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## OHIO ELECTIONS COMMISSION

### Creation of Ohio Election Integrity Commission

- Abolishes the Ohio Elections Commission (ELC) on January 1, 2026, and replaces it with the Ohio Election Integrity Commission (OEIC) in the Office of the Secretary of State (SOS).
- Requires the ELC to continue to operate under the current law between the bill's effective date and January 1.
- Transfers any complaint that is still pending before the ELC on January 1 to the SOS.

### Commission structure and organization

- Specifies that the OEIC consists of five members, with one appointed by each of the SOS, the Speaker of the House, the House Minority Leader, the Senate President, and the Senate Minority Leader.
- Requires that, in addition to meeting the current qualifications of ELC members, the members of the OEIC meet certain education or experience requirements.
- Requires members of the OEIC to serve four-year terms, with members limited to two successive terms.
- Compensates members of the OEIC at the rate of \$5,000 per year plus reimbursement for expenses.
- Creates a process for the appointing authorities to remove a member of the OEIC for cause by filing a complaint with the Ohio Supreme Court.
- Transfers the ELC's current staff to the SOS and requires the SOS to provide staff to the OEIC, provided that the OEIC may request counsel from the Attorney General (AG).

### Commission jurisdiction

- Gives the OEIC the same jurisdiction as the ELC, plus new jurisdiction over certain violations of the Election Law related to election petitions, voter registration, and voting.
- Clarifies that for enforcement purposes, the Campaign Finance Law includes the laws governing campaign practices by candidates for the governing boards of Ohio's five public employee retirement systems.

### Advisory opinions

- Transfers the ELC's authority to render advisory opinions to the OEIC and makes the ELC's existing advisory opinions into OEIC opinions, unless and until the OEIC amends or rescinds them.

### Complaint and hearing process

- Retains the current requirements for filing a complaint, but requires complaints to be filed with the SOS instead of the OEIC.

- Requires an attorney appointed by the SOS to review each complaint.
- Allows the SOS either to dismiss the complaint or refer it to a hearing officer who is an attorney.
- Requires the SOS to review the hearing officer's report and recommendations and to either request a further investigation and a revised recommendation or to make a finding and, if applicable, impose a penalty or refer the matter for prosecution.
- Specifies that, if the subject of the complaint objects to the SOS's finding, the SOS instead must refer the matter to the OEIC for rehearing.
- Prescribes procedures to follow if the SOS has a conflict of interest regarding a complaint, requiring the AG to appoint an independent hearing officer and to determine how to dispose of the complaint.
- Requires the OEIC, when hearing an appeal, to appoint an attorney to conduct a new hearing and make a recommendation to the OEIC.
- Allows the SOS and OEIC to administer oaths, subpoena witnesses and documents, and hire investigatory attorneys in fulfilling their duties under the bill.
- Requires all hearings to be conducted according to the Administrative Procedure Act (APA).
- Retains the current standards of proof that must be met for a person to be penalized for a violation.
- Modifies the potential findings and penalties the SOS or the OEIC may impose, including a new maximum civil fine of \$1,000 per violation and a standard to determine whether the matter should be referred for prosecution.
- Requires the SOS to certify past due administrative fines to the AG for collection.
- Clarifies that the criminal penalty for any violation is the penalty that was in effect at the time the violation occurred.
- Requires any appeal of the OEIC's decision to be filed with the court of common pleas of the appealing party's home county or the Franklin County Court of Common Pleas, the same as other appeals under the APA.
- Generally retains the current standard for determining the appropriate prosecutor to whom a matter may be referred.
- Requires the OEIC to post all advisory opinions and decisions on the OEIC's website.

### **Commission funding**

- Replaces the Ohio Elections Commission Fund with the Ohio Election Integrity Fund administered by the SOS and gives it the same funding sources as the current ELC Fund.

## **Other transitional provisions**

- Makes the OEIC the ELC's successor for all purposes.

## **Campaign finance changes**

### **Political contributing entities**

- Eliminates prohibitions against corporations and labor organizations making independent expenditures, as those prohibitions have been ruled unconstitutional.
- Expands and clarifies the definition of a political contributing entity (PCE) to include any entity that makes contributions or expenditures and that is not an individual, a campaign committee, a political party, a legislative campaign fund (LCF), or a political action committee (PAC).
- Subjects certain entities that currently are not considered a PCE or another regulated political entity, such as corporations and continuing associations, to continuing law campaign finance requirements.
- Eliminates dollar contribution limits on contributions to a PAC or PCE that makes only independent expenditures.
- Adds new prohibitions designed to prevent corporate money from reaching a candidate political party, or LCF indirectly.
- Changes the definition of an independent expenditure to include any use of funds or anything of value for that purpose, meaning that a PCE that uses its own money instead of contributions to fund an independent expenditure must report the expenditure.
- Clarifies that "independent expenditure" refers to expenditures concerning both candidates and ballot issues.
- Requires corporations and labor organizations to report all expenditures in the same manner as other PCEs.
- Allows an unincorporated PCE, such as a partnership or limited liability company, to choose whether to be treated as a PCE or to continue to make contributions in the names of its partners, owners, or members as under current law.
- Makes clear that all PCEs must comply with the continuing law that requires entities that engage in political advertising to report the expenditure and to identify themselves in the advertisement as the funding source.

### **Campaign spending by foreign nationals**

- Eliminates a provision of law that prohibits a lawful permanent U.S. resident who is not a U.S. citizen or national (a green card holder) from making campaign contributions, expenditures, and independent expenditures with respect to state and local candidates.

## **Technical changes to the Campaign Finance Law**

- Makes several technical changes to sections of the Campaign Finance Law that are amended for other purposes.

## **Creation of Ohio Election Integrity Commission**

(R.C. 3501.05, 3501.11, 3513.10, 3517.01, 3517.102, 3517.109, 3517.1012, 3517.152 (3517.14), 3517.153 (3517.15), 3517.154 (3517.16), 3517.155 (3517.17), 3517.157 (3517.18), 3517.993 (3517.171), 3517.992 (3517.99), and 3517.991 (reenacted); Section 525.50; repeal of R.C. 3517.14, 3517.151, 3517.156, 3517.99, and 3517.991; and conforming changes in R.C. 109.02, 145.055, 145.99, 742.043, 742.044, 742.99, 3307.073, 3307.074, 3307.99, 3309.073, 3309.074, 3309.99, 3513.05, 3513.261, 3517.08, 3517.081, 3517.11, 3517.121, 3517.20, 3517.21, 3517.22, 3517.23, 5505.045, 5505.046, and 5505.99)

The bill abolishes the Ohio Elections Commission (ELC) on January 1, 2026, and replaces it with the Ohio Election Integrity Commission (OEIC), which the bill creates within the Office of the Secretary of State (SOS).

Currently, the ELC is responsible for enforcing Ohio's Campaign Finance Law with respect to state and local elections. In almost all cases involving a violation of that law, the ELC must hear an administrative complaint before a criminal case can be brought in court. For example, these complaints might include an alleged failure to file a complete, accurate, or timely statement of political contributions and expenditures; failure to disclose the source of political advertising; or failure to comply with dollar limits on contributions. If the ELC determines that a violation has occurred, it can impose a civil fine or refer the matter for criminal prosecution. The ELC also issues advisory opinions that interpret the Campaign Finance Law and may recommend legislation.

The bill replaces the ELC with the OEIC, which generally must fulfill the same duties as the ELC. However, under the bill, the OEIC acts more as an appellate body. All complaints must be filed with the SOS, and the SOS is responsible for disposing of the complaint. The OEIC hears a matter only if the person who is the subject of the complaint objects to the SOS's decision.

Between the bill's standard 90-day effective date and January 1, the ELC must continue to operate under the current law. Any complaint that is still pending before the ELC on January 1, along with all records regarding the complaint, is transferred to the SOS.

## **Commission structure and organization**

### **Membership**

Under the bill, the OEIC consists of five members, with one member appointed by each of the following: the SOS, the House Speaker, the House Minority Leader, the Senate President, and the Senate Minority Leader. The member appointed by the SOS is the chairperson. Four of five members constitutes a quorum to do business, and most actions require a simple majority vote of three members.

The existing ELC consists of seven members, with six members appointed by the Governor with the advice and consent of the Senate (three Republicans and three Democrats), and the

seventh member, an independent, appointed by the partisan members of the ELC. The ELC also has three alternate members – one Republican, one Democrat, and one independent – who are appointed in the same manner as the regular members. When a regular member of the ELC is recused from hearing a complaint or is otherwise unavailable, the alternate of the appropriate affiliation takes the member's place. In making appointments to the ELC, the Governor is required to take into consideration the various geographic areas of Ohio so that those areas are represented on the ELC in a balanced manner, to the extent feasible. The members elect a chairperson and a vice-chairperson annually, with the chair's party affiliation switching every year. Five of seven members constitute a quorum, and most actions require a simple majority vote of four members.

### **Qualifications**

The bill requires that each member of the OEIC be a registered elector. The chairperson must be an attorney in good standing before the Ohio Supreme Court or a person with at least four years of work experience in election administration. The legislatively appointed members of the OEIC must be one of the following:

- An attorney in good standing before the Ohio Supreme Court;
- A person with at least four years of work experience in election administration;
- A person who has appeared on the ballot at a general election as a candidate for election to an office. (This would not include political party offices, the office of delegate to a party convention, or presidential elector.)

Members of the current ELC, including alternates, must be registered electors of good moral character but they are not required to have any particular education or experience.

The bill retains the existing restriction that commission members must not do or be any of the following:

- Hold, or be a candidate for, a public office;
- Serve on a committee supporting or opposing a candidate or ballot question or issue;
- Be an officer of a state or local political party;
- Be a legislative or executive agency lobbyist;
- Make a campaign contribution;
- Solicit, or be involved in soliciting, campaign contributions;
- Be in the unclassified service of the state or local government (this category includes most politically- or policy-oriented jobs, such as an appointed department head, as well as legislative employees);<sup>76</sup>

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<sup>76</sup> R.C. 124.11, not in the bill.

- Be a public officer or employee who is excluded from being considered a public employee for collective bargaining purposes, such as a supervisor, manager, or judicial employee.<sup>77</sup>

### **Terms of office**

The bill sets the terms of OEIC members at four years, with members being limited to two successive terms, according to the same standards that apply to other term-limited state offices. However, for the terms beginning January 1, 2026, the members appointed by the House Speaker and the Senate Minority Leader serve for two years instead of four, and those terms are counted as full terms for purposes of the term limits. The initial short terms ensure that going forward, two or three members' terms expire on December 31 of each odd-numbered year.

Currently, ELC members serve five-year terms and are limited to one term unless the terms are nonconsecutive.

### **Compensation**

The bill requires OEIC members to receive a salary of \$5,000 per year, plus reimbursement for their actual and necessary expenses incurred in performing their official duties. Currently, members of the ELC are paid \$25,000 per year, while alternates receive \$125 per day served. Both members and alternates are also reimbursed for their actual and necessary expenses.

### **Removal**

Under the bill, the SOS, the House Speaker or Minority Leader, or the Senate President or Minority Leader may file a complaint in the Ohio Supreme Court, seeking the removal of an OEIC member on any of the following grounds:

- That the member does not meet the statutory qualifications or has taken a prohibited action (see "**Qualifications**," above);
- That the member has been absent from three or more meetings in a calendar year (currently, five ELC members may vote to remove a member for that reason);
- That the member is guilty of misconduct in office, as provided under the general laws allowing the removal of a public official upon complaint and hearing.

The Court must hear the complaint on an expedited basis. If the Court determines that the charges in the complaint are true, the Court must order the member removed from the OEIC, and the seat is considered vacant. Under continuing law, vacancies are to be filled in the same manner as the original appointment.

The current law governing the ELC does not provide any special method of removal, other than the provision allowing the ELC to remove one of its members for failing to attend meetings. Continuing law allows the Governor to remove or suspend an officer who is appointed by the Governor with the advice and consent of the Senate (as in the case of a partisan member of the

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<sup>77</sup> R.C. 4117.01, not in the bill.

ELC) for certain listed causes. That law would not apply to the OEIC because its members are not appointed by the Governor.

Under continuing law, any public official may be removed for misconduct upon the filing of a complaint in the court of common pleas of the county in which the official resides, accompanied by a petition signed by 15% of the electors. The court then must follow a statutory process to determine whether the official is guilty of misconduct. Additionally, the General Assembly can remove a public official by impeachment.<sup>78</sup>

### **Commission staff**

The bill requires the SOS to provide the necessary staff for the OEIC. Currently, the ELC hires its own staff by a vote of five of seven members and may terminate an employee by a majority vote. Under the bill, the ELC's existing staff are transferred to the SOS as of January 1.

The bill requires the Attorney General (AG) to provide legal counsel to the OEIC upon request. Currently, the ELC employs its own full-time attorney and may hire additional investigatory attorneys.

### **Commission jurisdiction**

The bill gives the OEIC expanded jurisdiction compared to the current ELC. The OEIC retains the ELC's current jurisdiction over violations of the Campaign Finance Law, except that under continuing law, the AG has exclusive jurisdiction to investigate and prosecute any violation of the law against campaign spending by foreign nationals. The bill also gives the OEIC jurisdiction over all of the following:

- Offenses related to election petitions;<sup>79</sup>
- Offenses involving absent voter's ballots;<sup>80</sup>
- Offenses involving false voter registration;<sup>81</sup>
- Voting or attempting to vote when not qualified to do so;<sup>82</sup>
- Voting or attempting to vote more than once in the same election.<sup>83</sup>

Other violations of the Election Law, such as offenses involving tampering with election results, still must be referred directly to a prosecutor.

The bill also clarifies in several provisions of law that for enforcement purposes, the Campaign Finance Law includes the laws governing campaign practices by candidates for the

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<sup>78</sup> R.C. 3.04 and 3.07 through 3.10, not in the bill, and Ohio Constitution, Article II, Sections 23 and 24.

<sup>79</sup> R.C. 3599.13 and 3599.14, not in the bill.

<sup>80</sup> R.C. 3599.21, not in the bill.

<sup>81</sup> R.C. 3599.11(A), not in the bill.

<sup>82</sup> R.C. 3599.12(A)(1), not in the bill.

<sup>83</sup> R.C. 3599.12(A)(2), not in the bill.

governing boards of Ohio's five public employee retirement systems. Those laws are not located in R.C. Chapter 3517, but they do currently fall within the ELC's purview.

### **False campaign statements**

Until 2016, many of the complaints the ELC heard were for violations of Ohio's law that prohibits making false campaign statements about a candidate or ballot issue. That year, however, in *Susan B. Anthony List v. Driehaus*, a federal appeals court overturned the law under the First Amendment, partly based on flaws the court identified in the ELC's process for enforcing the law, and partly based on other aspects of the law that the bill does not change. Because the bill retains the existing law against false campaign statements while replacing the ELC process, it is not clear under the bill whether the SOS or the OEIC might resume enforcing the law. If the SOS or the OEIC did so, a reviewing court might consider whether the bill's new procedures sufficiently address the problems identified in *Susan B. Anthony List*, such that Ohio can enforce the law again.<sup>84</sup>

### **Advisory opinions**

The bill transfers the ELC's authority to render advisory opinions to the OEIC. The OEIC may render opinions interpreting any law over which it has jurisdiction – note the expansion of jurisdiction as discussed above. Any ELC advisory opinion in effect as of the bill's effective date is considered an advisory opinion of the OEIC, unless and until the OEIC amends or rescinds it. Under continuing law, when an advisory opinion determines that a particular action or set of circumstances would not violate the law, any person in that situation may reasonably rely on the opinion and is immune from criminal prosecution or any civil action, including removal from office, based on facts and circumstances covered by the opinion.

### **Complaint and hearing process**

#### **Filing complaints**

The bill generally retains the current requirements for filing a complaint, except that it must be filed with the SOS instead of the OEIC. No prosecution may commence for a violation of a law over which the OEIC has jurisdiction unless an administrative complaint has been filed and all administrative proceedings are completed. A person must have personal knowledge of a failure to comply with the law in order to file a complaint, except when the SOS or an official at a board of elections files the complaint. The complaint must be on a form prescribed by the SOS and signed under penalty of perjury.

Continuing law requires a complaint to be filed within two years after the occurrence of the violation, except that if the violation involves fraud, concealment, or misrepresentation and was not discovered during that two-year period, a complaint may be filed within one year after the violation is discovered. A person who files a complaint may withdraw it at any time.

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<sup>84</sup> *Susan B. Anthony List v. Driehaus*, 814 F.3d 466, 473 (6<sup>th</sup> Cir. 2016).

## **Initial hearing by SOS**

Similar to current law, the bill requires the SOS to appoint an attorney licensed in Ohio to review each complaint filed with the SOS. Current law requires the ELC's attorney to review a complaint and make a recommendation for its disposition within one business day after the complaint is filed. The bill does not impose such a deadline for initial review.

Under continuing law, the attorney reviewing a complaint may join two or more complaints that are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. The attorney also may separate a complaint into multiple complaints if the allegations are not of the same or similar character, are not based on the same act or failure to act, or are not based on two or more acts or failures to act constituting parts of a common scheme or plan.

After the initial review, the bill allows the SOS either to dismiss the complaint or refer it for a hearing conducted by a hearing officer appointed by the SOS, who also must be a licensed attorney. The SOS must dismiss the complaint if it does not allege a violation over which the OEIC has jurisdiction or if the filer lacks the required personal knowledge of the violation. A dismissal is without prejudice, meaning that it can be re-filed, except that after a complaint is dismissed for lack of personal knowledge, if the same person files another complaint alleging the same or a substantially similar violation and the complaint still is not based on personal knowledge, the SOS must dismiss the complaint with prejudice.

Currently, the ELC or a panel of the ELC has the authority to dismiss a complaint, but it appears that any complaint that meets the formal requirements is guaranteed at least one hearing, at which the ELC or a panel may dismiss it.

If the SOS refers the complaint for a hearing under the bill, the hearing officer must notify the person who is the subject of the complaint (the person alleged to have violated the law) and give the person an opportunity for a hearing. After holding any hearing, the hearing officer must draft a report and recommend a disposition. The SOS must review the report and recommendation and either (1) refer the matter back to the hearing officer for further investigation and a revised recommendation, or (2) make a finding and, if applicable, impose a fine or refer the matter for prosecution (see "**Penalties for violations**," below).

When the SOS makes a decision, the SOS must send notice to the subject of the complaint by certified mail. The subject of the complaint then has 14 days to object to the SOS's decision. If the subject does not object, the SOS's decision is final. If the subject objects, any penalty imposed by the SOS does not apply, and the SOS must refer the matter to the OEIC, as described below.

### ***Conflict of interest***

The bill includes a different procedure to follow if any of the following apply to the complaint:

- The SOS is a party to the complaint.
- A candidate for an office for which the SOS is also a candidate (in other words, the SOS's opponent) is a party to the complaint or is otherwise involved in the complaint.

- The complaint involves a contribution, expenditure, or independent expenditure made to advocate the election or defeat of the SOS or a candidate for an office for which the SOS is also a candidate.
- The SOS determines that the SOS otherwise has a conflict of interest with respect to the complaint or that the SOS should follow the conflict-of-interest procedure to avoid any appearance of impropriety.

In that situation, the SOS must request the AG to appoint an independent attorney to review the complaint instead of having the SOS's own attorney review it. The independent attorney must make a recommendation to the AG, who decides whether to dismiss the complaint or refer it to an independent hearing officer, also an attorney, who is appointed by the AG. The AG then must make a determination in the same manner as the SOS, as described above. The subject of the complaint may appeal the AG's determination to the OEIC.

### **Appeal to OEIC**

When a decision is appealed to the OEIC, the OEIC must hear the matter *de novo* (as a new complaint), instead of relying on the records of the previous hearing. The OEIC must appoint an attorney to review and hear the complaint and make a report and recommendation to the OEIC. The OEIC then may either (1) refer the matter back to the hearing officer for further investigation and a revised recommendation, or (2) make a finding and, if applicable, impose a penalty or refer the matter for prosecution. Like the ELC, the OEIC may discuss pending complaints only in meetings that are open to the public.

Currently, the ELC holds its own hearings instead of having an attorney hearing officer conduct them. The ELC may delegate to its attorney the power to rule on the admissibility of evidence and to advise on other procedural matters.

### **Timeline**

The bill does not require a complaint to be heard or resolved by any particular time.

Under existing law, unless the expedited hearing procedure applies, the ELC must hold the first hearing within 180 business days after the complaint is filed, or within 240 business days if the ELC asks an investigative attorney to find additional evidence for the ELC to consider. After the close of all the evidence presented, the ELC must render a decision within 30 days. However, there is no apparent limit on how long a case may be pending before the ELC after its first hearing but before all the evidence has been presented.

The following complaints currently are subject to the ELC's expedited hearing procedure:

- Complaints filed during the 60 days before a primary or special election or during the 90 days before a general election, alleging a violation of the laws against any of the following:
  - Making false campaign statements (see "**False campaign statements**," above);
  - Infiltrating a campaign;
  - Concealing or misrepresenting contributions;
  - Awarding an unbid government contract to a campaign donor;

- Misusing campaign funds.
- Other complaints filed during the 60 days before a primary or special election or during the 90 days before a general election, if the ELC's attorney recommends an expedited hearing based on the following factors:
  - The number of prior violations of the Election Law the subject of the complaint has committed and any prior penalties the ELC has imposed on the person;
  - The time between alleged violations and whether the cumulative nature of the alleged violations indicates a systematic disregard for the law;
  - If the complaint involves a late filing, how late the filing is and how long after the filing deadline the complaint was filed;
  - If the complaint involves unreported or late-reported contributions or expenditures, the number of those contributions or expenditures and, if applicable, how late they were reported;
  - If the complaint involves unreported contributions to a candidate, whether any of the donors have a personal or professional relationship with the candidate;
  - If the complaint involves an incomplete statement, the degree to which it is incomplete;
  - If the complaint involves the receipt of unlawful corporate contributions, the dollar amount and number of the contributions;
  - If the complaint involves a failure to disclose the source of political advertising or a misstatement of the source, whether the failure or misstatement was on purpose;
  - The current number of pending expedited hearings. The attorney must not refer a case for an expedited hearing if it would place an undue burden on a panel of the ELC.
- Any other complaint, upon the request of the person filing the complaint, if the ELC determines that an expedited hearing is practicable and decides to grant the request.

Expedited hearings begin with a hearing held by a panel of at least three members of the ELC, which must determine whether there is probable cause to believe that a violation has occurred. The panel generally must hold a probable cause hearing within seven business days after the attorney refers the complaint to the panel. But, the parties may agree to delay the hearing until up to 180 business days after the complaint was filed. The law does not guarantee that a complaint will receive a probable cause determination before the election.

If the panel determines that probable cause exists, the full ELC must hold a hearing on the complaint within ten days after the panel makes its decision. After the close of all the evidence presented, the ELC must render a decision within 30 days. Again, however, there is no apparent limit on how long a case that receives an expedited probable cause hearing may be pending before the full ELC makes a final determination.

## **Investigative powers**

The bill gives the OEIC the same investigative powers as the ELC; under continuing law, the SOS also has these powers. Those entities may administer oaths (that is, take sworn testimony from witnesses), and they may subpoena witnesses and documents within Ohio.

## **Applicable laws and rules**

The bill requires the SOS and the OEIC to follow the adjudicatory procedures of the Administrative Procedure Act (APA), which apply to most executive agencies that hold disciplinary or other hearings. Under continuing law, the APA sets out general requirements on such topics as notifying the parties of a hearing, keeping records of the proceedings, and the right to be represented by an attorney.<sup>85</sup>

Currently, the Ohio Rules of Evidence and the Ohio Rules of Civil Procedure apply to all proceedings before the ELC, except as otherwise specified by the ELC's rules.<sup>86</sup> The Rules of Civil Procedure govern, for example, the manner in which the parties to a civil lawsuit may obtain evidence relevant to the case, while the Rules of Evidence limit the extent to which hearsay may be considered as evidence, or what evidence might be considered inadmissible because it is irrelevant or overly prejudicial. By contrast, the bill does not allow the SOS or the OEIC to adopt their own procedural rules. Under continuing law, the Rules of Evidence and Civil Procedure do not necessarily apply to hearings conducted under the APA.<sup>87</sup>

## **Standard of proof**

The bill retains the current standards of proof that must be met for a person to be penalized for a violation. Under continuing law, if the authority hearing a complaint finds that a violation has occurred, it must make that finding by a preponderance of the evidence. This is the standard of proof that applies in most civil cases. However, any finding of a violation of the law prohibiting false campaign statements or infiltrating a campaign must be made by clear and convincing evidence, which is a higher standard (see "**False campaign statements**," above). By contrast, to convict a person of a crime, a judge or jury must find the person guilty beyond a reasonable doubt, the highest standard used in Ohio's legal system.

## **Frivolous complaints**

Under the bill, like under current law, if the SOS or the OEIC that determines a complaint is frivolous, it may order the filer to pay reasonable attorney's fees and the agency's costs.

## **Penalties for violations**

Under the bill, the SOS or the OEIC may dispose of a complaint as follows:

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<sup>85</sup> R.C. 119.05 through 119.13, not in the bill.

<sup>86</sup> O.A.C. 3517-1-01 and Ohio Supreme Court, [Ohio Rules of Civil Procedure \(PDF\)](#) and [Ohio Rules of Evidence \(PDF\)](#), available at [supremecourt.ohio.gov](http://supremecourt.ohio.gov) under "Rules of Court."

<sup>87</sup> See Ohio Attorney General, [Administrative Law Handbook \(PDF\)](#) at pp. 24 and 49 (2020), available at [ohioattorneygeneral.gov](http://ohioattorneygeneral.gov) under "Publications," "Legal."

- Find that no violation has occurred;
- Find that a violation has occurred and impose an administrative fine of up to \$1,000 per violation, except that under continuing law, the fine for a violation occurring between April 4, 1985, and August 23, 1995, must be the fine set by the ELC's fine schedule at the time of the violation;
- Find that a significant violation has occurred or that repeated violations have occurred and refer the matter to the appropriate prosecutor (see "**Appropriate prosecutor**," below).

Currently, the ELC instead has the option to find that a violation has occurred but impose no penalty and refrain from referring the matter for prosecution. The ELC may impose an administrative fine up to the maximum fine a court could impose for a criminal violation, which may be higher or lower than \$1,000, depending on the situation. Existing law also does not provide a standard for determining whether a violation should trigger an administrative fine instead of referral for prosecution.

Under continuing law, any violation of the law prohibiting false campaign statements (see "**False campaign statements**," above) or infiltrating a campaign must be referred for prosecution instead of penalized with an administrative fine.

Continuing law allows the authority imposing an administrative fine to suspend all or part of the fine upon whatever terms and conditions the authority considers just. In determining whether to impose a maximum fine, the authority must consider all of the following:

- Whether the violator has been found guilty of any other violation of the Election Law or has any outstanding fines for such a violation (the bill adds violations related to retirement system board elections as violations to be considered);
- Whether the violation was made knowingly or purposely;
- Whether any relevant statements, addenda, or affidavits required to be filed have not been filed;
- Whether the violation occurred during the course of a campaign.
- In determining whether to impose a minimal fine or no fine, the authority must consider all of the following:
  - Whether the violator previously has not been found guilty of any other violation of the Election Law (the bill adds violations related to retirement system board elections as violations to be considered);
  - Whether the violator has promptly corrected the violator's violation;
  - Whether the nature and circumstances of the violation merit a minimum fine;
  - Whether there are substantial grounds tending to excuse or justify the violation, although failing to establish a defense to the violation;
  - Whether the violation was not purposely committed.

Under the bill, if the violator does not pay an administrative fine within 45 days, the SOS must certify the amount to the AG for collection in the same manner as other past due debts to the state. The SOS also must do so for any unpaid fines that are still owed to the ELC.

The bill does not make any substantive changes to the criminal penalties for violating the Campaign Finance Law, except as explained below in relation to corporate and labor organization funds. But, the bill clarifies that the penalty for any violation is the penalty that was in effect at the time the violation occurred, which is generally true for any criminal law. In other words, an old violation must be punished under the old law. The bill repeals existing sections of law that refer to violations that occurred before August 23, 1995, when the legislature made a number of changes to the ELC and the Campaign Finance Law, but those older laws still would apply in the case of any violation committed before that date, even though the bill removes them from the Revised Code.

### **Appeal of decision**

Any appeal of a decision by the OEIC may be filed with the court of common pleas of the appealing party's home county or the Franklin County Court of Common Pleas, the same as any other appeal of an agency decision under the APA. The same requirement currently applies to appeals of ELC decisions.<sup>88</sup>

### **Appropriate prosecutor**

The bill generally retains the current standards for determining the "appropriate prosecutor" to whom a violation may be referred. In a case involving any of the following, the appropriate prosecutor is the Franklin County Prosecutor:

- A candidate for Governor, Lieutenant Governor, AG, SOS, Auditor of State, Treasurer of State, justice or chief justice of the Supreme Court, or member of the State Board of Education (under other provisions of the bill, members of the State Board of Education are no longer elected);
- A state or county political party;
- A legislative campaign fund;
- A PAC or PCE that is required to file its statements of contributions and expenditures with the SOS, meaning a PAC or PCE that does any of the following:
  - Makes contributions to candidates for statewide office or the General Assembly;
  - Makes contributions to political parties or legislative campaign funds;
  - Receives contributions or makes expenditures in connection with a statewide ballot issue; or
  - Makes contributions to other PACs or PCEs.

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<sup>88</sup> R.C. 119.12, not in the bill.

In any other case, existing law allows the matter to be referred either to the Franklin County Prosecutor or to the prosecutor of the most populous county in which the candidacy or ballot question or issue appears on the ballot. The bill adds an option to refer the matter to the county prosecutor of the county in which the violator resides.

### **Records of proceedings**

The bill requires the OEIC to post all of the following on its official website and update it regularly:

- All decisions and advisory opinions issued by the OEIC;
- All decisions and advisory opinions issued by the ELC before it is abolished;
- Copies of the Election Law.

Existing law requires the ELC to post all of its decisions and advisory opinions online, along with copies of the Election Law, and to keep them updated.

Under continuing law, complaints regarding campaign finance violations generally are considered public records, but they are not required to be posted online.

### **Commission funding**

The bill replaces the Ohio Elections Commission Fund with the Ohio Election Integrity Commission Fund administered by the SOS, which has the same funding sources:

- Administrative fines imposed by the SOS or the OEIC;
- A portion of candidate and petition filing fees;
- Excess funds donated by a campaign committee or legislative campaign fund that chooses to dispose of its excess funds in that manner;
- Excess funds confiscated by a court from a campaign committee or legislative campaign fund that fails to dispose of excess funds as required under the law;
- Funds appropriated by the General Assembly.

### **Other transitional provisions**

The bill transfers the ELC's employees to the OEIC and makes the OEIC the ELC's successor for all other purposes. When the ELC is abolished, the OEIC must do all of the following:

- Receive all of the ELC's records, assets, and liabilities, other than records of pending complaints that are transferred to the SOS;
- Complete any unfinished ELC business, except for pending complaints that are transferred to the SOS. The bill specifies that no validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer.
- Prosecute or defend any pending action or proceeding in place of the ELC, except for pending complaints that are transferred to the SOS;

- Assume and pay off any outstanding obligations of the ELC. On January 1, 2026, or as soon as possible thereafter, the OBM Director must transfer the cash balance of the ELC Fund to the new OEIC Fund. Upon completion of the transfer, the ELC Fund is abolished. The OBM Director must cancel any existing encumbrances against the ELC's appropriation item and reestablish them against the OEIC's appropriation item. The bill appropriates the reestablished encumbrance amounts.

Any remaining reference to the ELC or its Executive Director in any law, contract, or other document must be deemed to refer to the OEIC.

## Campaign finance changes

(R.C. 102.08, 3517.01, 3517.08, 3517.10, 3517.102, 3517.105, 3517.106, 3517.107, 3517.1010, 3517.1011, 3517.121, 3517.13, 3517.992 (3517.99), 3599.03, 3921.22, 4123.442, and 4503.03)

The bill makes several changes to the Campaign Finance Law related to political spending by corporations and labor organizations (unions), electronic campaign contributions, and the termination of dormant political entities.

## Background on Ohio's Campaign Finance Law

In general, the state Campaign Finance Law is designed to require candidates and political entities to file publicly available reports about the money they accept or spend for the purpose of influencing state or local election results, to abide by certain dollar contribution limits, to disclose the source of political advertising, and to follow other campaign related regulations. It is important to note that this law does not apply to federal elections, and under the home rule provisions of the Ohio Constitution, a municipality or chartered county may have its own system for regulating campaign finance in local elections.<sup>89</sup>

### Political entities

Ohio's Campaign Finance Law currently categorizes political entities as follows:

- **Campaign committee** – A candidate or the candidate's campaign committee.
- **Political party** – A group recognized by the state as a political party.
- **Legislative campaign fund (LCF)** – A campaign entity associated with a caucus of the General Assembly.
- **Political action committee (PAC)** – A group of two or more persons whose primary or major purpose 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 another entity included in this list. ("Express advocacy" means a communication that contains express words advocating the nomination, election or defeat of a candidate or the adoption or defeat of a ballot question or issue.) Neither of the following are considered a PAC:

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<sup>89</sup> Ohio Constitution, Article X, Section 3 and Article XVIII, Section 3.

- A continuing association that makes disbursements for the direct costs of producing or airing electioneering communications and that does not engage in express advocacy.
- 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.
- **Continuing association** – An association, other than a campaign committee, political party, LCF, PCE, or labor organization, that is intended to be a permanent organization that has a primary purpose other than supporting or opposing specific candidates, political parties, or ballot issues, and that functions on a regular basis throughout the year. The term includes nonprofit organizations that are exempt from federal taxation under subsection (501)(c)(3), (501)(c)(4), or (501)(c)(6) of the Internal Revenue Code.
- **Political contributing entity (PCE)** – Any entity, including a corporation or labor organization, that may lawfully make contributions and expenditures and that is not an individual, a campaign committee, a political party, an LCF, a PAC, or a continuing association.

A campaign committee, political party, LCF, PAC, or PCE must report its contributions and expenditures and must abide by certain other campaign finance related requirements. But, an individual, person, or entity who *does not* fall under the definition of a campaign committee, political party, LCF, PAC, or PCE – for example, a continuing association – generally is not subject to those requirements. As a result, less information is available to the government and the public about the political activities of organizations that do not fit into one of those definitions.

### **Contributions and expenditures**

The existing Campaign Finance Law generally uses the following definitions of political contributions and expenditures for purposes of reporting requirements, contribution limits, and other provisions of law:

- **Contribution** – A 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 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.
- **Expenditure** – The disbursement or use of a contribution for the purpose of influencing the results of an election or of making a charitable donation to certain approved organizations.
- **Independent expenditure** – An expenditure by a person advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any

candidate or candidates or of the campaign committee or agent of the candidate or candidates.

- **Electioneering communication** – A broadcast, cable, or satellite communication that is made during the run-up to an election, refers to a clearly identified candidate, and is not coordinated with a candidate, but that does not meet the definition of an expenditure or independent expenditure, generally because it mentions the candidate but does not directly advocate the candidate’s election or defeat. Electioneering communications are sometimes referred to as “soft money” or “issue” advertising because they are political but not regulated in the same way as contributions and expenditures. Entities that make electioneering communications are subject to a separate reporting system from the system that applies to contributions and expenditures.

## **Political contributing entities**

### **Corporate and labor organization spending**

The bill eliminates prohibitions in the law against a corporation or labor organization using its money or property to make an independent expenditure. When a corporation or labor organization does make a contribution or expenditure, the bill ensures that it is regulated as a PCE.

Ohio law currently prohibits a corporation or labor organization from using its money or property to make political contributions or expenditures with respect to candidates or, during the 30 days before an election, to make an electioneering communication. (Corporations and labor organizations may make contributions and expenditures concerning ballot issues.) However, in 2010, the U.S. Supreme Court ruled in *Citizens United v. Federal Election Commission* that corporations and labor organizations have a First Amendment right to make unlimited independent expenditures (including electioneering communications) and that they may make unlimited contributions to other entities that make only independent expenditures.<sup>90</sup>

### **Expanded definition of PCE**

The bill expands and clarifies the definition of a PCE to include any entity that makes contributions or expenditures and that is not an individual, a campaign committee, a political party, an LCF, or a PAC. (Essentially, under the bill, only an individual who makes contributions or expenditures falls outside the structure of regulated entities.)

Currently, certain entities that make contributions or expenditures do not fit into the definition of any of the regulated political entities and therefore are not required to report their contributions and expenditures or comply with certain other restrictions. (Those entities are sometimes called “dark money” organizations.) By expanding the definition of a PCE to include any entity other than a campaign committee, political party, LCF, or PAC, the bill subjects those entities to the Campaign Finance Law. For instance, the bill eliminates references to continuing

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<sup>90</sup> *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010); and *American Tradition Partnership v. Bullock*, 567 U.S. 516 (2012).

associations and instead categorizes those organizations as PCEs if they make contributions or expenditures.

The following table describes several common types of entities that currently are not (or might not be) considered PCEs, but that are PCEs under the bill if they make contributions or expenditures:

Common types of PCEs		
Entity	Expenditures permitted under continuing law	Notes
<b>Corporations</b>		
Corporation, generally	May contribute to ballot issue committees or make expenditures about ballot issues  Independent expenditures about candidates are allowed under <i>Citizens United v. FEC</i> (see “ <b>Contributions and expenditures</b> ,” above)	Under existing law, might not be considered a PCE because it cannot make contributions <i>and</i> expenditures  According to the Secretary of State, not currently considered a PCE <sup>91</sup>
Nonprofit corporation – 501(c)(3) charitable organization <sup>92</sup>	May contribute to ballot issue committees or make expenditures about ballot issues	Internal Revenue Code prohibits candidate related campaign activity, but does not prohibit ballot issue related campaign activity
Nonprofit corporation – 501(c)(4) social welfare organization	May contribute to ballot issue committees or make expenditures about ballot issues  Independent expenditures about candidates are allowed under <i>Citizens United v. FEC</i>	Internal Revenue Code permits campaign activity, so long as that is not the organization’s primary activity

<sup>91</sup> Ohio Secretary of State, *Ohio Campaign Finance Handbook*, “[Chapter 8: Political Contributing Entities](#)” (PDF) at 8-1, available at [ohiosos.gov](http://ohiosos.gov) under “Campaign Finance.”

<sup>92</sup> For more information about federal tax laws governing organizations’ political activities, see 26 U.S.C. 501 and 527 and Internal Revenue Service, [Common tax law restrictions on activities of exempt organizations](#) and [Political Campaign and Lobbying Activities of IRC 501\(c\)\(4\), \(c\)\(5\), and \(c\)\(6\) Organizations](#) (PDF), available at [irs.gov](http://irs.gov) via keyword searches for “tax law restrictions” and “social welfare,” respectively.

Common types of PCEs		
Entity	Expenditures permitted under continuing law	Notes
Nonprofit corporation – 501(c)(5) labor, agricultural, or horticultural organization	May contribute to ballot issue committees or make expenditures about ballot issues  Independent expenditures about candidates are allowed under <i>Citizens United v. FEC</i>	Internal Revenue Code permits campaign activity, so long as that is not the organization’s primary activity
Nonprofit corporation – 501(c)(6) business league	May contribute to ballot issue committees or make expenditures about ballot issues  Independent expenditures about candidates are allowed under <i>Citizens United v. FEC</i>	Internal Revenue Code permits campaign activity, so long as that is not the organization’s primary activity
Internal Revenue Code Section 527 tax exempt organization, if incorporated	May contribute to ballot issue committees or make expenditures about ballot issues  Independent expenditures about candidates are allowed under <i>Citizens United v. FEC</i>	Internal Revenue Code permits campaign activity, so long as the organization does not engage in express advocacy
Unincorporated entities		
Labor organization, if unincorporated	May contribute to ballot issue committees or make expenditures about ballot issues  Contributions to candidates or political entities and independent expenditures about candidates are allowed under <i>UAW Local Union 1112 v. Philomena</i> <sup>93</sup>	Under existing law, might not be considered a PCE because it cannot make contributions <i>and</i> expenditures  According to the Secretary of State, currently considered a PCE <sup>94</sup>

<sup>93</sup> *UAW Local Union 1112 v. Philomena*, 121 Ohio App.3d 760, 788 (10<sup>th</sup> Dist. Ct. App. 1998).

<sup>94</sup> Ohio Secretary of State, *Ohio Campaign Finance Handbook*, “[Chapter 8: Political Contributing Entities](#)”(PDF) at 8-9.

Common types of PCEs		
Entity	Expenditures permitted under continuing law	Notes
Unincorporated business or association (e.g., a partnership or limited liability company)	May contribute to candidates or ballot issue committees or make expenditures about candidates or ballot issues	Appears to meet the existing definition of a PCE, but is listed separately from PCEs in some provisions of the current Campaign Finance Law  Under the bill, can choose not to be treated as a PCE if certain requirements are met
Internal Revenue Code Section 527 tax exempt organization, if unincorporated	May contribute to ballot issue committees or make expenditures about candidates or ballot issues	Internal Revenue Code permits campaign activity, so long as the organization does not engage in express advocacy

## Contributions to PCEs

### *Disclosure of donors*

A PCE typically is not formed solely for political purposes. For example, a nonprofit corporation that is exempt from federal taxation under subsection 501(c)(4) or 501(c)(6) of the Internal Revenue Code – a social welfare organization or a business league – cannot engage in political activity as its primary activity, but it may engage in some political activity while retaining its tax-exempt status.

If the organization receives a donation to its general fund, and then uses its general fund to make political expenditures, the donation might not qualify as a political contribution under continuing law because it is not given for the purpose of influencing election results, and the nonprofit corporation arguably would not be using that particular donation for the purpose of influencing election results. As a result, under the bill, some entities still might not be required to disclose the source of those funds.

### *Super PACs and PCEs*

Under federal court rulings, the state cannot enforce dollar contribution limits against a PAC or PCE that makes only independent expenditures (often called a super PAC). The bill eliminates those dollar limits, but also adds new prohibitions designed to prevent corporate money from reaching a candidate, political party, or LCF indirectly. Under the bill:

- No PAC or PCE that accepts a contribution from a corporation or labor organization may knowingly make a contribution to a candidate, campaign committee, political party, or LCF.

- No PAC or PCE that accepts a contribution from a corporation or labor organization may knowingly make a contribution to a PAC or PCE, other than one that only makes independent expenditures.
- No political entity may knowingly accept a contribution in violation of either of those prohibitions.

A violation is punishable by a criminal fine of no more than three times the amount of the contribution, or by an administrative fine of up to \$1,000 per violation, as discussed above.

### ***Unincorporated PCEs***

Under continuing law, a PCE that is an unincorporated labor organization, business, or association may make and receive contributions in the same way as a campaign committee, political party, LCF, or PAC. Such a PCE would be subject to the continuing law contribution limits. No individual or entity may contribute more than \$16,615.67 to a PCE in a calendar year, except that an LCF may not make any contributions to a PCE.

An unincorporated PCE that makes a contribution also must abide by the applicable contribution limit, which varies based on the recipient. Currently, when an unincorporated business or association makes a contribution, the contribution is deemed to be made by the entity's partners, owners, or members as individuals, and counts against the contribution limits for those individuals. The bill allows an unincorporated business that makes contributions, but does not accept contributions or make other types of expenditures, to choose whether to have its contributions treated as being made by its partners, owners, or members as individuals as under current law, or to be treated as a PCE. In other words, under the bill, an unincorporated business whose only political activity is making contributions out of its business profits in the names of its partners, owners, or members may continue to do so and is not required to file reports as a PCE.<sup>95</sup>

### **Expenditures by PCEs**

#### ***Definition of independent expenditure***

The bill changes the definition of an independent expenditure to include an expenditure *or other use of funds or anything of value* for the purpose of making an independent expenditure. The continuing definition of an expenditure includes only the use of a contribution, not money in general, in order to influence election results. (See "**Contributions and expenditures,**" above, for a fuller discussion of independent expenditures.)

With the expanded definition of an independent expenditure, an entity such as a PCE that uses money or another thing of value that it *didn't* receive as a contribution to influence election results is considered to be making a reportable independent expenditure. For example, under the bill, an unincorporated business that used its profits to fund an independent political

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<sup>95</sup> Under R.C. 3517.104, not in the bill, the dollar limits in the statute are adjusted for inflation every two years; see Ohio Secretary of State, [Ohio Campaign Contribution Limits Effective February 25, 2025 through February 24, 2027 \(PDF\)](#), available at [ohiosos.gov](https://ohiosos.gov) under "Campaign Finance."

advertisement advocating the election of a candidate would be required to report that action as an independent expenditure. Additionally, the bill clarifies that “independent expenditure” refers to expenditures concerning both candidates and ballot issues.

### ***Reporting corporation and labor organization expenditures***

Under the bill, corporations and labor organizations must report their expenditures in the same manner as other PCEs, instead of by submitting a separate form, as existing law requires with respect to ballot issue expenditures by those entities.

### **Identification of source of political advertising by PCEs**

The bill makes clear that all PCEs must comply with the continuing law that requires entities that engage in political advertising to report the expenditure and to identify themselves in the advertisement as the funding source, in the same manner as PACs and other political entities currently must do. The existing law varies with respect to entities that are classified as PCEs under the bill based on the type of entity, as discussed above.

### **Campaign spending by foreign nationals**

The bill eliminates a provision of current law that prohibits a lawful permanent U.S. resident who is not a U.S. citizen or national (a green card holder) from making campaign contributions, expenditures, and independent expenditures with respect to state and local candidates. Under continuing law, a lawful permanent resident is prohibited from making contributions or expenditures related to ballot issues.<sup>96</sup>

In 2024, a federal district court preliminarily enjoined both aspects of this law regarding lawful permanent residents – the ban on spending related to candidates and the ban on spending related to ballot issues – on the ground that they likely violate the First Amendment. The 6<sup>th</sup> Circuit Court of Appeals stayed the injunction pending appeal. The issues are still being litigated, and no court has made a final ruling.<sup>97</sup>

### **Technical changes**

The bill makes several technical changes to sections of the Campaign Finance Law that are amended for other purposes. First, the bill removes an incorrect cross-reference in R.C. 3517.1012 and corrects the section to restore the meaning it had before the error arose. R.C. 3517.1012 lists the purposes for which a state or county political party may use its restricted fund, which may receive certain corporate and labor union contributions. Until 2019, the law allowed the party to use that fund for the same purposes as those for which the party could use the funds it received from the Ohio Political Party Fund under an income tax return checkoff program. But, when the tax checkoff and the Ohio Political Party Fund were eliminated in 2019, the cross-reference remained in R.C. 3517.1012.

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<sup>96</sup> R.C. 3517.121.

<sup>97</sup> *OPAWL – Building AAPI Feminist Leadership v. Yost*, 747 F. Supp.3d 1065 (S.D. Ohio 2024) and *OPAWL – Building AAPI Feminist Leadership v. Yost*, 118 F.4<sup>th</sup> 770 (6<sup>th</sup> Cir. 2024).

The bill clarifies that a state or county party may use its restricted fund for any of the following purposes, as allowed before 2019:

- The defraying of operating and maintenance costs associated with political party headquarters, including rental or leasing costs, staff salaries, office equipment and supplies, postage, and the purchase, lease, or maintenance of computer hardware and software;
- The organization of voter registration programs and get-out-the-vote campaigns and the costs associated with voter registration and get-out-the-vote activities, including, but not limited to, rental costs for booth spaces at fairs, festivals, or similar events if voter registration forms are available at those booths, printing costs for registration forms, mailing costs for communications soliciting voter registration, and payments for the services of persons conducting voter registration and get-out-the-vote activities;
- The administration of party fundraising drives;
- Direct mail campaigns or other communications with the registered voters of a party that are not related to any particular candidate or election;
- The preparation of reports required by law.

The bill also corrects an incorrect reference in R.C. 3517.20 to refer to a “political contributing entity,” which is a defined term under the continuing law, instead of to a “political contributing committee,” which is not.

Finally, in R.C. 3517.992 (renumbered as 3517.99), the bill eliminates a reference to an obsolete provision of law related to declarations of no limits on campaign contributions, which are no longer used.