the electronic filing of campaign finance statements, beginning January 1, 2001, subject to the Secretary of State having fulfilled the duties imposed by the act for the implementation, testing, and verification of computer procedures.
- Requires the Secretary of State's office to implement, test, and verify the successful operation of the systems it adopts for electronically transmitting campaign finance statements, digitally signing electronically transmitted statements, and immediately acknowledging and preserving electronically transmitted statements, before any statements are permitted or required to be filed by electronic means of transmission to the Secretary of State.
- Requires, effective January 1, 2001, the filing of campaign finance statements of campaign committees of candidates for statewide office by electronic means of transmission if the total amount of contributions received or expenditures made for a reporting period exceeds \$10,000, and permits that method of filing if the total amount is \$10,000 or less.
- Permits, effective January 1, 2001, the filing of campaign finance statements by political action committees and political contributing entities that file campaign finance statements with the Secretary of State,

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

legislative campaign funds, and state political parties by electronic means of transmission, and requires, effective January 1, 2002, that method of filing by those committees and entities if the total amount of contributions received or expenditures made exceeds \$10,000 for the reporting period.

- Permits, effective January 1, 2001, the filing of campaign finance statements of individuals and specified entities that make independent expenditures for or against statewide candidates or statewide ballot issues or questions, by electronic means of transmission, and requires, effective January 1, 2002, that method of filing by those individuals and entities if the total amount of the independent expenditures exceeds \$10,000 for the reporting period.
- Permits, effective January 1, 2001, the filing of campaign finance statements by electronic means of transmission with the Secretary of State, or on computer disk with the appropriate board of elections, by campaign committees of candidates for the office of member of the General Assembly, and requires, effective January 1, 2003, those committees to file campaign finance statements with the Secretary of State by electronic means of transmission if the total amount of contributions received exceeds \$10,000 for the reporting period.
- Requires, effective January 1, 2001, campaign committees of candidates for the office of member of the General Assembly that receive total contributions exceeding \$10,000 in a reporting period to pay a fee of between \$50 and \$200, depending on the total contributions received, to the Secretary of State if the campaign finance statements for that period are not filed by electronic means of transmission to the Secretary of State or on computer disk with the appropriate board of elections.
- Makes changes to the Ohio Elections Commission Law.
- Prohibits foreign nationals from making contributions, expenditures, and independent expenditures in support of or opposition to candidates for elective office in Ohio, and prohibits those candidates and various political entities from soliciting or accepting contributions, expenditures, and independent expenditures from foreign nationals.
- Continues existing provisions of law pertaining to the use of personal funds for a campaign for statewide office or office of member of the



General Assembly and pertaining to what funds a campaign committee may "carry into" an election that were enacted by Am. Sub. S.B. 116 of the 122nd General Assembly by declaring an emergency and repealing future versions of the law that were scheduled to take effect January 1, 2000.

- Declares an emergency.

TABLE OF CONTENTS

General description of act's main provisions.....	4
Preliminary requirements for the Secretary of State.....	4
Electronic filing of campaign finance statements.....	5
Overview.....	5
Statements filed by campaign committees of candidates for statewide office	6
Statements filed by other entities.....	6
Statements of independent expenditures	7
Statements filed by campaign committees of candidates for the office of member of the General Assembly	7
Availability of campaign finance information on the Internet	9
Examination of filed statements	11
Acknowledgment and preservation of filed statements	11
Affirmative defense.....	12
Continuation of provisions of Am. Sub. S.B. 116 of the 122nd General Assembly that were to cease to be effective January 1, 2000.....	12
Use of personal funds for a campaign for statewide office or office of member of the General Assembly	12
"Carry-in" contribution limits.....	15
Additional filing requirements and other changes	18
Contributions and expenditures made by foreign nationals.....	19
Changes to the Ohio Elections Commission Law	20
Filling vacancy of non-partisan member	20
Time for filing complaints.....	20
Corrective changes	20
Change relative to a declaration of filing-day finances	21
Penalties.....	21

CONTENT AND OPERATION

General description of act's main provisions

The act generally provides for the electronic filing of campaign finance statements beginning January 1, 2001, subject to the Secretary of State having fulfilled the duties imposed by the act for the implementation, testing, and verification of necessary computer procedures. The act also makes changes to the Ohio Elections Commission Law and continues existing requirements enacted by Am. Sub. S.B. 116 of the 122nd General Assembly pertaining to the use of personal funds for a campaign and "carry-in" limitations by declaring an emergency and repealing future versions of the Campaign Finance Law that were scheduled to take effect January 1, 2000 (those future versions do not include existing requirements that the act will continue).

Preliminary requirements for the Secretary of State

The act:

Requires the Secretary of State to have implemented, tested, and verified the *successful operation* of any system the Secretary of State prescribes (1) for the creation of an electronic signature in relation to, (2) as an appropriate methodology, protocol, and data file structure for, and (3) for the immediate acknowledgment and preservation of campaign finance statements filed by electronic means of transmission, prior to any statement being filed in that manner under the act (sec. 3517.10(A), (C)(1), (C)(6)(b), and (D)(6) and 3517.106(E), (F), (G), and (H)). (See **COMMENT 1.**)

Requires the Secretary of State to have implemented, tested, and verified the *successful operation* of any system the Secretary of State prescribes as an appropriate methodology, protocol, and data file structure for campaign finance statements filed on computer disk, prior to any statement being filed in that manner under the act (secs. 3517.10(C)(6)(b) and 3517.106(F)(1), (2), and (3)). (See **COMMENT 1.**)

Specifies that any electronic signature prescribed by the Secretary of State must (1) be unique to the signer, (2) objectively identify the signer, (3) involve the use of a signature device or other means or method that is under the sole control of the signer and cannot be readily duplicated or compromised, and (4) be created and linked to the electronic record to which it relates in a manner that, if the record or signature is intentionally or unintentionally changed after the signing, the electronic signature is invalidated (sec. 3517.106(H)(1)).

Requires the Secretary of State to notify specified libraries of the location on the World Wide Web at which campaign finance statements required or permitted to be filed by electronic means of transmission under the act may be filed, *if the system the Secretary of State prescribes for that filing includes filing those statements through the Internet via an interactive location on the World Wide Web* (sec. 3517.106(J)(3)). (See also "*Availability of campaign finance information on the Internet*," below.) (See **COMMENT 2**.)

Requires, on and after January 1, 2001, the specified libraries to include a link to the World Wide Web location at which campaign finance statements required or permitted to be filed by electronic means of transmission under the act may be filed, *if the system the Secretary of State prescribes for that filing includes filing those statements through the Internet via an interactive location on the World Wide Web*, and specifies that the World Wide Web link must be included on each Internet-connected computer a library maintains *that is accessible to the public* (sec. 3517.106(J)(3)). (See **COMMENT 2**.)

Electronic filing of campaign finance statements

Overview

The act:

Generally permits the filing with the Secretary of State of certain campaign finance statements required under continuing law (unchanged by the act) by electronic means of transmission, and requires specified filings to be made by electronic means of transmission if the amount received or expended during the reporting period exceeds \$10,000 (secs. 3517.10(A), 3517.105(B), and 3517.106).

Requires amendments, addenda, or other corrections to campaign finance statements and amended campaign finance statements to be filed in the same manner as the original statement was filed (sec. 3517.11(B)(3)(a)).

Requires the Secretary of State to assess the need for training regarding (1) the filing of campaign finance statements by electronic means of transmission and (2) associated technologies, and, if the Secretary of State determines that training is necessary, requires the Secretary of State to arrange for the provision of training programs that individuals and entities required or permitted to file campaign finance statements may attend on a voluntary basis (sec. 3517.10(C)(6)(c)).

Specifies that the electronic signature that is required to be attached to or associated with each campaign finance statement filed by electronic means of transmission is binding on all persons and for all purposes under the Campaign

Finance Law as if the signature had been handwritten in ink on a printed form (secs. 3517.10(C)(1) and 3517.106(H)(2)).

Statements filed by campaign committees of candidates for statewide office

The act:

Defines "statewide office" for the purpose of filing campaign finance statements by electronic means of transmission as any of the offices of Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, Chief Justice of the Supreme Court, and Justice of the Supreme Court (sec. 3517.106(A)(2)).

Specifies that, on and after January 1, 2001, campaign committees of candidates for statewide office *must file* the campaign finance statements required under continuing law by electronic means of transmission to the Secretary of State, if the total amount of contributions received or expenditures made during the applicable reporting period exceeds \$10,000 (sec. 3517.106(E)(1)).

Permits, on and after January 1, 2001, campaign committees of candidates for statewide office to file the campaign statements required under continuing law by electronic means of transmission, if the contribution or expenditure amount is \$10,000 or less (sec. 3517.106(E)(1)).

Allows the Secretary of State, until January 1, 2001, to permit campaign committees of candidates for statewide office to file the *two-business-day* statements required by continuing law by facsimile or other electronic means of transmission (sec. 3517.10(A)).

Requires, on and after January 1, 2001, campaign committees of candidates for statewide office to file the *two-business-day* statements required by continuing law by electronic means of transmission, if the campaign committees are required to file a preelection, postelection, or monthly statement of contributions and expenditures by electronic means of transmission (secs. 3517.10(A) and 3517.106(E)(1)).

Statements filed by other entities

The act:

Generally creates parallel provisions requiring or permitting the filing of campaign finance statements by electronic means of transmission by (1) political action committees and political contributing entities that make contributions to the campaign committees of candidates for statewide office or the campaign

committees of candidates for the office of member of the General Assembly, (2) political action committees and political contributing entities that receive contributions or make expenditures in connection with statewide ballot issues, (3) certain other political action committees and political contributing entities, (4) legislative campaign funds, and (5) state political parties (sec. 3517.106(E)(2) and (3)).

Permits, on and after January 1, 2001, these entities to file the campaign finance statements required under continuing law by electronic means of transmission to the Secretary of State (sec. 3517.106(E)(2)).

Requires that, on and after January 1, 2002, these entities file the campaign finance statements required under continuing law by electronic means of transmission, if the total amount of contributions received or expenditures made during the applicable reporting period exceeds \$10,000 (sec. 3517.106(E)(3)).

Statements of independent expenditures

The act:

Permits, on and after January 1, 2001, individuals, partnerships, or certain other entities that make independent expenditures in support of or in opposition to a statewide candidate or a statewide ballot issue or question to file the statements of independent expenditures required by continuing law by electronic means of transmission to the Secretary of State (secs. 3517.105(B) and (C) and 3517.106(G)(1)).

Requires, on and after January 1, 2002, individuals, partnerships, or certain other entities that make independent expenditures in support of or in opposition to a statewide candidate or a statewide ballot issue or question to file the statements of independent expenditures required by continuing law by electronic means of transmission, if those expenditures exceed \$10,000 during the applicable reporting period (secs. 3517.105(B) and (C) and 3517.106(G)(2)).

Statements filed by campaign committees of candidates for the office of member of the General Assembly

The act:

Permits, on and after January 1, 2001, campaign committees of candidates for the office of member of the General Assembly to file the campaign finance statements required under continuing law by electronic means of transmission to the Secretary of State (secs. 3517.106(F)(1) and 3517.11(A)(2) and (B)(1)).

Requires, on and after January 1, 2003, campaign committees of candidates for the office of member of the General Assembly to file the campaign finance statements required under continuing law by electronic means of transmission to the Secretary of State, if the total amount of the contributions received during the applicable reporting period exceeds \$10,000 (secs. 3517.106(F)(4) and 3517.11(A)(2) and (B)(1)).

Permits, on and after January 1, 2001, and until January 1, 2003, campaign committees of candidates for the office of member of the General Assembly to file the campaign finance statements required under continuing law *on computer disk* with the appropriate local board of elections (secs. 3517.10(A) and 3517.106(F)(1)).

Requires a campaign committee of a candidate for the office of member of the General Assembly that files campaign finance statements *by printed version only*, and thus not by electronic means of transmission or on computer disk, to file two copies of the printed version of the statement with the appropriate local board of elections (secs. 3517.106(F)(2) and 3517.11(A)(2)).

Requires a local board of elections that receives two printed copies of a campaign finance statement filed by a campaign committee of a candidate for the office of member of the General Assembly under the circumstance described above to send one of those copies, by overnight delivery service before the close of business on the day that the statement is received, to the Secretary of State (secs. 3517.106(F)(2) and 3517.11(A)(2)).

Requires, on and after January 1, 2001, campaign committees of candidates for the office of member of the General Assembly to pay to the Secretary of State a fee of (1) \$50 for total contributions during the applicable reporting period of over \$10,000 up to and including \$25,000, (2) \$150 for total contributions during the applicable reporting period of over \$25,000 up to and including \$50,000, or (3) \$200 for total contributions during the applicable reporting period of over \$50,000 if the committees did not file the required campaign finance statements either by electronic means of transmission to the Secretary of State or on computer disk with the appropriate local board of elections (sec. 3517.106(F)(3)(a)).

Specifies that the latter fee must be made payable to the Secretary of State and must be collected by the appropriate local board of elections at the time the campaign committee of a candidate for the office of member of the General Assembly files the required campaign finance statement (sec. 3517.106(F)(3)(c)).

Requires local boards of elections to send both the latter fee and a copy of the printed campaign finance statement, by overnight delivery service before the

close of business on the day they are received, to the Secretary of State (sec. 3517.106(F)(3)(c)).

Specifies that a campaign committee of a candidate for the office of member of the General Assembly (1) cannot be required to pay the latter fee in connection with the filing of an addendum or an amended campaign finance statement and (2) is not required to pay the Secretary of State *any fee* when a campaign finance statement is not filed by electronic means of transmission or on computer disk and the total contributions received for the applicable reporting period equal *\$10,000 or less* (sec. 3517.106(F)(3)(a) and (b)).

Requires, until January 1, 2003, campaign committees of candidates for the office of member of the General Assembly to file a paper copy of any campaign finance statement required under continuing law with the appropriate board of elections, in addition to any statement that may be filed by electronic means of transmission to the Secretary of State or on computer disk with that board of elections (sec. 3517.106(F)(2)).

Availability of campaign finance information on the Internet

The act:

Defines the "Internet" as the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the World Wide Web (secs. 3517.10(F)(3), 3517.106(A)(1), and 3517.11(B)(3)(b)).

Generally requires the Secretary of State to make the contribution and expenditure information in each campaign finance statement that is filed by *electronic or other means of transmission* available online to the public, by means that are searchable, viewable, and accessible through the Internet, *within five business days* after the Secretary of State receives the statement (secs. 3517.10(D)(7) and 3517.106(E), (F), (G), and (I)).

Prohibits, in connection with (1) candidates for statewide office and (2) candidates for the office of member of the General Assembly, the Secretary of State from making available online through the Internet the contribution and expenditure information contained in a campaign finance statement *for any candidate for a particular office* until the Secretary of State is able to make available online to the public through the Internet the contribution and expenditure information for *all candidates for that office* (sec. 3517.106(E)(1) and (F)(1) and (4)). (See **COMMENT 3**.)

Requires the Secretary of State to simultaneously make available online to the public through the Internet the contribution and expenditure information in campaign finance statements for all candidates for a particular office as soon as the Secretary of State has all of that information available (sec. 3517.106(E)(1) and (F)(1) and (4)). (See **COMMENT 3**.)

Requires the Secretary of State to make the contribution and expenditure information in all addenda or amended campaign finance statements that are filed by *electronic or other means of transmission* available online to the public, by means that are searchable, viewable, and accessible through the Internet, *within five business days* after the Secretary of State receives the addendum or amended statement (secs. 3517.10(D)(7), 3517.106(A)(3), (E), (F), (G), and (I), and 3517.11(B)(3)(b)).

Defines "library," for the purpose of filing campaign finance statements by electronic means of transmission, as a library that is open to the public and that is either (1) a library that is maintained and regulated as a free public library by a municipal corporation or (2) a library that is created, maintained, and regulated under Chapter 3375. of the Revised Code (sec. 3517.106(J)(1)).

Requires the Secretary of State to notify all of those libraries of the location on the Internet at which may be accessed the contribution and expenditure information in campaign finance statements that is required to be made available online to the public through the Internet (sec. 3517.106(J)(2)). (See **COMMENT 2**.)

Requires, on and after January 1, 2001, those libraries to include a link, on each Internet-connected computer they maintain that is accessible to the public, to the World Wide Web location at which the contribution and expenditure information in campaign finance statements may be accessed if (1) the location on the Internet at which the Secretary of State has made the information available is on the World Wide Web and (2) the Secretary of State has notified the libraries of the location of the information on the Internet as required by the act (sec. 3517.106(J)(2)). (See **COMMENT 2**.)

Permits the Secretary of State to remove from the Internet the information that the act requires to be made available online after a reasonable period of time (sec. 3517.10(D)(7)).

Examination of filed statements

The act:

Expands the provision of continuing law that *permits* the Secretary of State to examine for completeness and accuracy the campaign finance statements of candidates for the office of member of the General Assembly, *by requiring* the Secretary of State, on and after January 1, 2001, to examine the statements of those candidates who file by electronic means of transmission to the Secretary of State (sec. 3517.11(B)(3)(a)).

Permits the Secretary of State to require the recipient of a notice that a campaign finance statement that was filed by electronic means of transmission or on computer disk is incomplete or inaccurate to *file an amended statement* that incorporates the information necessary to complete or correct the statement (1) by electronic means of transmission to the Secretary of State or (2) until January 1, 2003, on computer disk with the appropriate board of elections, in lieu of filing an addendum, amendment, or other correction to the statement (secs. 3517.106(E), (F), and (G) and 3517.11(B)(3)(a)).

Acknowledgment and preservation of filed statements

The act:

Requires the Secretary of State to prescribe, by rule, (1) the manner of immediately acknowledging, with date and time received, and preserving the receipt of statements, addenda to statements, and amended statements that are electronically transmitted to the Secretary of State and (2) the manner of preserving the contribution and expenditure information in those statements or addenda (sec. 3517.10(D)(6)).

Requires the Secretary of State to preserve the contribution and expenditure information in statements filed by electronic means of transmission for *at least ten years* after the year in which they are filed (sec. 3517.10(D)(6)). (See **COMMENT 4**.)

Requires the Secretary of State to store on computer the information contained in certain *statements of independent expenditures* required to be filed under continuing law, and to make available to the individuals, partnerships, corporations, labor organizations, and certain other entities required to file those statements, for a reasonable fee, computer programs compatible with the Secretary of State's method of storing that information (sec. 3517.106(B) and (C)).

Affirmative defense

The act:

Establishes an affirmative defense to a complaint or charge for the failure to file a campaign finance statement *by electronic means of transmission* (when the act requires that type of filing) that the campaign committee, political action committee, legislative campaign fund, political party, political contributing entity, or individual, partnership, or other entity making an independent expenditure (1) attempted to file the required statement electronically prior to the statutory deadline, (2) was unable to file the required statement electronically due to an expected or unexpected shutdown of the whole or part of the electronic campaign finance statement-filing system (e.g., for maintenance or because of hardware, software, or network connection failure), and (3) filed electronically the required statement within a reasonable period of time after being unable to file it because of the circumstance described in (2) above (sec. 3517.106(K)).

Continuation of provisions of Am. Sub. S.B. 116 of the 122nd General Assembly that were to cease to be effective January 1, 2000

Am. Sub. S.B. 116 of the 122nd General Assembly enacted several provisions of law, effective until January 1, 2000, pertaining to the use of personal funds in a campaign for statewide office or office of member of the General Assembly and pertaining to "carry-in" contribution limits. After January 1, 2000, those provisions of Am. Sub. S.B. 116 no longer would have applied.

The act amends the versions of that law that would have been effective only until January 1, 2000, repeals a portion of Am. Sub. S.B. 116 (its Section 7), and declares an emergency, in order to continue the requirements pertaining to the use of personal funds and the "carry-in" contribution limits and to continue other provisions relevant to those matters. The act correspondingly outright repeals the versions of law that were scheduled to take effect January 1, 2000, and that do not contain the requirements and other provisions the act will continue. (See **COMMENT 5** for an explanation of a *substantive change* made by the act to a provision enacted by Am. Sub. S.B. 116.) (Secs. 3517.10(M), 3517.102(H), 3517.103(G), 3517.1010(H), 3517.154(C), 3517.155(F), and 3517.992(W); Sections 3, 4, and 5 of the act.)

Use of personal funds for a campaign for statewide office or office of member of the General Assembly

Am. Sub. S.B. 116 enacted requirements described below, that would have been effective until January 1, 2000, pertaining to the use of personal funds for

these campaigns. The act provides for the continuation of the provisions of Am. Sub. S.B. 116 that:

Prohibit a statewide candidate or candidate for the office of member of the General Assembly from making an expenditure of personal funds exceeding \$500 during an election period to influence the results of an election for that candidate's nomination or election to office unless the personal funds are first deposited into the campaign fund of that candidate's campaign committee (sec. 3517.103(B)(1) and (2)).

Specify that, after the candidate's campaign committee reimburses the candidate for any direct expenditure of personal funds, the amount that was reimbursed is no longer included in the aggregate total of expenditures of personal funds subject to the \$500 limit (sec. 3517.103(B)(2)).

Change the time within which the campaign committee of a statewide candidate or candidate for the office of member of the General Assembly must file a personal funds notice (a notice that the committee has received or expended or expects to expend personal funds exceeding the amounts specified in law) from not later than 60 days before the primary or general election, whichever is applicable, to not later than the earlier of the following times: (1) 120 days before the primary or general election, whichever is applicable, or (2) two business days after the candidate's campaign committee receives or makes an expenditure of personal funds or the candidate makes an expenditure of personal funds on behalf of the candidate's campaign committee during the election period that exceed, in the aggregate, the amounts specified in law (sec. 3517.103(C)(3)).

Prohibit a campaign committee of a candidate to which contribution limitations no longer apply (because the committee of that candidate's opponent has filed a personal funds notice) from accepting any contribution or contributions from a contributor that exceed the contribution limitations in law until the committee files a declaration that the committee will accept contributions that exceed those limitations (sec. 3517.103(D)(2)).

Specify that a campaign committee described in the preceding paragraph must file the declaration of no limits within 30 days after the committee's candidate's opponent has filed a personal funds notice in order for contribution limitations to no longer apply to that campaign committee (sec. 3517.103(D)(2)).

Require the declaration of no limits to list (1) the amount of cash on hand in the candidate's campaign fund at the end of the day immediately preceding the day on which the candidate's campaign committee files the declaration of no limits and (2) the value and description of all campaign assets worth \$500 or more available to the candidate at the end of the day immediately preceding the day on which the

candidate's campaign committee files the declaration of no limits (sec. 3517.103(D)(2)(a) and (b)).

Allow a candidate who was not an opponent of a candidate who filed a personal funds notice on the date the personal funds notice was filed to file the declaration of no limits within 30 days after becoming an opponent of the candidate who filed the personal funds notice (sec. 3517.103(D)(3)).

Require a committee that is required to file a declaration of no limits that accepts, before filing that declaration, a contribution or contributions that exceed the contribution limitations to return that contribution or those contributions to the contributor (sec. 3517.992(W)).

Provide that, if the candidate whose campaign committee filed a personal funds notice fails to file a declaration of candidacy for the office listed on the committee's designation of treasurer or files a declaration of candidacy or nominating petition for that office and dies or withdraws, both of the following apply to the campaign committee of that candidate's opponent if the opponent has filed a declaration of no limits: (1) no contribution from a contributor may thereafter be accepted that, when added to the aggregate total of all contributions received by that committee from that contributor during the primary election period or general election period, whichever is applicable, would cause that committee to exceed the contribution limitations for that election period, and (2) the statement of primary-day finances or the year-end statement required to be filed by Am. Sub. S.B. 116 must be filed not later than 14 days after the date the candidate's opponent fails to file a declaration of candidacy or nominating petition by the appropriate filing deadline, or dies or withdraws (sec. 3517.103(D)(4)).

Prohibit a campaign committee from accepting any contribution in excess of the contribution limitations prescribed by law unless a declaration of no limits has been filed or if the committee violates the provisions described in the preceding paragraph once the candidate who filed a personal funds notice fails to file a declaration of candidacy or nominating petition or that candidate dies or withdraws (sec. 3517.103(E)(2)).

Specify that, whenever a campaign committee files a personal funds notice, or whenever the contribution limitations no longer apply to the opponent candidate's campaign committee, neither such committee is a "designated state campaign committee" for the purpose of imposing contribution limitations with regard to contributions made by that campaign committee to a legislative campaign fund or to a state candidate fund of a state or county political party (sec. 3517.103(F)(1)).

Specify that either of the committees described in the preceding paragraph is a "designated state campaign committee" for the purpose of imposing contribution limitations after both of the following occur: (1) the primary or general election period during which the contribution limitations did not apply after being removed has expired, and (2) the campaign committee has disposed of all excess funds and excess aggregate contributions (sec. 3517.103(F)(2)).

Specify that, for purposes of the Campaign Finance Law, a candidate is an "opponent" when the candidate has indicated on the candidate's most recently filed designation of treasurer that the candidate seeks the same office at the same primary or general election as another candidate whose campaign committee has filed a personal funds notice (sec. 3517.103(A)(4)).

"Carry-in" contribution limits

Am. Sub. S.B. 116 enacted requirements described below, that would have been effective until January 1, 2000, pertaining to "carry-in" contribution limits. The act provides for the continuation of the provisions of Am. Sub. S.B. 116 that:

Require the campaign committee of any candidate that has filed a declaration of no limits and to which the contribution limitations under law no longer apply during a primary election period to dispose of any excess funds not later than 14 days after the primary election (sec. 3517.1010(B)(1)).

Provide that, in the case of a disposal of excess funds (that is, funds in excess of "permitted" funds) under the circumstance described in the preceding paragraph, "permitted funds" means the sum of the primary carry-in amount and the product of both of the following: (1) the sum of the campaign committee's net cash on hand and the campaign committee's total reported campaign assets on the day of the primary election less the carry-in amount, and (2) the ratio of the sum of the allowable aggregate contributions of each contributor to the sum of all contributions received during the period extending from the first day on which the contribution limitations no longer apply to the campaign committee through the end of the primary election period (the "primary carry-in amount" is the sum of the campaign committee's cash on hand and reported campaign assets as reported on the campaign committee's declaration of no limits) (sec. 3517.1010(A)(4)(a)).

Provide that, for purposes of the provisions described in the preceding paragraph, the allowable aggregate contribution of each contributor is calculated as if the limitations on contributions in law were in effect (sec. 3517.1010(A)(4)(a)).

Require the campaign committee of any candidate to which the contribution limitations no longer apply during a general election period (because that opponent

candidate's committee has filed a personal funds notice) to dispose of any excess funds not later than December 31 after the general election (sec. 3517.1010(B)(5)).

Provide that, in the case of a disposal of excess funds under the circumstance described in the preceding paragraph, "permitted funds" means the product of both of the following: (1) the sum of the cash on hand and reported campaign assets at the end of December 31 immediately following the general election and (2) the ratio of the sum of the allowable aggregate contributions of each contributor and the general carry-in amount to the sum of all contributions received during the general election period and the general carry-in amount (sec. 3517.1010(A)(4)(b)).

Provide that, for purposes of the provisions described in the preceding paragraph, the "general carry-in amount" is the sum of the campaign committee's reported campaign assets and net cash on hand as of the day of the primary election, after the committee has disposed of excess funds, if required; and provide that, for purpose of the same provisions, when a candidate has filed a declaration of no limits, the allowable aggregate contribution calculated for each contributor is calculated as if the limitations on contributions prescribed in law were in effect (sec. 3517.1010(A)(4)(b)).

Require the campaign committee of any candidate that has expended personal funds in excess of the amount specified under law to dispose of any excess funds not later than 14 days after the primary election or December 31 after a general election, whichever is applicable, or to choose to retain leftover personal funds; and provide that, for the purposes of these provisions, the allowable aggregate contribution of each contributor, including one or more contributions from the candidate and from the candidate's spouse, parents, children, sons-in-law, daughters-in-law, brothers, sisters, grandparents, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, or grandparents by marriage, is calculated for that contributor as if the contribution limitations prescribed in law were in effect (sec. 3517.1010(B)(4)).

Require that the calculation of excess funds that must be disposed of by a campaign committee described in the preceding paragraph must be made in the same manner that a campaign committee to which the limitations no longer apply must dispose of excess funds (sec. 3517.1010(B)(4)).

Require that the amount of excess aggregate contributions required to be disposed of by a campaign committee of a candidate whose contribution limitations have been reimposed (because the candidate's opponent whose campaign committee filed a personal funds notice failed to file a declaration of candidacy, or died or withdrew) is limited to no more than the sum of (1) the difference between the sum of the cash on hand and reported campaign assets on

the date of the declaration of candidacy filing deadline, date of death, or date of withdrawal, whichever is applicable, less the sum of the cash on hand and reported campaign assets reported on the campaign committee's declaration of no limits and (2) the sum of the aggregate excess contributions of all contributors made from the beginning of the primary election period to the day before the contribution limitations became inapplicable (sec. 3517.1010(B)(6)).

Require any campaign committee that is required to dispose of excess funds or excess aggregate contributions to dispose of the excess amount or amounts by doing any of the following: (1) giving the amount to the Treasurer of State for deposit into the state treasury to the credit of the Ohio Elections Commission Fund, (2) giving the amount to individuals who made contributions to that campaign committee as a refund of all or part of their contributions, or (3) giving the amount to a corporation that is exempt from federal income taxation under specified sections of the Internal Revenue Code (secs. 3517.109(C) and 3517.1010(C)).

Prohibit any candidate who knowingly fails to dispose of excess funds or excess aggregate contributions, except a candidate whose campaign committee has been given a letter of substantial compliance (see the paragraph after next), from appearing on the ballot, even if the candidate has been certified to appear on the ballot (sec. 3517.1010(D)(1)).

Require the Ohio Elections Commission to give complaints about candidates who fail to dispose of excess funds as described in the preceding paragraph an automatic expedited hearing, and allow the Commission to direct the Secretary of State or appropriate board of elections with the authority to certify a candidate to the ballot to remove a candidate's name from the ballot if the candidate is barred from the ballot as described in the preceding paragraph (sec. 3517.154(A)(2)(a) and 3517.155(A)(1)(d)).

Require the Secretary of State, after initially examining and reviewing any declaration of primary-day finances and declaration of year-end finances and making a determination that a campaign committee has substantially complied with Am. Sub. S.B. 116's requirements to dispose of funds, to promptly issue the candidate's campaign committee a letter certifying the committee's substantial compliance (sec. 3517.1010(D)(2)).

Provide that the campaign committee of a candidate for statewide office has not substantially complied with Am. Sub. S.B. 116's disposal requirements if, upon initial review of a declaration of primary-day finances or a declaration of year-end finances, it is discovered that the candidate's campaign committee has failed to dispose of excess funds or excess aggregate contributions totaling in the aggregate more than \$10,000 (sec. 3517.1010(D)(3)).

Provide that the campaign committee of a candidate for member of the General Assembly has not substantially complied with Am. Sub. S.B. 116's disposal requirements if, upon initial review of a declaration of primary-day finances or year-end finances, it is discovered that the candidate's campaign committee has failed to dispose of excess funds or excess aggregate contributions totaling in the aggregate more than \$2,500 (sec. 3517.1010(D)(4)).

Provide that any campaign committee that has received a letter indicating substantial compliance must, within 30 days after receiving the letter, fully comply with Am. Sub. S.B. 116's disposal requirements (sec. 3517.1010(D)(5)).

Additional filing requirements and other changes

Am. Sub. S.B. 116 enacted additional filing requirements and other changes described below, that would have been effective until January 1, 2000. The act provides for the continuation of the provisions of Am. Sub. S.B. 116 that:

Require a campaign committee that files a personal funds notice or a declaration of no limits to file a declaration of primary-day finances not later than 14 days after the day of the primary election in the case of a primary election period, or a declaration of year-end finances not later than the last business day of January of the next calendar year immediately after the general election in the case of a general election period, and specify the information that each declaration must include (sec. 3517.1010(E) and (F)).

Require a campaign committee that has filed a notice that it has expended or expects to expend personal funds in excess of the amount specified under law to do either of the following at the end of the primary election period: (1) return that portion of personal funds left over at the end of the primary election period that are excess funds, or (2) retain personal funds left over at the end of the primary election period and file a statement with the Secretary of State declaring that the committee will retain those personal funds and indicating the amount of those funds that would be characterized as excess funds (sec. 3517.1010(B)(2)).

Require that, if the committee chooses to retain personal funds as described in the preceding paragraph, both of the following apply: (1) the amount characterized as excess funds is considered to be an expenditure of personal funds for the purpose of determining whether the amount of personal funds the campaign committee has received during an election period exceeds the amounts specified under law and (2) the campaign committee is not a designated state campaign committee for the purpose of making contributions to a legislative campaign fund or to the state candidate fund of a state or county political party (sec. 3517.1010(B)(3)).

Specify circumstances under which certain campaign committees are not required to dispose of excess funds or excess aggregate contributions (sec. 3517.1010(G)).

Specify circumstances under which a campaign committee is not required to file a declaration of filing-day finances under law (sec. 3517.109(G)).

Specify that, during the period beginning on the 19th day before a primary election in which a candidate for statewide office seeks nomination to office and extending through the day of that primary election, each time either of two kinds of committees--(a) the campaign committee of a statewide candidate in that primary election that files a notice that the committee has received, expended, or expects to expend personal funds in excess of the amounts specified under law or (b) the campaign committee of a statewide candidate in that primary election to which, because such a notice was filed, the contribution limitations no longer apply--receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to exceed \$2,500, the campaign committee must file a two-business-day statement reflecting that contribution; and require that contributions reported on a two-business-day statement also be included in the postprimary election statement required to be filed by that committee under law (sec. 3517.10(A)). (As previously noted, the act limits the Secretary of State's continuing authority to permit the filing of two-business-day statements by facsimile or other electronic means by terminating this authority on January 1, 2001.)

Contributions and expenditures made by foreign nationals

The act:

Prohibits a foreign national, acting directly or acting indirectly through any other person or entity, from making a contribution, expenditure, or independent expenditure, or from making a promise (either expressly or implicitly) to make a contribution, expenditure, or independent expenditure, in support of or in opposition to a candidate for any elective office in this state, including an office of a political party (secs. 3517.13(W)(1) and 3517.151(B)(2)--see "**Penalties**," below).

Prohibits a candidate, campaign committee, political action committee, political contributing entity, legislative campaign fund, state candidate fund, political party, or separate segregated fund from soliciting or accepting a contribution, expenditure, or independent expenditure from a foreign national (secs. 3517.13(W)(2) and 3517.151(B)(2)).

Permits the Secretary of State to direct any candidate, committee, fund, entity, or party that accepts a contribution, expenditure, or independent expenditure in violation of the latter prohibition to return it to the contributor or, if it is not possible to return it, to instead return the value of it to the contributor (sec. 3517.13(W)(2)).

Changes to the Ohio Elections Commission Law

Filling vacancy of non-partisan member

The act:

Requires that, if a vacancy occurs in the position of the seventh member of the Elections Commission (the member who is not affiliated with a political party), the six remaining members must appoint a person to fill the vacancy not later than 45 days (rather than 15 days as in former law) after the date of the vacancy or, for failure to do so, the Chief Justice of the Supreme Court must appoint the seventh member within 15 days after the end of that period (continuing law) (sec. 3517.152(A)(2)).

Time for filing complaints

The act:

Provides that only complaints setting forth specified violations of the Elections Law that are filed with the Elections Commission on or after the 60th day prior to a primary or special election or on or after the 90th day prior to a general election but not later than the day of the primary, special, or general election to which the complaint relates (and only complaints that meet other criteria specified in the Elections Law) must or may receive an expedited or automatic expedited hearing (secs. 3517.154(A)(2)(a) and (b) and (3)(a) and (B) and 3517.156(B)(1)).

Corrective changes

The act:

Makes corrective cross-reference changes in the Ohio Elections Commission Law (secs. 3517.109(F)(1) and 3517.151(B)(1)).

Change relative to a declaration of filing-day finances

The act:

Modifies the former exception to the statutory requirement that, beginning in 1998, each campaign committee of a candidate who has filed a declaration of

candidacy or a nominating petition for a *state office* must file a specified declaration of filing-day finances within a specified period of time with the Secretary of State or the appropriate board of elections (sec. 3517.109(F) and (G)).¹

Replaces that former exception with the following exception: (1) the campaign committee has not accepted, *during the pre-filing period* (this phrase added by the act), any *aggregate contribution* greater than the applicable amount, (2) the campaign committee had less than the carry-in amount in cash on hand at the beginning of the *pre-filing* period (replacing former law's preprimary period, if applicable), and (3) the candidate files with the Secretary of State or the appropriate board of elections within a specified time the declaration required by continuing law that pertains to those aggregate contributions and that carry-in amount in cash on hand (sec. 3517.109(G)).²

Penalties

The act:

Imposes a \$25 fine for each day of violation on a campaign committee that fails to file the declaration of filing-day finances, declaration of primary-day finances, or declaration of year-end finances required by continuing law (sec. 3517.992(X)).

Requires any campaign committee that fails to dispose of excess funds or excess aggregate contributions in the manner required by continuing law to give to the Treasurer of State for deposit to the credit of the Ohio Elections Commission Fund all funds not so disposed of (sec. 3517.992(Y)).

¹ *Continuing law defines a "state office" for purposes of this provision as the offices of Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, member of the State Board of Education, and member of the General Assembly (sec. 3517.109(A)(5)).*

² *Ohio law does not specifically define the "preprimary period" (the phrase the act removes from section 3517.109(G)) for purposes of this provision, although section 3517.10 clarifies the meaning of that period. Continuing law, however, does define a "pre-filing period" as the period of time ending on the day that the candidacy petitions are due for the state office for which the candidate has filed and beginning on the latest of certain statutorily specified dates (sec. 3517.109(A)(9)). An "aggregate contribution" is defined as the total of all contributions from a contributor during the pre-filing period (sec. 3517.109(A)(6)).*

Imposes a fine of not more than \$1,000 on any individual, campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or other entity that violates any provision of specified statutes in the Campaign Finance Law for which no penalty is statutorily provided (sec. 3517.992(Z)).

Imposes a fine equal to the greater of three times the amount contributed, expended, or promised in violation of the act's related prohibition or \$10,000, on any *foreign national* who makes a contribution, expenditure, or promise in violation of that prohibition (sec. 3517.992(AA)(1)).

Imposes a fine equal to the greater of three times the amount solicited or accepted in violation of the act's related prohibition or \$10,000, on any specified candidate or political entity that solicits or accepts a contribution or expenditure from a foreign national in violation of that prohibition (sec. 3517.992(AA)(2)).

Specifies that, when a contribution or transfer in excess of the contribution/transfer amounts permitted in the Elections Law is made or accepted and (1) the excess amount is completely refunded within five business days after the contribution or transfer is accepted or (2) the excess amount is completely refunded on or before the tenth business day after notification to the recipient of the excess transfer or contribution by the board of elections or the Secretary of State that a transfer or contribution in excess of the permitted amount has been received, there is *no violation of any of the statutory prohibitions* against making or receiving a contribution or transfer in excess of the permitted amounts (this replaces language in former law specifying that, under these circumstances, *no fine* may be imposed on the violator); and prohibits the Secretary of State from referring parties to the Elections Commission under these circumstances (sec. 3517.992(I)(6) and (J)(5)).

Makes corrections, modifications, and technical changes to certain other Elections Law penalty provisions (secs. 3517.992(I)(4) and (5) and (K)(1) and (2) and 3517.993(A)).

COMMENT

1. The act does not require the Secretary of State to perform the described preliminary duties within a specified period of time. Presumably, the Secretary of State will perform, although is not statutorily required to perform, these duties by January 1, 2001, when the act anticipates commencement of the electronic filing of campaign finance statements.

2. (a) Because the act only requires the Secretary of State to post contribution and expenditure information on the "Internet" as defined by the act,

there is no requirement that a *web site* be utilized by the Secretary of State for posting the information. The act's "library" provisions seem to presume though that the Secretary of State will use a web site. Thus, the requirements imposed by the act on libraries only will apply *if* the Secretary of State uses a web site location *and* notifies libraries of that web site location. The act does not require verification of that notice being sent or received; nor does it specify how soon libraries must comply after receipt of that notification from the Secretary of State. (Sec. 3517.106(J)(2) and (3).)

(b) Libraries are not required under the act to allow unlimited access time for filing campaign finance statements through a web site location, so it is possible that some campaign committees, individuals, and entities may find it difficult to make filings at libraries that maintain a policy of limited access time to patrons for the use of computer facilities (sec. 3517.106(J)(3)).

3. The effect of the act's "all candidates for a particular office--simultaneous posting" provisions may be that (a) *no contribution and expenditure information* is posted before an election for preprimary and pregeneral filings if one candidate files late or the Secretary of State does not receive the information as required from an appropriate board of elections or (b) *no information* is posted ever for any candidates for a particular office if one candidate does not make a required filing or is exempt from making a filing.

4. The act requires the Secretary of State to preserve the "contribution and expenditure" information in campaign finance statements that are *filed by electronic means of transmission* for at least ten years. "Information" contained in statements of contributions and expenditures, monthly statements, and statements of independent expenditures filed by *other than electronic means* also is required by the act to be stored by the Secretary of State on computer, but only for a period of at least six years as is generally required under continuing law for most documents required to be retained by the Secretary of State or an appropriate board of elections. The act also continues the provision of law that requires the preservation of campaign finance statements themselves for at least six years. (Secs. 3517.10(C)(6)(b) and (D)(5) and (6) and 3517.106(B) and (D).)

5. One provision enacted by Am. Sub. S.B. 116 of the 122nd General Assembly that the act removes, and therefore does not continue, is a requirement for the filing of an additional monthly statement of contributions received during the primary election period, beginning with contributions received after the last business day in the previously filed statement, if any, through March 15 by (1) the campaign committee of a statewide candidate that files a notice that the committee has received, expended, or expects to expend personal funds in excess of the amount specified under law and (2) the campaign committee of a statewide candidate to which, because that notice was filed, the contribution limitations no

longer apply. The act also removes the related requirements that this statement be filed no later than three business days after March 15 and that contributions reported in this statement also be included in the campaign committee's preprimary election statement required to be filed under law. The removal of these provisions is not limited to years in which a presidential primary election is held (as a result of the enactment of Sub. H.B. 157 of the 123rd General Assembly, presidential primaries are held in early March), but applies to all primary election periods. (Sec. 3517.10(A).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-28-99	pp. 122-123
Reported, H. Technology & Elections	05-26-99	pp. 732-733
Passed House (86-12)	06-09-99	pp. 790-797
Reported by S. State & Local Gov't & Veterans Affairs	11-23-99	p. 1196
Passed Senate (32-1)	12-08-99	pp. 1225-1229
Concurrence (86-4)	12-09-99	pp. 1442-1444

99-HB119.123/rss

