*Lynda J. Jacobsen* *Legislative Service Commission*

# Am. Sub. H.B. 119

123rd General Assembly
(As Passed by the House)

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

## BILL SUMMARY

- Generally requires, effective January 1, 2000, the electronic filing of campaign finance statements of campaign committees of candidates for statewide office if the total amount of contributions received or expenditures made for a reporting period exceeds $10,000, and generally permits that method of filing if such total amount does not exceed $10,000.

- Generally permits, effective January 1, 2000, the electronic filing of campaign finance statements by political action committees and political contributing entities that file campaign finance statements with the Secretary of State, legislative campaign funds, and state political parties, and generally 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.

- Generally permits, effective January 1, 2000, the electronic filing of campaign finance statements of individuals and specified entities that make independent expenditures for or against statewide candidates or statewide ballot issues, and generally 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 a reporting period.

- Generally permits, effective January 1, 2000, the electronic filing of campaign finance statements with the Secretary of State by campaign committees of candidates for the office of member of the General Assembly.

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## CONTENT AND OPERATION

### ***Current law***

#### ***Contributions to and expenditures by campaign committees and other entities***

The Campaign Finance Law requires every campaign committee, political action committee, legislative campaign fund, political party, and political contributing entity that, during any of several specified reporting periods, made or received a contribution or made an expenditure in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in Ohio to file a full, true, and itemized statement that is made under penalty of election falsification and sets forth in detail information about the contribution or expenditure (sec. 3517.10(A)).

Campaign committees of statewide candidates also must file a *monthly statement of contributions received* during each of the months of July, August, and September in the year of the general election in which the candidate seeks office. Until January 1, 2000, the campaign committee of a statewide candidate who files a notice that the candidate will use or is using personal funds for a campaign exceeding the amounts prescribed by law, and the campaign committee of a candidate to which campaign contribution limitations no longer apply because the candidate's opponent is using those personal funds, must file an additional monthly statement of contributions received during a specified portion of the primary election period. Current law also requires that, during the period beginning on the 19th day before the general election in which a statewide candidate seeks election to office and extending through the day of that general election, each time the

campaign committee of the joint candidates for the offices of Governor and Lieutenant Governor or for the office of Secretary of State, Auditor of State, Treasurer of State, or Attorney General receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to equal or exceed $2,500 (or $500 in the case of candidates for Chief Justice or Justice of the Supreme Court), the campaign committee must file a *two-business-day statement* reflecting that contribution. Until January 1, 2000, the campaign committee of a statewide candidate who expects to use or is using personal funds exceeding the amount specified by law, and the campaign committee of that candidate's opponent to whom campaign contribution limitations no longer apply, also must file two-business-day statements under specified circumstances during the primary election period. (Sec. 3517.10(A).)

The form for campaign finance statements must be prescribed by the Secretary of State (sec. 3517.10(C)(6)(b)).

***Independent expenditures by individuals and entities***

Under current law, whenever any individual, partnership, or other entity, except a corporation, labor organization, campaign committee, legislative campaign fund, political action committee, political contributing entity, or political party, makes one or more independent expenditures in support of or opposition to any candidate, or makes one or more independent expenditures in excess of $100 in support of or opposition to any ballot issue or question, the individual, partnership, or other entity must file with the Secretary of State in the case of a statewide candidate or ballot issue or question, or with the board of elections in the county in which the candidate files the candidate's petitions for nomination or election for office or in the county that certifies the issue or question for placement on the ballot, as the case may be, a statement, by the deadlines by which a campaign committee must file a campaign finance statement, itemizing all independent expenditures made during the period since the close of business on the last day reflected in the last previously filed statement, if any (sec. 3517.105(B)(2)(b) and (C)(2)(b)).

***Information stored on computer***

Current law requires the Secretary of State to store on computer the information contained in statements of contributions and expenditures and monthly statements required to be filed by any of the following: (1) the campaign committees of candidates for statewide office or for the office of member of the General Assembly, (2) the political action committees and political contributing entities that make contributions to the campaign committees of statewide candidates or in connection with statewide ballot issues, (3) legislative campaign

funds, and (4) state political parties (sec. 3517.106(A)). The Secretary of State generally may require that the statements that the Secretary of State must store on computer be filed in whatever format the Secretary of State considers necessary (sec. 3517.10(C)(6)(b)).

***Changes proposed by the bill***

***Filings by electronic means of transmission***

That bill generally requires that, on and after January 1, 2000, the *campaign committee of each candidate for statewide office* (see **COMMENT** 1) *must file* campaign finance statements, monthly statements, and two-business-day statements by *electronic means of transmission* if the total amount of the contributions received or the total amount of the expenditures made by the campaign committee for the applicable reporting period *exceeds $10,000*. If the total amount of the contributions received or the total amount of the expenditures made for the applicable reporting period by the campaign committee of a candidate for statewide office does not exceed $10,000, the campaign committee generally *may file*, but is not required to file, the statements by electronic means of transmission. Also, on and after January 1, 2000, a campaign committee of a statewide candidate generally *must file* a two-business-day statement by electronic means of transmission if the campaign committee is 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).)

On and after January 1, 2000, but subject to the exception mentioned below relative to certain filings on or after January 1, 2002, the *campaign committees of candidates for the office of member of the General Assembly, political action committees* and *political contributing entities* that make contributions to the campaign committees of statewide candidates or in connection with statewide ballot issues, *legislative campaign funds*, and *state political parties generally may file* campaign finance statements, monthly statements, and two-business-day statements by electronic means of transmission (sec. 3517.106(E)(2) and (F)(1)). But, on and after January 1, 2002, political action committees and political contributing entities that make contributions to the campaign committees of statewide candidates or in connection with statewide ballot issues, legislative campaign funds, and state political parties generally *must file* by electronic means of transmission campaign finance statements, monthly statements, and two-business-day statements if the total amount of the contributions received or the total amount of the expenditures made by the political action committee, political contributing entity, legislative campaign fund, or political party for the applicable reporting period *exceeds $10,000* (sec. 3517.106(E)(3)).

On and after January 1, 2000, but subject to the exception mentioned below relative to certain filings on or after January 1, 2002, *any individual, partnership, or other entity that makes independent expenditures* in support of or opposition to a statewide candidate or a statewide ballot issue or question generally *may file* the required statement regarding the expenditures by electronic means of transmission (secs. 3517.105(B)(2)(b) and (C)(2)(b) and 3517.106(G)(1)). But, on and after January 1, 2002, any individual, partnership, or other entity that makes those independent expenditures generally *must file* the required statement regarding the expenditures by electronic means of transmission if the total amount of the expenditures made during the reporting period exceeds $10,000 (secs. 3517.105(B)(2)(b) and (C)(2)(b) and 3517.106(G)(2)).

Within five business days after each of the filing deadlines specified under current law for the applicable statement, the Secretary of State must make the contribution and expenditure information in all statements that are filed electronically or by other means of transmission available online to the public *by means that are searchable, viewable, and accessible through the Internet* (see **COMMENT** 2). If an electronically filed statement is found to be incomplete or inaccurate after the examination of the statement for completeness and accuracy (see "***Examination of statements***," below), the campaign committee, the political action committee, the political contributing entity, the legislative campaign fund, the state political party, or the individual, partnership, or other entity that makes independent expenditures must file by electronic means of transmission any addendum to the statement that provides the information necessary to complete or correct the statement or, if required by the Secretary of State, an amended statement. Within ten business days after the electronic filing of the addendum to the statement or an amended statement, the Secretary of State must make the contribution and expenditure information in the addendum or amended statement available online to the public by the previously described means through the Internet. (Secs. 3517.10(D)(7) and 3517.106(E)(1), (2), and (3), (F)(1), (G)(1) and (2), and (I).)

***Additional duties of the Secretary of State regarding electronic transmissions***

***Signatures***. The bill requires the Secretary of State, by rule, to prescribe one or more techniques by which a person who executes and transmits, by electronic means, a statement of contributions and expenditures, a statement of independent expenditures, an addendum to either statement, an amended statement of contributions and expenditures, or an amended statement of independent expenditures must electronically sign the statement, addendum, or amended

statement. The techniques prescribed by the Secretary of State must create an electronic signature that satisfies all of the following (sec. 3517.106(H)(1)):

(1) It is unique to the signer.

(2) It objectively identifies the signer.

(3) It involves the use of a signature device or other means or method that is under the sole control of the signer and that cannot be readily duplicated or compromised.

(4) It is 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 signing, the electronic signature is invalidated.

The electronic signature that uses any of the techniques that the Secretary of State prescribes *must be attached to or associated with* the statement of contributions and expenditures, the statement of independent expenditures, the addendum to either statement, the amended statement of contributions and expenditures, or the amended statement of independent expenditures that is executed and transmitted by electronic means by the person to whom the electronic signature is attributed. The electronic signature that is attached to or associated with the statement, addendum, or amended statement is binding on all persons and for all purposes under the Campaign Finance Reporting Law as if the signature had been handwritten in ink on a printed form of the statement, addendum, or amended statement. (Secs. 3517.10(C)(1) and 3517.106(H)(2).)

***Methodology, etc***. The Secretary of State also must prescribe the appropriate methodology, protocol, and data file structure for the electronic transmission of statements required or permitted to be filed electronically under the bill (sec. 3517.10(C)(6)(b)).

***Acknowledgment and preservation***. The Secretary of State must prescribe, by rule, 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 the manner of preserving the contribution and expenditure information in them. The Secretary of State must preserve the contribution and expenditure information in them for at least ten years after the year in which they are electronically filed (see **COMMENT** 3). (Sec. 3517.10(D)(6).)

***Testing***. Prior to any permissive or mandatory filing of statements, etc., by electronic means of transmission under the bill, the Secretary of State must have

implemented, tested, and verified the *successful operation* of any system the Secretary of State prescribes (1) for the creation of an electronic signature, (2) as the appropriate methodology, protocol, and data file structure, and (3) for the acknowledgment and preservation of statements filed by electronic means of transmission (sec. 3517.10(A) and 3517.106(E)(1), (2), and (3), (F)(1), and (G)(1) and (2)).

***Training***. The Secretary of State is required to assess the need for training regarding (1) the electronic filing of campaign finance statements and (2) associated technologies for candidates, campaign committees, political action committees, legislative campaign funds, political parties, political contributing entities, or individuals, partnerships, or other entities *required or permitted* to file statements by electronic means of transmission. If, in the Secretary of State's opinion, training in these areas is necessary, the Secretary of State is required to arrange for the provision of training programs that candidates, campaign committees, political action committees, legislative campaign funds, political parties, political contributing entities, or individuals, partnerships, or other entities may attend on a voluntary basis (sec. 3517.10(C)(6)(c)).

***Examination of statements***

***General Assembly candidates-related examinations***. Under current law, the Secretary of State *may examine* for completeness and accuracy the campaign finance statements of candidates for the office of member of the General Assembly. The bill requires that, on and after January 1, 2000, the Secretary of State *must examine* for completeness and accuracy statements that are *electronically filed* by campaign committees of candidates for the office of member of the General Assembly (sec. 3517.11(B)(3)(a)).

***Examinations in general***. Current law also requires the Secretary of State or the board of elections to examine all campaign finance statements for compliance with the Campaign Finance Reporting Law. If a statement is found to be incomplete or inaccurate by the officer to whom it is submitted, the officer must accept the statement on a conditional basis, and the person who filed it must be notified as to the incomplete or inaccurate nature of the statement. The recipient of the notice must file an addendum to the statement providing the information necessary to complete or correct the statement. (Sec. 3517.11(B)(3) and (4).)

Under the bill, the recipient generally must file either an addendum, an amendment, or another correction to the statement. The Secretary of State may require that, in lieu of filing an addendum, amendment, or other correction to a statement that is *filed by electronic means of transmission* to the office of the Secretary of State, the recipient of the notice file by electronic means of

transmission an amended statement that incorporates the information necessary to complete or correct the statement. An addendum, amendment, or other correction to a statement that is filed by electronic means of transmission must be filed in the same manner as the statement. The bill's provisions pertaining to the electronic filing of statements of contributions and expenditures and statements of independent expenditures apply to the electronic filing of addenda, amendments, or other corrections of those statements and the electronic filing of amended statements. (Sec. 3517.11(B)(3)(a).)

Within ten business days after the filing with the Secretary of State, by electronic or other means of transmission, of an addendum, amendment, or other correction to a statement or of an amended statement, the Secretary of State must make the contribution and expenditure information in that addendum, amendment, correction, or amended statement available online to the public through the Internet (secs. 3517.106(I) and 3517.11(B)(3)(b)).

***Other changes***

The bill requires the Secretary of State to store on computer information contained in statements of independent expenditures required to be filed by individuals, partnerships, or other entities that make independent expenditures in support of or opposition to a statewide candidate or a statewide ballot issue or question, and to make available to those individuals, partnerships, and other entities, for a reasonable fee, computer programs that are compatible with the Secretary of State's method of storing on computer the information contained in the statements (sec. 3517.106(B) and (C)). (See **COMMENT** 3.)

A campaign committee of a candidate for the office of member of the General Assembly that files with the Secretary of State a statement of contributions and expenditures, an addendum to the statement, or an amended statement electronically must file with the *appropriate board of elections* a printed version of the electronically filed statement, addendum, or amended statement in the format that the Secretary of State prescribes (sec. 3517.106(F)(2)).

## COMMENT

1. The bill defines "statewide office" as 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)).

2. The bill 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)).

3. The bill requires the Secretary of State to preserve the contribution and expenditure information in campaign finance statements that are *filed electronically* for at least ten years. Generally similar to existing law, 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 bill to be stored by the Secretary of State on computer, but only for a period of "at least six years." Additionally, the bill retains current law regarding the preservation of the campaign finance statements that are filed by other than electronic means, requiring that the Secretary of State preserve those statements for "at least six years." (Secs. 3517.10(C)(6) and (D)(5) and (6) and 3517.106(B) and (D).)

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## HISTORY

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