



Am. S.B. 119*

126th General Assembly

(As Reported by S. State & Local Government & Veterans Affairs)

Sens. Hagan, Jacobson, Harris, Spada, Coughlin, Mumper, Cates, Carey, Padgett, Amstutz, Jordan, Zurz, Fingerhut, Dann, Miller

BILL SUMMARY

- Prohibits county elected officers, candidates for county elective offices, campaign committees of these officers or candidates, and others from accepting contributions from certain county employees.
- Prohibits municipal and township elected officers, candidates for those offices, their campaign committees, and others from knowingly soliciting or accepting contributions from specified municipal and township employees.

CONTENT AND OPERATION

Current law

Under current law, *state* elected officers, candidates for state elected offices, and their respective campaign committees, as well as other persons or entities, are prohibited from knowingly *soliciting* or *accepting* contributions on behalf of those individuals or their committees from specified state employees. The prohibitions apply to the contributions of (1) any state employee whose appointing authority (commonly, the state employer) is or will be the state elected officer or someone who is appointed by that officer and (2) any state employee who "functions or will function in" or "is or will be employed in or by" the same public agency, department, division, or office as the state elected officer. (Sec. 3517.092(B) and (C).)

* *This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

The prohibitions in current law pertaining to *county* elected officers, candidates for county elective offices, their campaign committees, and other persons and entities are similar in prohibiting the *solicitation* (knowingly) of contributions from specified county employees. But, no prohibition against *accepting* contributions applies to county elected officers, candidates for county elective offices, their campaign committees, and others. (Sec. 3517.092(D) and (E).)

Whoever solicits a contribution in violation of these prohibitions (state or county-related) is guilty of a misdemeanor of the first degree (sec. 3517.992(M)(1)). A *state* elected officer, candidate for state elective office, or associated campaign committee, etc. who *knowingly accepts* a contribution violating the prohibitions must be fined an amount equal to three times the amount accepted and must return to the contributor the amount accepted. A state elected officer, candidate for state elective office, associated campaign committee, etc. who *unknowingly accepts* a contribution violating the prohibitions must return to the contributor the amount accepted. (Sec. 3517.992(M)(2).)

Changes proposed by the bill

Counties

The bill generally makes the county-related provisions identical in scope to the current provisions for state elected officers, candidates for state elective offices, their campaign committees, etc.¹ Accordingly, county elected officers, candidates for county elective offices, and their campaign committees, as well as certain other persons and entities, are prohibited from knowingly soliciting or *accepting* campaign contributions from specified county employees.² (Sec. 3517.092(C).)

The bill, however, changes one existing category of county employees from whom contributions may not be knowingly solicited or accepted. Under current law, this type of county employee is one whose appointing authority is authorized or required by law to be appointed by a *county elected officer*. The bill changes this category to prohibit a county elected officer, his or her campaign committee, and other persons or entities on the officer's or the officer's campaign committee's behalf from knowingly soliciting or accepting contributions from a county

¹ *The state-related provisions are in divisions (B)(1) and (2) of section 3517.092 under the bill.*

² *The county-related provisions are in divisions (C)(1) and (2) of section 3517.092 under the bill.*

employee whose appointing authority is authorized or required by law to be appointed *solely* by the county elected officer.³ (Sec. 3517.092(C)(1)(b).)

The penalties for violations of the bill's revised county-related prohibitions are identical to those in existing law for state elected officers, candidates for state elective offices, and their associated campaign committees (sec. 3517.992(M)).

Municipal corporations and townships

The bill enacts identical solicitation and acceptance of campaign contribution prohibitions for municipal (see **COMMENT**) and township elected officers, candidates for those offices, their campaign committees, and any other person or entity acting on behalf of those individuals or their committees, with respect to municipal and township employees meeting the same criteria as those specified for county employees.⁴ The bill also applies the same penalties to violations of the municipal- and township-related prohibitions as apply to the violations of the state- and county-related prohibitions. (Secs. 3517.092(D) and (E) and 3517.992(M).)

The bill defines a "township elective office" as any of the offices of member of a board of township trustees and township clerk and a "township elected officer" as any person appointed or elected to a township elective office. A "municipal elected officer," under the bill, is any person appointed or elected to a municipal elective office, and a "municipal elective office" is defined as any office of a municipal corporation to which persons are generally elected, notwithstanding the fact that a particular holder of that office may be appointed. (Sec. 3517.092(A)(7), (8), (9), and (10).)

COMMENT

Because municipal elections have long been held to be a matter of local self-government, it is possible that a court might find the bill's provisions, insofar as they apply to *municipal* elected officers, candidates for municipal elective offices, their campaign committees, etc., to infringe upon a municipal corporation's home rule authority granted by the Ohio Constitution. *Fitzgerald v.*

³ *The bill does not amend the corresponding category of county employees in section 3517.092(C)(2)(b)--county employees at the time of a solicitation whose appointing authority will be appointed by a candidate for a county elective office, if elected, as authorized or required by law.*

⁴ *The municipal corporation-related provisions are in divisions (D)(1) and (2) of section 3517.092. The township-related provisions are in divisions (E)(1) and (2) of that section.*

Cleveland (1913), 88 Ohio St. 338 and *State ex rel. Schorr v. Viner* (1928), 119 Ohio St. 303.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-05-05	p. 364
Reported, S. State & Local Gov't & Veterans Affairs	---	---

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