



Ohio Legislative Service Commission

Final Analysis

Greg Schwab

Sub. H.B. 326

129th General Assembly
(As Passed by the General Assembly)

Reps. McClain and Hill, Huffman, Grossman, C. Hagan, Martin, Thompson, Stebelton, Derickson, J. Adams, R. Adams, Blair, Ruhl, Sears, Young, Dovilla, Hayes, Maag, Combs, Carney, Winburn, Garland, Pillich, Bubb, Conditt, Weddington, Slaby, Anielski, Beck, Damschroder, Hackett, Hall, Lundy, Newbold, O'Brien, Phillips, Terhar, Uecker, Batchelder

Sens. LaRose, Eklund, Bacon, Balderson, Burke, Hite, Hughes, Jones, Jordan, Manning, Obhof, Patton, Peterson, Schaffer, Wagoner, Widener

Effective date: September 5, 2012

ACT SUMMARY

- Subject to the exceptions described in the next two dot points, prohibits any person from knowingly conducting any transaction of public funds to the benefit of any campaign committee, political action committee, legislative campaign fund, political party, campaign fund, political committee, separate segregated fund, or candidate.
- Provides an exception to the prohibition described in the preceding dot point for a board of alcohol, drug addiction, and mental health services when it recruits and promotes local financial support for mental health programs or for alcohol and drug addiction programs from public and private sources.
- Provides that the prohibition described in the first dot point does not prohibit the utilization of a person's own time to speak for or against a candidate, recall, referendum, levy, or bond issue unless prohibited by another Revised Code section.
- Provides that a violation of the prohibition described in the first dot point is a first degree misdemeanor.

CONTENT AND OPERATION

Operation of the act

Prohibition and penalty

Subject to the exceptions described below in "**Exceptions to prohibition**," the act prohibits any person from knowingly conducting a direct or indirect "transaction" of public funds to the benefit of any of the following: (1) a "campaign committee," (2) a "political action committee," (3) a "legislative campaign fund," (4) a "political party," (5) a "campaign fund," (6) a "political committee," (7) a "separate segregated fund," or (8) a "candidate" (see "**Definitions**," below, for definitions of the terms in quotation marks).¹

A violation of the prohibition is a first degree misdemeanor.²

Exceptions to prohibition

The act provides two exceptions to the prohibition created by the act. The first exception specifies that the prohibition does not apply to a board of alcohol, drug addiction, and mental health services when the board recruits and promotes local financial support for mental health programs or alcohol and drug addiction programs from public and private sources. The second exception specifies that the prohibition does not prohibit the utilization of any person's own time to speak in support of or in opposition to any candidate, recall, referendum, levy, or bond issue unless prohibited by any other Revised Code section.³

Definitions

As used in the act's provisions:

"Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate under section 3517.081 of the Revised Code to receive contributions and make expenditures.⁴

¹ R.C. 9.03(D).

² R.C. 9.03(G) and 3599.40.

³ R.C. 9.03(E).

⁴ R.C. 9.03(A), by reference to R.C. 3517.01, not in the act.

"Campaign fund" means money or other property, including contributions.⁵

"Candidate" means any of the following: (1) any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, or any qualified person who claims to be a write-in candidate, or who knowingly assents to being represented as a write-in candidate by another at either a primary, general, or special election to be held in this state, and (2) any person who, at any time before or after an election, receives contributions or makes expenditures or other use of contributions, has given consent for another to receive contributions or make expenditures or other use of contributions, or appoints a campaign treasurer, for the purpose of bringing about the person's nomination or election to public office. When two persons jointly seek the offices of Governor and Lieutenant Governor, "candidate" means the pair of candidates jointly. "Candidate" does not include candidates for election to the offices of member of a county or state central committee, presidential elector, and delegate to a national convention or conference of a political party.⁶

"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.⁷

"Political action committee" means a combination of two or more persons, the primary or major purpose of which is to support or oppose any candidate, political party, or issue, or to influence the result of any election through express advocacy, and that is not a political party, a campaign committee, a political contributing entity, or a legislative campaign fund. "Political action committee" does not include either of the following: (1) a continuing association that makes disbursements for the direct costs of producing or airing electioneering communications and that does not engage in express advocacy, or (2) a political club that is formed primarily for social purposes and that consists of 100 members or less, has officers and periodic meetings, has less than \$2,500 in its treasury at all times, and makes an aggregate total contribution of \$1,000 or less per calendar year.⁸

"Political committee" means any of the following: (1) any committee, club, association, or other group of persons that receives contributions aggregating in excess of \$1,000 during a calendar year or that makes expenditures aggregating in excess of

⁵ R.C. 9.03(A), by reference to R.C. 3517.01, not in the act.

⁶ R.C. 9.03(A), by reference to R.C. 3517.01 and 3501.01, not in the act.

⁷ R.C. 9.03(A), by reference to R.C. 3517.01, not in the act.

⁸ R.C. 9.03(A), by reference to R.C. 3517.01, not in the act.

\$1,000 during a calendar year, (2) any separate segregated fund, or (3) any state, county, or local committee of a political party that receives contributions aggregating in excess of \$5,000 during a calendar year, makes payments that do not constitute contributions or expenditures aggregating in excess of \$5,000 during a calendar year, or makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year.⁹

"Political party" is any group of voters that, at the most recent regular state election, polled for its candidate for Governor in the state or nominees for presidential electors at least 5% of the entire vote cast for that office or that filed with the Secretary of State, subsequent to any election in which it received less than 5% of that vote, a petition signed by qualified electors equal in number to at least 1% of the total vote for Governor or nominees for presidential electors at the most recent election, declaring their intention of organizing a political party, the name of which must be stated in the declaration, and of participating in the succeeding primary election, held in even-numbered years, that occurs more than 120 days after the date of filing. No such group of electors may assume a name or designation that is similar, in the opinion of the Secretary of State, to that of an existing political party as to confuse or mislead the voters at an election. If any political party fails to cast 5% of the total vote cast at an election for the office of Governor or President, it ceases to be a political party.¹⁰

"Separate segregated fund" means a separate segregated fund established pursuant to the Federal Election Campaign Act.¹¹

"Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase or sale of a payment instrument, use of a safe deposit box, or any other acquisition or disposition of property. As used in the definition of "transaction," **"payment instrument"** means a check, draft, money order, travelers check, or other instrument or order for the transmission or payment of money, sold to one or more persons, whether or not that instrument or order is negotiable. **"Payment instrument"** does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. As used in the definition of "payment instrument": **"money"** means a medium of exchange that is authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance; **"property"** means anything of

⁹ R.C. 9.03(A), by reference to R.C. 3517.01 and 3517.1011, not in the act.

¹⁰ R.C. 9.03(A), by reference to R.C. 3517.01, not in the act.

¹¹ R.C. 9.03(A), by reference to R.C. 3517.01, not in the act.

value and includes an interest in property, including a benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible; and "travelers check" means an instrument identified as a travelers check on its face or commonly recognized as a travelers check and issued in a money multiple of United States or foreign currency with a provision for a specimen signature of the purchaser to be completed at the time of purchase and a countersignature of the purchaser to be completed at the time of negotiation.¹²

HISTORY

ACTION	DATE
Introduced	09-20-11
Reported, H. Criminal Justice	09-29-11
Passed House (90-2)	12-06-11
Reported, S. Judiciary	05-09-12
Passed Senate (33-0)	05-15-12
House concurred in Senate amendments (97-1)	05-22-12

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¹² R.C. 9.03(A), by reference to R.C. 1315.51, not in the act.

