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Bill Analysis
Legislative Service Commission

H.B. 728

123rd General Assembly
(As Introduced)

Reps. Robinson, Sullivan, Harris, Goodman, Myers, Amstutz, Terwilleger, Vesper, Gardner, Mead, Schuck, Hollister, Salerno, Tiberi, Jones, Ogg, DePiero, Allen, Barrett, Britton, Sulzer, Jerse, Sykes, Verich, Roberts, Hartnett, Ford, Perry

BILL SUMMARY

- Specifies that all loans, gifts, and other donations that are made, received, or used by a state or county political party, other than those for the purpose of constructing, renovating, or purchasing an office facility and other than moneys received from the Ohio Political Party Fund, are for the purpose of influencing the results of an election and must be included in campaign finance statements.
- Specifies that all loans, gifts, and other donations made, received, or used by a legislative campaign fund are for the purpose of influencing the results of an election and must be included in campaign finance statements.
- Specifies that all disbursements made by a state or county political party or a legislative campaign fund are expenditures and must be considered to be made for the purpose of influencing the results of an election, or as a charitable donation, and must be included in campaign finance statements.
- Requires a legislative campaign fund to file preprimary, postprimary, pregeneral, and postgeneral campaign finance statements in each even-numbered year, and permits a legislative campaign fund to file those statements in odd-numbered years.
- Removes political parties and legislative campaign funds from the list of entities that are not required to file a preprimary or pregeneral campaign finance statement if they receive contributions and make expenditures of less than \$1,000 during the reporting period.

- Prohibits state and county political parties and legislative campaign funds from failing to file a complete and accurate, required campaign finance statement.
- Provides for a fine of not more than \$100 for each day of violation for state and county political parties and legislative campaign funds that fail to file a complete and accurate, required campaign finance statement.
- Requires state and county political parties, in the first statement of contributions and expenditures they are required to file after the effective date of the bill, to include the balance on hand that the political party had on that date, and requires the Secretary of State to prescribe the manner in which that balance must be reported.

CONTENT AND OPERATION

Political party campaign finance reporting requirements

Existing law

Existing law requires political parties to file campaign finance statements at specified times (see "*Filing schedule for campaign finance statements--Existing law*," below) identifying contributions made or received, and expenditures made, in connection with the nomination or election of any candidate, or in connection with a ballot issue or question, at any election held or to be held in this state (sec. 3517.10). A "contribution" generally is defined as a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or of anything of value (including a transfer of funds from an inter vivos or testamentary trust or a decedent's estate), and the payment by any person other than the person to whom the services are rendered for the personal services of another person, *which contribution is made, received, or used for the purpose of influencing the results of an election*. An "expenditure" is defined as the disbursement or use of a contribution *for the purpose of influencing the results of an election, or of making a charitable donation*. (Sec. 3517.01(B)(5) and (6).)

An expenditure by a political party is *not considered* a contribution by the political party or an expenditure by or on behalf of a candidate or any campaign committee, and thus is not required to be reported under the Campaign Finance Law, if the purpose is (1) to inform predominantly the members of the political party of its activities or endorsements by means of mailed publications or other direct communication, (2) for voter contact, such as sample ballots, absent voter's ballots application mailings, voter registration, or get-out-the-vote activities, (3)

for the staff and maintenance of the political party's headquarters, or (4) for a political poll, survey, index, or other type of measurement not on behalf of a specific candidate (sec. 3517.08(B)(2) and (C)).

In addition to filing campaign finance statements for contributions and expenditures made, received, and used for the purpose of influencing the results of an election, state and county political parties also are required to file annual reports identifying gifts received, and the manner in which those gifts were disbursed, if those gifts are specifically designated for and used to defray costs incurred for the construction, renovation, or purchase of *an office facility* that is not used solely for the purpose of directly influencing the election of any individual candidate in any particular election for any office (sec. 3517.101--not in the bill).

Political parties are not required to report, under existing law, (1) loans, gifts, and other donations they receive that are not for the purpose of either (a) influencing the results of an election or (b) constructing, renovating, or purchasing an office facility, and (2) disbursements they make that are not for the purpose of influencing the results of an election, or of making a charitable donation.

Changes proposed by the bill

The bill specifies that any loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom services are rendered for the personal services of another person, that is made, received, or used by a state or county political party--items that would be contributions if made, received, or used for the purpose of influencing the results of an election--generally *must be considered to be made, received, or used for the purpose of influencing the results of an election*; this consideration does not apply, however, to moneys a state or county political party receives from the Ohio Political Party Fund under existing law that the bill does not affect (sec. 3517.17--not in the bill). Similarly, any disbursement or use of a contribution by a state or county political party is an expenditure and *must be considered to be made for the purpose of influencing the results of an election, or to be made as a charitable donation*. (Sec. 3517.01(B)(5) and (6).)

The bill also removes the provisions of existing law that exempt expenditures by political parties from being required to be reported on statements of contributions and expenditures if those expenditures are for any of the following purposes: (1) informing predominantly the members of the political party of its activities or endorsements by means of mailed publications or other

direct communication, (2) for voter contact, such as sample ballots, absent voter's ballots application mailings, voter registration, or get-out-the-vote activities, (3) for the staff and maintenance of the political party's headquarters, or (4) for a political poll, survey, index, or other type of measurement not on behalf of a specific candidate (sec. 3517.08(B)(2) and (C)).

Thus, loans, gifts, and other donations made, received, or used by a state or county political party, and expenditures made by a state or county political party, must be reported on a statement of contributions and expenditures, since they must be considered to be for the purpose of influencing the results of an election, or of making a charitable donation (secs. 3517.01(B)(5) and (6), 3517.08, and 3517.10). Gifts specifically designated for and used to defray costs incurred for the construction, renovation, or purchase of office facilities, however, remain excepted from the definition of "contribution" under continuing law and are not required to be included in statements of contributions and expenditures (sec. 3517.101--not in the bill).

Legislative campaign fund campaign finance reporting requirements

Existing law

Legislative campaign funds also are required to file campaign finance statements at specified times (see "**Filing schedule for campaign finance statements--Existing law**," below) identifying contributions made or received, and expenditures made, in connection with the nomination or election of any candidate, or in connection with a ballot issue or question, at any election held or to be held in this state (sec. 3517.10).¹ "Contribution" and "expenditure" are defined, for this purpose, in the same manner as for campaign finance statements filed by political parties (see "**Political party campaign finance reporting requirements--Existing law**," above). Any loan, gift, or other donation received, and any disbursement made, by a legislative campaign fund that is not for the purpose of influencing the results of an election, or of making a charitable donation, is not required to be reported under existing law.

Changes proposed by the bill

The bill specifies that any loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds or anything of value, including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and

¹ "Legislative campaign fund" means a fund that is established as an auxiliary of a state political party and associated with one of the houses of the General Assembly (sec. 3517.01(B)(15)).

the payment by any person other than the person to whom services are rendered for the personal services of another person, that is made, received, or used by a legislative campaign fund--items that would be contributions if made, received, or used for the purpose of influencing the results of an election--*must be considered to be made, received, or used for the purpose of influencing the results of an election*. Similarly, any disbursement or use of a contribution by a legislative campaign fund is an expenditure and *must be considered to be made for the purpose of influencing the results of an election, or to be made as a charitable donation*. Thus, loans, gifts, and other donations made, received, or used by a legislative campaign fund, and expenditures made by a legislative campaign fund, must be reported on a statement of contributions and expenditures, since they must be considered to be for the purpose of influencing the results of an election, or of making a charitable donation. (Secs. 3517.01(B)(5) and (6), 3517.08(G), and 3517.10.)

Filing schedule for campaign finance statements

Existing law

Generally, every political party, legislative campaign fund, and other specified entities that "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 this state" must file a full, true, and itemized statement, made under penalty of election falsification, setting forth in detail the contributions and expenditures, no later than 4 p.m. on the following dates (sec. 3517.10):

- The 12th day before the primary election, to reflect contributions received and expenditures made from the last previously filed statement to the close of business on the 20th day before the primary election (a preprimary statement);
- The 38th day after the primary election, to reflect contributions received and expenditures made from the last previously filed statement to the close of business on the seventh day before the filing of the statement (a postprimary statement);
- The 12th day before the general election, to reflect contributions received and expenditures made from the last previously filed statement to the close of business on the 20th day before the general election (a pregeneral statement);

- The 38th day after the general election, to reflect contributions received and expenditures made from the last previously filed statement to the close of business on the seventh day before the filing of the statement (a postgeneral statement);
- The last business day of January of every year, to reflect contributions received and expenditures made from the last previously filed statement to the close of business on December 31 of the previous year (an annual statement).

Political parties, legislative campaign funds, and the other specified entities that have received contributions of *less than \$1,000* and that have made expenditures of less than \$1,000 during the relevant time period are not required to file a preprimary or pregeneral statement. In that case, the contributions and expenditures that would have been included within the preprimary or pregeneral statement must be reported in the postprimary or postgeneral statement, respectively. (Sec. 3517.10(A).)

Additionally, a political party, legislative campaign fund, or other specified entity is not required to file the annual statement for any year in which it is required to file a postgeneral statement. It may opt, however, to file the annual statement in a year in which the statement is not required. Likewise, a political party, legislative campaign fund, or other specified entity is not required to file an annual statement if it has not received any contributions and has not made any expenditures since its last previously filed statement. It must, however, file a statement to the effect that it has not received any contributions or made any expenditures on the date on which the annual statement otherwise would be required to be filed. (Sec. 3517.10(A).)

Changes proposed by the bill

The bill retains existing law's campaign finance statement filing schedule set forth above and continues the provisions of the Campaign Finance Law requiring political parties, legislative campaign funds, and the other specified entities to file statements of contributions and expenditures (sec. 3517.10(A)).

But, additionally, under the bill, a *legislative campaign fund*, whether or not it makes or receives contributions or makes expenditures in any particular amount during the relevant time period, must file (1) a preprimary, (2) a postprimary, (3) a pregeneral, and (4) a postgeneral statement of contributions and expenditures in *each even-numbered year*. A legislative campaign fund may choose, although it is not required, to file those statements in odd-numbered years. (Sec. 3517.10(A).)

The bill retains the provision of existing law exempting legislative campaign funds from being required to file *annual statements* in years in which they are required to file postgeneral statements. Since the bill permits a legislative campaign fund to file a postgeneral statement in a year in which it is not required to file that statement, it appears that, under the bill, a legislative campaign fund opting to file a postgeneral statement in such a year still would be required to file an annual statement for that year. (Sec. 3517.10(A).)

Political parties and legislative campaign funds, under the bill, are required to file preprimary and pregeneral statements *regardless of whether they receive contributions and make expenditures of \$1,000 or more* during the reporting period. Campaign committees, political action committees, and political contributing entities continue to be exempted from being required to file a preprimary or pregeneral statement if they receive contributions and make expenditures of less than \$1,000 during the reporting period. As under existing law, campaign committees, political action committees, and political contributing entities that do not file a preprimary or pregeneral statement because they received contributions and made expenditures of less than \$1,000 must report any contributions received and expenditures made during that period on the postprimary or postgeneral statement, respectively. (Sec. 3517.10(A).)

Penalties

Existing law

Continuing law prohibits any person, other than a campaign committee, from *knowingly* failing to file a required campaign finance statement.² Campaign committees are not subject to the "knowingly" requirement--they are prohibited from failing to file a complete and accurate, required campaign finance statement. (Sec. 3517.13(A), (B), (C), (D), and (E).) Any person who knowingly fails to file a required campaign finance statement, and a candidate whose campaign committee, or a treasurer of a campaign committee who, fails to file a complete and accurate, required campaign finance statement must be fined not more than \$100 for each day of violation (sec. 3517.992(A)).

Changes proposed by the bill

The bill specifically prohibits any state or county political party, and any legislative campaign fund, from failing to file a complete and accurate, required campaign finance statement. Similar to a campaign committee under continuing

² "Person" includes an individual, corporation, business trust, estate, trust, partnership, and association (sec. 1.59(C))--not in the bill).

law, state and county political parties and legislative campaign funds do not have to "knowingly" fail to file a required campaign finance statement to commit a violation under the bill. (Sec. 3517.13(E)(2) and (3).) A state or county political party or legislative campaign fund that fails to file a complete and accurate, required campaign finance statement must be fined not more than \$100 for each day of violation (sec. 3517.992(B)(1) and (2)).

One-time additional filing requirement

The bill requires state and county political parties, in the first statement of contributions and expenditures they are required to file after the effective date of the bill, to include the balance on hand that the political party has on that date.³ The Secretary of State must prescribe the manner in which that balance is to be reported in the statement of contributions and expenditures. (Section 3 of the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-25-00	p. 2149

H0728-I.123/jc

³ Section 4 of the bill, which will take effect 90 days after the act is signed by the Governor and filed with the Secretary of State, specifies that Sections 1, 2, and 3 of the bill take effect December 9, 2000. The first campaign finance statement that political parties would be required to file, if they received contributions or made expenditures for the purpose of influencing the November 7, 2000, general election, is required to be filed December 15, 2000, 38 days after the general election.