

ASSEMBLY, No. 3863

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 21, 2013

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires disclosure of contributions received and expenditures made by committees or organizations not affiliated or coordinated with any candidate, or committee organized to support or oppose public questions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring disclosure by certain political committees and
2 organizations, amending P.L.1973, c.83 and P.L.1995, c.391, and
3 supplementing P.L.1973, c.83 (C.19:44A-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 3 of P.L.1973, c.83 (C.19:44A-3) is amended to read
9 as follows:

10 3. As used in this act, unless a different meaning clearly
11 appears from the context:

12 a. (Deleted by amendment, P.L.1993, c.65.)

13 b. (Deleted by amendment, P.L.1993, c.65.)

14 c. The term "candidate" means: (1) an individual seeking
15 election to a public office of the State or of a county, municipality
16 or school district at an election; except that the term shall not
17 include an individual seeking party office; (2) an individual who
18 shall have been elected or failed of election to an office, other than
19 a party office, for which he sought election and who receives
20 contributions and makes expenditures for any of the purposes
21 authorized by section 17 of P.L.1993, c.65 (C.19:44A-11.2) during
22 the period of his service in that office; and (3) an individual who
23 has received funds or other benefits or has made payments solely
24 for the purpose of determining whether the individual should
25 become a candidate as defined in paragraphs (1) and (2) of this
26 subsection.

27 d. The terms "contributions" and "expenditures" include all
28 loans and transfers of money or other thing of value to or by any
29 candidate, candidate committee, joint candidates committee,
30 political committee, continuing political committee, political party
31 committee or legislative leadership committee and all pledges or
32 other commitments or assumptions of liability to make any such
33 transfer; and for purposes of reports required under the provisions
34 of this act shall be deemed to have been made upon the date when
35 such commitment is made or liability assumed.

36 e. The term "election" means any election described in section
37 4 of this act.

38 f. The term "paid personal services" means personal, clerical,
39 administrative or professional services of every kind and nature
40 including, without limitation, public relations, research, legal,
41 canvassing, telephone, speech writing or other such services,
42 performed other than on a voluntary basis, the salary, cost or
43 consideration for which is paid, borne or provided by someone
44 other than the committee, candidate or organization for whom such
45 services are rendered. In determining the value, for the purpose of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 reports required under this act, of contributions made in the form of
2 paid personal services, the person contributing such services shall
3 furnish to the treasurer through whom such contribution is made a
4 statement setting forth the actual amount of compensation paid by
5 said contributor to the individuals actually performing said services
6 for the performance thereof. But if any individual or individuals
7 actually performing such services also performed for the contributor
8 other services during the same period, and the manner of payment
9 was such that payment for the services contributed cannot readily
10 be segregated from contemporary payment for the other services,
11 the contributor shall in his statement to the treasurer so state and
12 shall either (1) set forth his best estimate of the dollar amount of
13 payment to each such individual which is attributable to the
14 contribution of his paid personal services, and shall certify the
15 substantial accuracy of the same, or (2) if unable to determine such
16 amount with sufficient accuracy, set forth the total compensation
17 paid by him to each such individual for the period of time during
18 which the services contributed by him were performed. If any
19 candidate is a holder of public office to whom there is attached or
20 assigned, by virtue of said office, any aide or aides whose services
21 are of a personal or confidential nature in assisting him to carry out
22 the duties of said office, and whose salary or other compensation is
23 paid in whole or part out of public funds, the services of such aide
24 or aides which are paid for out of public funds shall be for public
25 purposes only; but they may contribute their personal services, on a
26 voluntary basis, to such candidate for election campaign purposes.

27 g. (Deleted by amendment, P.L.1983, c.579.)

28 h. The term "political information" means any statement
29 including, but not limited to, press releases, pamphlets, newsletters,
30 advertisements, flyers, form letters, or radio or television programs
31 or advertisements which reflects the opinion of the members of the
32 organization on any candidate or candidates for public office, on
33 any public question, or which contains facts on any such candidate,
34 or public question whether or not such facts are within the personal
35 knowledge of members of the organization.

36 i. The term "political committee" means any two or more
37 persons acting jointly, or any corporation, partnership, or any other
38 incorporated or unincorporated association which is organized to, or
39 does, aid or promote the nomination, election or defeat of any
40 candidate or candidates for public office, or which is organized to,
41 or does, aid or promote the passage or defeat of a public question in
42 any election, if the persons, corporation, partnership or incorporated
43 or unincorporated association raises or expends \$1,000.00 or more
44 to so aid or promote the nomination, election or defeat of a
45 candidate or candidates or the passage or defeat of a public
46 question; provided that for the purposes of this act, the term
47 "political committee" shall not include a "continuing political
48 committee," as defined by subsection n. of this section, a "political

1 party committee," as defined by subsection p. of this section, a
2 "candidate committee," as defined by subsection q. of this section, a
3 "joint candidates committee," as defined by subsection r. of this
4 section or a "legislative leadership committee," as defined by
5 subsection s. of this section.

6 j. The term "public solicitation" means any activity by or on
7 behalf of any candidate, political committee, continuing political
8 committee, candidate committee, joint candidates committee,
9 legislative leadership committee or political party committee
10 whereby either (1) members of the general public are personally
11 solicited for cash contributions not exceeding \$20.00 from each
12 person so solicited and contributed on the spot by the person so
13 solicited to a person soliciting or through a receptacle provided for
14 the purpose of depositing contributions, or (2) members of the
15 general public are personally solicited for the purchase of items
16 having some tangible value as merchandise, at a price not exceeding
17 \$20.00 per item, which price is paid on the spot in cash by the
18 person so solicited to the person so soliciting, when the net
19 proceeds of such solicitation are to be used by or on behalf of such
20 candidate, political committee, continuing political committee,
21 candidate committee, joint candidates committee, legislative
22 leadership committee or political party committee.

23 k. The term "testimonial affair" means an affair of any kind or
24 nature including, without limitation, cocktail parties, breakfasts,
25 luncheons, dinners, dances, picnics or similar affairs directly or
26 indirectly intended to raise campaign funds in behalf of a person
27 who holds, or who is or was a candidate for nomination or election
28 to a public office in this State, or directly or indirectly intended to
29 raise funds in behalf of any political party committee or in behalf of
30 a political committee, continuing political committee, candidate
31 committee, joint candidates committee or legislative leadership
32 committee.

33 l. The term "other thing of value" means any item of real or
34 personal property, tangible or intangible, but shall not be deemed to
35 include personal services other than paid personal services.

36 m. The term "qualified candidate" means:

37 (1) Joint candidates for election to the offices of Governor and
38 Lieutenant Governor whose names appear on the general election
39 ballot; who have deposited and expended \$150,000.00 pursuant to
40 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
41 September 1 preceding a general election in which the offices of
42 Governor and Lieutenant Governor are to be filled, (a) notify the
43 Election Law Enforcement Commission in writing that the
44 candidates intend that application will be made on the candidates'
45 behalf for monies for general election campaign expenses under
46 subsection b. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b)
47 sign a statement of agreement, in a form to be prescribed by the
48 commission, to participate in interactive gubernatorial election

1 debates under the provisions of sections 9 through 11 of P.L.1989,
2 c.4 (C.19:44A-45 through C.19:44A-47); or

3 (2) Joint candidates for election to the offices of Governor and
4 Lieutenant Governor whose names do not appear on the general
5 election ballot; who have deposited and expended \$150,000.00
6 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who,
7 not later than September 1 preceding a general election in which the
8 offices of Governor and Lieutenant Governor are to be filled, (a)
9 notify the Election Law Enforcement Commission in writing that
10 the candidates intend that application will be made on the
11 candidates' behalf for monies for general election campaign
12 expenses under subsection b. of section 8 of P.L.1974, c.26
13 (C.19:44A-33), and (b) sign a statement of agreement, in a form to
14 be prescribed by the commission, to participate in interactive
15 gubernatorial election debates under the provisions of sections 9
16 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47);
17 or

18 (3) Any candidate for nomination for election to the office of
19 Governor whose name appears on the primary election ballot; who
20 has deposited and expended \$150,000.00 pursuant to section 7 of
21 P.L.1974, c.26 (C.19:44A-32); and who, not later than the last day
22 for filing petitions to nominate candidates to be voted upon in a
23 primary election for a general election in which the office of
24 Governor is to be filled, (a) notifies the Election Law Enforcement
25 Commission in writing that the candidate intends that application
26 will be made on the candidate's behalf for monies for primary
27 election campaign expenses under subsection a. of section 8 of
28 P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
29 agreement, in a form to be prescribed by the commission, to
30 participate in two interactive gubernatorial primary debates under
31 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
32 45 through C.19:44A-47); or

33 (4) Any candidate for nomination for election to the office of
34 Governor whose name does not appear on the primary election
35 ballot; who has deposited and expended \$150,000.00 pursuant to
36 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
37 the last day for filing petitions to nominate candidates to be voted
38 upon in a primary election for a general election in which the office
39 of Governor is to be filled, (a) notifies the Election Law
40 Enforcement Commission in writing that the candidate intends that
41 application will be made on the candidate's behalf for monies for
42 primary election campaign expenses under subsection a. of section
43 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
44 agreement, in a form to be prescribed by the commission, to
45 participate in two interactive gubernatorial primary debates under
46 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
47 45 through C.19:44A-47).

1 n. The term "continuing political committee" means any group
2 of two or more persons acting jointly, or any corporation,
3 partnership, or any other incorporated or unincorporated
4 association, including a political club, political action committee,
5 civic association or other organization, which in any calendar year
6 contributes or expects to contribute at least \$2,500.00 to the aid or
7 promotion of the candidacy of an individual, or of the candidacies
8 of individuals, for elective public office, or the passage or defeat of
9 a public question or public questions, and which may be expected to
10 make contributions toward such aid or promotion or passage or
11 defeat during a subsequent election, provided that the group,
12 corporation, partnership, association or other organization has been
13 determined to be a continuing political committee under subsection
14 b. of section 8 of P.L.1973, c.83 (C.19:44A-8); provided that for the
15 purposes of this act, the term "continuing political committee" shall
16 not include a "political party committee," as defined by subsection
17 p. of this section, or a "legislative leadership committee," as defined
18 by subsection s. of this section.

19 o. The term "statement of agreement" means a written
20 declaration, by a candidate for nomination for election to the office
21 of Governor, or by joint candidates for election to the offices of
22 Governor and Lieutenant Governor who intend that application will
23 be made on behalf of the candidate for the office of Governor to
24 receive monies for the primary election or on behalf of the
25 candidates for the office of Governor and the office of Lieutenant
26 Governor for general election campaign expenses under subsection
27 a. or subsection b., respectively, of section 8 of P.L.1974, c.26
28 (C.19:44A-33), that the candidates undertake to abide by the terms
29 of any rules established by any private organization sponsoring a
30 gubernatorial primary or general election debate, as appropriate, to
31 be held under the provisions of sections 9 through 11 of P.L.1989,
32 c.4 (C.19:44A-45 through C.19:44A-47) and in which the
33 candidates are to participate. The statement of agreement shall
34 include an acknowledgment of notice to the candidates who sign it
35 that failure on the candidates' part to participate in any of the
36 gubernatorial debates may be cause for the termination of the
37 payment of such monies on the candidates' behalf and for the
38 imposition of liability for the return to the commission of such
39 monies as may previously have been so paid.

40 p. The term "political party committee" means the State
41 committee of a political party, as organized pursuant to R.S.19:5-4,
42 any county committee of a political party, as organized pursuant to
43 R.S.19:5-3, or any municipal committee of a political party, as
44 organized pursuant to R.S.19:5-2.

45 q. The term "candidate committee" means a committee
46 established pursuant to subsection a. of section 9 of P.L.1973, c.83
47 (C.19:44A-9) for the purpose of receiving contributions and making
48 expenditures.

1 r. The term "joint candidates committee" means a committee
2 established pursuant to subsection a. of section 9 of P.L.1973, c.83
3 (C.19:44A-9) by at least two candidates for the same elective public
4 offices in the same election in a legislative district, county,
5 municipality or school district, but not more candidates than the
6 total number of the same elective public offices to be filled in that
7 election, for the purpose of receiving contributions and making
8 expenditures. For the purpose of this subsection: the offices of
9 member of the Senate and members of the General Assembly shall
10 be deemed to be the same elective public offices in a legislative
11 district; the offices of member of the board of chosen freeholders
12 and county executive shall be deemed to be the same elective public
13 offices in a county; and the offices of mayor and member of the
14 municipal governing body shall be deemed to be the same elective
15 public offices in a municipality.

16 s. The term "legislative leadership committee" means a
17 committee established, authorized to be established, or designated
18 by the President of the Senate, the Minority Leader of the Senate,
19 the Speaker of the General Assembly or the Minority Leader of the
20 General Assembly pursuant to section 16 of P.L.1993, c.65
21 (C.19:44A-10.1) for the purpose of receiving contributions and
22 making expenditures.

23 t. The term "independent expenditure" means an expenditure
24 that is made to aid or promote the nomination, election, or defeat of
25 a candidate for election to public office without the cooperation,
26 knowledge, or prior consent of, or without coordination or
27 consultation with, or without the request, suggestion or behest of, a
28 candidate or any person or committee acting on behalf of a
29 candidate, or an expenditure that is made to aid the passage or
30 defeat of a public question without the cooperation, knowledge, or
31 prior consent of, or without coordination or consultation with, or
32 without the request, suggestion or behest of any person or
33 committee supporting or opposing a public question.

34 u. The term "independent expenditure-only committee" means
35 an organization organized under section 527 of the federal Internal
36 Revenue Code (26 U.S.C. s.527) or under paragraphs (4), (5) or (6)
37 of subsection c. of section 501 of the federal Internal Revenue Code
38 (26 U.S.C. s.501), or any other organization organized under federal
39 law that the commission determines is essentially similar to such
40 organizations and does not fall within the definition of any other
41 committee subject to the provisions of P.L.1973, c.83 (C.19:44A-1
42 et seq.). The term shall not include any organization organized
43 under paragraph (3) of subsection c. of section 501 of the Internal
44 Revenue Code (26 U.S.C. s.501).

45 (cf: P.L.2009, c.66, s.5)

46

47 2. (New section) a. Each independent expenditure-only
48 committee that makes an independent expenditure of at least

1 \$1,200, or receives a contribution of \$2,500 or more, in the
2 aggregate during a calendar year shall register with the commission
3 in accordance with section 21 of P.L.1993, c.65 (C.19:44A-8.1).

4 b. Each independent expenditure-only committee required to
5 register with the commission pursuant to subsection a. of this
6 section shall make a cumulative report, on a form prescribed by the
7 commission, of all contributions in the form of moneys, loans, paid
8 personal services, or other thing of value made to it, and of all
9 independent expenditures made, incurred, or authorized by it during
10 the period ending 48 hours preceding the date of the report and
11 beginning on the date on which the first of those contributions was
12 received or the first of those expenditures was made, whichever
13 occurred first. The cumulative report, except as hereinafter
14 provided, shall contain the name and mailing address of each person
15 or group that has contributed moneys, loans, paid personal services
16 or other things of value since 48 hours preceding the date on which
17 the previous such report was made and the amount contributed by
18 each person or group. If the contributor is an individual, the report
19 shall indicate the occupation of the individual and the name and
20 mailing address of the individual's employer. In the case of any
21 loan reported pursuant to this subsection, the report shall contain
22 the name and mailing address of each person who has cosigned such
23 loan since 48 hours preceding the date on which the previous such
24 report was made. If an individual has cosigned such a loan, the
25 report shall indicate the occupation of the individual and the name
26 and mailing address of the individual's employer. The cumulative
27 report shall also contain the name and address of each person, firm,
28 or organization to whom independent expenditures have been paid
29 since 48 hours preceding the date on which the previous such report
30 was made and the amount and purpose of each such expenditure.
31 The cumulative report shall be filed with the commission on the
32 dates designated in section 8 of P.L.1973, c.83 (C.19:44A-8).

33 c. An independent expenditure-only committee shall appoint a
34 single treasurer not later than the date on which it registers. Not
35 later than the tenth day after the initial designation of the treasurer,
36 the committee shall file the name and address of the treasurer with
37 the commission. The treasurer shall certify to the correctness of
38 each report filed with the commission and shall maintain all records
39 of contributions and independent expenditures for a period of not
40 less than four years.

41 d. During the period between the appointment of the treasurer
42 and the election for which contributions are accepted or
43 independent expenditures made by the committee, and thereafter, a
44 treasurer shall also file reports on the 29th day preceding and on the
45 11th day preceding the election, and thereafter on the 20th day
46 following such election. Concurrent with the report filed on the
47 20th day following an election, or at any time thereafter, the

1 treasurer of any committee that has wound up its business and been
2 dissolved shall so certify that fact to the commission.

3 e. (1) Any report filed pursuant to the provisions of this section
4 shall include an itemized accounting of all receipts relative to any
5 contribution received by the committee, which accounting shall
6 include the name and mailing address of each contributor
7 contributing \$2,500 or more to such committee and the amount
8 contributed by each. In the case of any individual contributor, the
9 occupation of the individual and the name and mailing address of
10 the individual's employer shall also be provided.

11 (2) Any report filed pursuant to the provisions of this section
12 shall include an itemized accounting of all expenditures relative to
13 any independent expenditures made, incurred or authorized by the
14 committee which is \$1,200 or more. The report shall set forth the
15 name and mailing address of the person, firm or organization to
16 whom or to which the expenditure was paid and the amount and
17 purpose of the expenditure.

18 f. (1) Each treasurer of a independent expenditure-only
19 committee shall file notice with the commission of a contribution of
20 \$2,500 or more received between the 13th day before the election
21 and the date of the election. The notice shall be filed in writing or
22 by electronic means within 48 hours of the receipt of the
23 contribution and shall set forth the amount and date of the
24 contribution, and the name and mailing address of the contributor.
25 If the contributor is an individual, the report shall include the
26 occupation of the individual, and the name and mailing address of
27 the individual's employer.

28 (2) Each treasurer of a independent expenditure-only committee
29 shall file notice with the commission of any independent
30 expenditure made, incurred or authorized by the committee between
31 the 13th day before the election and the date of the election. The
32 notice of an expenditure shall be filed in writing or by electronic
33 means within 48 hours of the making, incurring or authorization of
34 the expenditure and shall set forth the name and mailing address of
35 the person, firm or organization to whom or to which the
36 expenditure was paid and the amount and purpose of the
37 expenditure.

38 g. For each reportable independent expenditure made by an
39 independent expenditure-only committee, the treasurer thereof shall
40 certify, in the manner required by the commission, that the
41 expenditure was made without the cooperation, knowledge, or prior
42 consent of, or without coordination or consultation with, or without
43 the request, suggestion or behest of a candidate, a candidate's
44 committee, joint candidates committee, or both, or that the
45 expenditure was made to support or oppose the passage of a public
46 question without the cooperation, knowledge, or prior consent of, or
47 without coordination or consultation with, or without the request,

1 suggestion or behest of any person or committee supporting or
2 opposing a public question.

3 h. No person serving as the chairman of a political party
4 committee or a legislative leadership committee shall serve as the
5 chairperson of an independent expenditure-only committee, or as its
6 treasurer, or be involved in the management, control or formation of
7 an independent expenditure-only committee.

8 i. When an independent expenditure is made for the purpose of
9 communication after January 1 of the calendar year of a primary,
10 general, nonpartisan municipal, local or regional school board or fire
11 district election to nominate or elect candidates for election or re-
12 election to public offices, and in the case of a run-off or a special
13 election from the period beginning on the date on which the
14 announcement with respect to such election is made and ending on the
15 date of the run-off or special election, or with respect to a public
16 question, the committee shall comply with section 2 of P.L.1995,
17 c.391 (C.19:44A-22.3).

18 j. Each independent expenditure-only committee shall establish
19 an account that is separate and segregated from any other bank account
20 established by the committee and shall use that account whenever it
21 makes independent expenditures or receives contributions to promote
22 the election or defeat of any candidate for elective public office in
23 New Jersey or the passage or defeat of any public question voted on by
24 the voters of this State.

25 k. Any independent expenditure-only committee that fails to
26 comply with the provisions of this section shall, in addition to any
27 other penalty provided by law, be liable to the applicable penalty
28 provided by subsection a. of section 22 of P.L.1973, c.83
29 (C.19:44A-22).

30

31 3. Section 2 of P.L.1995. c.391 (C.19:44A-22.3) is amended to
32 read as follows:

33 2. a. Whenever a candidate committee, joint candidates
34 committee, political committee, continuing political committee,
35 political party committee or legislative leadership committee, or
36 any group other than such a committee, or any person makes, incurs
37 or authorizes an expenditure for the purpose of financing a
38 communication aiding or promoting the nomination, election or
39 defeat of any candidate or providing political information on any
40 candidate which is an expenditure that the committee, group or
41 person is required to report to the Election Law Enforcement
42 Commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the
43 communication shall clearly state the name and business or
44 residence address of the committee, group or person, as that
45 information appears on reports filed with the commission, and that
46 the communication has been financed by that committee, group or
47 person.

1 b. Whenever a candidate committee, joint candidates
2 committee, political committee, continuing political committee,
3 political party committee or legislative leadership committee, or
4 any group other than such a committee, or any person makes, incurs
5 or authorizes an expenditure for the purpose of financing a
6 communication aiding the passage or defeat of any public question
7 or providing political information on any public question which is
8 an expenditure that the committee, group or person is required to
9 report to the Election Law Enforcement Commission pursuant to
10 P.L.1973, c.83 (C.19:44A-1 et seq.), the communication shall
11 clearly state the name and business or residence address of the
12 committee, group or person, as that information appears on reports
13 filed with the commission, and that the communication has been
14 financed by that committee, group or person.

15 c. A communication that is financed by any person, not acting
16 in concert with a candidate or any person or committee acting on
17 behalf of a candidate, shall contain a clear and conspicuous
18 statement that the expenditure was not made with the cooperation or
19 prior consent of, or in consultation with or at the request or
20 suggestion of, any such candidate, person or committee.

21 d. Any communication from an independent expenditure-only
22 committee that, when taken as a whole, expressly advocates the
23 nomination, election or defeat of a clearly identified candidate or
24 expressly advocates supporting or opposing a public question, or is
25 the functional equivalent of express advocacy because it can be
26 interpreted by a reasonable person only as advocating the
27 nomination, election or defeat of a candidate or advocating support
28 for or opposition to a public question, taking into account whether
29 the communication involved mentions a candidacy, a political party,
30 or a challenger to a candidate, or takes a position on a candidate's
31 character, qualifications, or fitness for office, or the merits of a
32 public question, shall contain a clear and conspicuous statement that
33 the expenditure was made without the cooperation, knowledge, or
34 prior consent of, or without coordination or consultation with, or
35 without the request, suggestion or behest of, a candidate or any
36 person or committee acting on behalf of a candidate, or that the
37 expenditure was made to support or oppose the passage of a public
38 question without the cooperation, knowledge, or prior consent of, or
39 without coordination or consultation with, or without the request,
40 suggestion or behest of any person or committee supporting or
41 opposing a public question. For each reportable communication
42 made by an independent expenditure-only committee, the treasurer
43 thereof shall certify, in the manner required by the commission, that
44 the communication was made without the cooperation, knowledge,
45 or prior consent of, or without coordination or consultation with, or
46 without the request, suggestion or behest of a candidate, a
47 candidate's committee, joint candidates committee, or both, or that
48 the expenditure was made to support or oppose the passage of a

1 public question without the cooperation, knowledge, or prior
2 consent of, or without coordination or consultation with, or without
3 the request, suggestion or behest of any person or committee
4 supporting or opposing a public question.

5 **[d.] e.** Any person who accepts compensation from a committee,
6 group or individual described in subsection a. or b. of this section
7 for the purpose of printing, broadcasting, or otherwise
8 disseminating to the electorate a communication shall maintain a
9 record of the transaction which shall include an exact copy of the
10 communication and a statement of the number of copies made or the
11 dates and times that the communication was broadcast or otherwise
12 transmitted, and the name and address of the committee, group or
13 individual paying for the communication. The record shall be
14 maintained on file at the principal office of the person accepting the
15 communication for at least two years and shall be available for
16 public inspection during normal business hours.

17 **[e.] f.** As used in this section, "communication" means a press
18 release, pamphlet, flyer, form letter, sign, billboard, paid
19 advertisement printed in any newspaper or other publication or
20 broadcast on radio or television, or telephone call featuring a
21 recorded message, or any other form of advertising directed to the
22 electorate.

23 **[f.] g.** The provisions of this section shall not be construed to
24 apply to any bona fide news item or editorial contained in any
25 publication of bona fide general circulation.

26 **[g.] h.** (1) A person who violates a provision of this section shall
27 be subject to the civil penalties provided in section 22 of P.L.1973,
28 c.83 (C.19:44A-22).

29 (2) A person who, with intent to injure anyone or to conceal
30 wrongdoing, purposely falsifies, conceals or misrepresents
31 information required by this section to be disclosed or maintained
32 on file is guilty of a crime of the fourth degree.

33 **[h.] i.** The Election Law Enforcement Commission shall
34 promulgate rules and regulations pursuant to the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate
36 the purpose of this section. The commission may, by regulation,
37 exempt from the provisions of this section small, tangible items of
38 de minimis value which are commonly used in campaigns to convey
39 a political message, including, but not limited to, buttons, combs,
40 and nail files. The commission may also, by regulation, exempt
41 from the provisions of this section advertising space purchased by a
42 candidate committee, joint candidates committee, political
43 committee, continuing political committee, political party
44 committee, legislative leadership committee or other person, in a
45 political program book distributed at a fund-raising event if the
46 financial transaction is otherwise subject to disclosure. An
47 exemption granted by the commission with respect to any item shall

1 not relieve the committee, group or individual making an
2 expenditure therefor from any applicable campaign finance
3 reporting requirements.

4 In addition, the commission shall have the authority to provide,
5 by regulation, that a communication need not include the address of
6 the committee, group or person financing the communication in
7 circumstances where the name of a committee, group or person
8 would be sufficient to identify it from the commission's records.

9 (cf: P.L.2004, c.30, s.1)

10

11 4. This act shall take effect on the 90th day following the date
12 of enactment.

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14

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STATEMENT

16

17 The purpose of this bill is to require disclosure of the
18 contributions received and the expenditures made by committees or
19 organizations that are not affiliated or coordinated with a candidate,
20 the candidates committee or joint candidates committee, or both, or
21 a committee organized to support or oppose a public question.

22 Under the bill, such a committee or organization is referred to as
23 an independent expenditure-only committee and defined as an
24 organization organized under section 527 of the federal Internal
25 Revenue Code or under paragraphs (4), (5) or (6) of subsection c. of
26 section 501 of the federal Internal Revenue Code, or any other
27 organization organized under federal law that the commission
28 determines is essentially similar to such organizations and does not
29 fall within the definition of any other organization subject to the
30 provisions of current law. Such a committee would not include any
31 organization organized under paragraph (3) of subsection c. of
32 section 501 of the federal Internal Revenue Code. The term
33 "independent expenditure" is defined as an expenditure that is made
34 to support or oppose a candidate for nomination or election to
35 public office without the cooperation, knowledge, or prior consent
36 of, or without coordination or consultation with, or without the
37 request, suggestion or behest of, a candidate or any person or
38 committee acting on behalf of a candidate, or an expenditure that is
39 made to support or oppose the passage of a public question without
40 the cooperation, knowledge, or prior consent of, or without
41 coordination or consultation with, or without the request, suggestion
42 or behest of any person or committee supporting or opposing a
43 public question.

44 The bill requires an independent expenditure-only committee to:

45 1) register with the Election Law Enforcement Commission
46 (ELEC) if it makes an independent expenditure of at least \$1,200 in
47 the aggregate or receives a contribution of \$2,500 or more in the
48 aggregate during a calendar year;

- 1 2) make a cumulative report on a quarterly basis, on a form
2 prescribed by ELEC, of all contributions in the form of moneys,
3 loans, paid personal services, or other thing of value made to it, and
4 of all independent expenditures made, incurred, or authorized by it
5 during the period ending 48 hours preceding the date of the report
6 and beginning on the date on which the first of those contributions
7 was received or the first of those expenditures was made, whichever
8 occurred first;
- 9 3) appoint a single treasurer who is to be responsible for
10 certifying the correctness of each report filed with ELEC and
11 maintaining all records of contributions and independent
12 expenditures for a period of not less than four years;
- 13 4) file a cumulative report on the: a) 29th day preceding the
14 election for which contributions were received and independent
15 expenditures were made by the committee; b) 11th day preceding
16 the election; and c) 20th day following the election for which
17 contributions were received and independent expenditures were
18 made by the committee;
- 19 5) provide an itemized accounting of all receipts relative to any
20 contribution of \$2,500 or more received, or independent
21 expenditure of at least \$1,200 made by an independent expenditure-
22 only committee, which includes the name and mailing address of
23 each contributor contributing to such committee and the amount
24 contributed by each;
- 25 6) file notice with ELEC within 48 hours of a contribution of
26 \$2,500 or more received between the 13th day before an election
27 and the date of the election, and any independent expenditure made
28 during that period;
- 29 7) provide that no person serving as the chairman of a political
30 party committee or a legislative leadership committee may serve as
31 the chairperson of an independent expenditure-only committee, or
32 as its treasurer, or be involved in the management, control or
33 formation of an independent expenditure-only committee;
- 34 8) require each independent expenditure-only committee to
35 establish an account that is separate and segregated from any other
36 bank account established by the committee and use that account
37 whenever it makes independent expenditures or receives contributions
38 to promote the election or defeat of any candidate for elective public
39 office or the passage or defeat of any public question voted on by the
40 voters of this State;
- 41 9) provide that if any communication is made by an independent
42 expenditure-only committee after January 1 of the calendar year of a
43 primary, general, nonpartisan municipal, local or regional school board
44 or fire district election to nominate or elect candidates for election or
45 re-election to those offices, and in the case of a run-off or special
46 election during the period beginning on the date on which the
47 announcement with respect to such election is made and ending on the
48 date of the election, or with regard to a public question, the

1 communication must be reported to ELEC pursuant to the current law
2 regarding election communications; and
3 10) provide that any communication from an independent
4 expenditure-only committee, when taken as a whole, expressly
5 advocates the nomination, election or defeat of a clearly identified
6 candidate or expressly advocates supporting or opposing a public
7 question, or is the functional equivalent of express advocacy, must
8 contain a clear statement that the expenditure was made without the
9 cooperation, knowledge, or prior consent of, or without
10 coordination or consultation with, or without the request, suggestion
11 or behest of, a candidate or any person or committee acting on
12 behalf of a candidate, or that the expenditure was made to support
13 or oppose the passage of a public question without the cooperation,
14 knowledge, or prior consent of, or without coordination or
15 consultation with, or without the request, suggestion or behest of
16 any person or committee supporting or opposing a public question.