



Lynda Jacobsen

Bill Analysis
Legislative Service Commission

S.B. 185

124th General Assembly
(As Introduced)

Sens. Mallory, Brady, DiDonato, Fingerhut, Herington, Ryan

BILL SUMMARY

- Permits complaints to be filed with the Ohio Elections Commission 24 hours per day, seven days per week, from the Friday preceding an election through the day of that election.
- Requires the full-time attorney for the Ohio Elections Commission to conduct a more expedited review of complaints filed during that time period.
- Requires the Ohio Elections Commission to conduct a more expedited probable cause hearing on complaints that are filed during that time period and that set forth an alleged violation of the prohibitions against making false statements in the course of campaigning.

CONTENT AND OPERATION

Filing of complaints with the Ohio Elections Commission

Existing law requires the Ohio Elections Commission to accept complaints and to conduct hearings regarding alleged violations of the Campaign Finance Law. The Secretary of State, an official at a board of elections, or another person by an affidavit based on personal knowledge may file a complaint with the Commission alleging such a violation (sec. 3517.153(A)). No prosecution for a violation of the Campaign Finance Law may commence unless a complaint has been filed with the Commission and all proceedings of the Commission or, in certain circumstances, a panel of the Commission are completed (sec. 3517.153(C)).

The Commission must prescribe the form for complaints, and the Secretary of State and boards of elections must furnish the information that the Commission requests. The Commission, or a member of the Commission, may administer

oaths, and the Commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. If any person refuses to obey a subpoena or to be sworn or to answer as a witness, the Commission may apply to the Court of Common Pleas of Franklin County. The Court then must hold contempt proceedings regarding that person. (Sec. 3517.153(B).)

The bill retains all of these procedures for the filing of complaints. It additionally specifies that, beginning the Friday immediately preceding a primary, special, or general election, and ending on the day of that election, complaints may be filed with the Commission on a 24 hours-per-day, seven-days-per-week basis (sec. 3517.153(E)). Thus, the Commission will have to have a procedure in place, or a person available, from the Friday before an election to the day of an election for the acceptance of complaints filed for alleged violations of the Campaign Finance Law.

Review and determination of the nature of complaints

Once a complaint is filed, the full-time attorney for the Commission must do all of the following: (1) review the complaint, (2) determine its nature, and (3) make a recommendation to the Commission for its disposition, unless it is required to receive an automatic expedited hearing. The attorney must make the determination and, if required, the recommendation not later than one business day after the complaint is filed. (Sec. 3517.154(A)(1).)

The bill retains this one-business-day timing for the making of a determination and recommendation, except for complaints filed during the period beginning on the Friday before an election and ending on the day of that election. For complaints filed during that period, the attorney must make the determination and, if required, the recommendation not later than 12 hours after the complaint is filed. (Sec. 3517.154(A)(1).)

Expedited hearing procedures

If the Commission's full-time attorney determines that a complaint sets forth a violation of certain provisions of the Campaign Finance Law and, generally, that it was filed within the specified time periods (see below), the complaint *must* receive an automatic expedited hearing. The attorney also *may recommend* that other complaints filed within the specified time periods receive an expedited hearing--but, in certain cases, only if specified criteria are considered in making the recommendation--or the person or entity filing a complaint within the specified time periods *may request* an expedited hearing. Recommendations, in certain cases, must result in the complaint receiving an expedited hearing and, in other cases, may result in the Commission granting an expedited hearing; in the

case of "requested" expedited hearings, the Commission must determine that an expedited hearing is practicable before it grants the hearing. (Sec. 3517.154(A)(2) and (3) and (B).)

If a complaint is to receive an expedited hearing, a panel of at least three members of the Commission must hold a hearing on it to determine whether there is probable cause to refer the matter to the full Commission for a hearing. Not more than half of the members of a panel may be affiliated with the same political party. The Commission's chairperson must call for the selection of a panel, as needed, and must select the members of the panel by lot. (Sec. 3517.156(A).)

A panel generally must hold one expedited hearing on such a complaint. If the complaint is filed on or after the 60th day before a primary or special election, or on or after the 90th day before a general election, but not later than the day of the election to which the complaint relates, the hearing must be held not later than two business days after the determination of the nature of the complaint.¹ If, however, the panel has good cause to hold the hearing after that time, it may do so not later than seven business days after the determination is made. All members of the panel must be present before any official action may be taken, and a majority vote of the panel is required for any official action. (Sec. 3517.156(B)(1).)

The bill retains these procedures for conducting expedited hearings, except, with respect to specified complaints filed during the period beginning on the Friday before an election and ending on the day of that election. If a complaint filed during that time period sets forth a violation of either of the following, an expedited hearing on the complaint must be held not later than 24 hours after the determination of its nature (sec. 3517.156(B)(1)):

- The prohibition against making a false statement concerning certain topics in the course of a campaign for nomination or election to public office or political party office (sec. 3517.21(B)--not in the bill);
- The prohibition against falsely identifying the source of a statement or publishing or distributing a false statement in the course of a campaign in advocacy of or in opposition to the adoption of a ballot proposition or issue (sec. 3517.22(B)--not in the bill).

¹ *The two time periods referred to in this sentence are the "specified time periods" mentioned in the first paragraph of this portion of the analysis.*

Complaints that are filed during the time period beginning on the Friday before an election and ending on the day of the election and that *do not set forth* a violation of one of these prohibitions will be heard according to the hearing schedule in existing law. Other than changing the time within which certain expedited hearings must be conducted, the bill does not otherwise change existing law's hearing procedures.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-25-01	p. 1009

s0185-i.124/kl