



H.B. 96

124th General Assembly
(As Introduced)

Reps. R. Miller, Beatty, Sferra, Boccieri, Damschroder, Jerse, Woodard, Britton, D. Miller, Hartnett, Rhine, Flannery, Perry, Distel, Redfern, DePiero, Barrett, Fedor, Otterman, Patton

BILL SUMMARY

- Includes within the definition of "political action committee" a combination of two or more persons that engage in advertising that names or otherwise identifies a particular candidate, regardless of whether that advertising expressly calls for the election or defeat of that candidate.
- Requires specified entities, including political action committees, to file campaign finance statements regarding contributions made or received, and expenditures made, in connection with the nomination, election, or defeat of a candidate, regardless of whether advertising arising from the contributions or expenditures expressly calls for the election or defeat of that candidate.

CONTENT AND OPERATION

Existing law

Existing law requires political action committees, and specified other entities, that made or received a contribution or made an expenditure in connection with (1) the nomination or election of any candidate or (2) any ballot issue or question, at an election held or to be held in Ohio to file campaign finance statements at certain times containing certain information (sec. 3517.10). A "political action committee" is defined as a combination of two or more persons that has the primary or incidental purpose to *support or oppose* any candidate, political party, or issue, or to influence the result of any election, and that is not

one of a series of other political entities covered by the Campaign Finance Law (sec. 3517.01(B)(8)).¹

Changes proposed by the bill

Definition of "political action committee"

The bill specifies that, for purposes of the definition of a political action committee, the phrase "support or oppose" includes any form of advertising that names or otherwise identifies a particular candidate, regardless of whether that advertising expressly calls for the election or defeat of that candidate (sec. 3517.01(B)(8)). Thus, under the bill, a political action committee includes a combination of two or more persons that has the primary or incidental purpose to engage in advertising that names or otherwise identifies a particular candidate for office, whether or not that advertising uses express words to advocate the election or defeat of that candidate, and that is not any of the other political entities covered by the Campaign Finance Law. Any political action committee, as so defined, must file under that law campaign finance statements regarding the contributions it makes or receives and the expenditures it makes (see **COMMENT**).

Filing campaign finance statements "in connection with" supporting or opposing a candidate

The bill also requires all political entities that are covered by the Campaign Finance Law to file campaign finance statements regarding contributions made or received or expenditures made *in connection with* the nomination (existing law), election (existing law), or *defeat* (added by the bill) of any candidate, or in connection with any ballot issue or question, at any election held or to be held in Ohio (sec. 3517.10(A) and (E)(1)). The bill defines "in connection with" for purposes of this requirement to include any contribution made or received or expenditure made for the purpose of supporting or opposing a named or otherwise identified candidate, regardless of whether any advertising arising from the contribution or expenditure expressly calls for the election or defeat of that candidate (sec. 3517.10(F)(4)).

Thus, the bill requires any political action committee or other political entity required to file campaign finance statements to file those statements for any contributions made or received or expenditures made for the purpose of supporting or opposing a named or otherwise identified candidate (see **COMMENT**). Campaign finance statements must be filed regarding those contributions and

¹ *These entities are a political party, a campaign committee, a political contributing entity, and a legislative campaign fund.*

expenditures whether or not advertising arising from them expressly calls for the election or defeat of a candidate.

COMMENT

Because the bill regulates political speech beyond that expressly advocating the election or defeat of a particular candidate, it may be violative of and unenforceable under the First Amendment to the United States Constitution. If enacted, the bill potentially could be challenged on the following First Amendment grounds:

(1) It requires campaign finance statements to be filed for advertising that reaches beyond the express words advocating election or defeat recognized by the United States Supreme Court in *Buckley v. Valeo*, 424 U.S. 1 (1976).

(2) What constitutes "advertising" may be unclear so that individuals or entities might restrict their speech beyond what is necessary to avoid the filing of campaign finance statements.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-15-01	p. 165

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