

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1500

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 17, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1500, with committee amendments.

This bill, as amended, revises “The New Jersey Campaign Contributions and Expenditures Reporting Act” to institute new reporting requirements on certain organizations, and increase the limits on the amount of money that may be contributed by individuals, candidates, and committees to other candidates and committees.

The bill requires disclosure by any “independent expenditure committee,” defined as any organization organized under section 527 or paragraph (4) of subsection (c) of section 501 of the federal Internal Revenue Code that engages in influencing or attempting to influence the outcome of any election or the nomination, election, or defeat of any person to any State or local elective public office or the passage or defeat of any public question, legislation, or regulation, or in providing political information on any candidate or public question, legislation, or regulation, and raises or expends \$3,000 or more for any such purpose. The bill requires these committees to report contributions in excess of \$10,000 and expenditures in excess of \$3,000 to the Election Law Enforcement Commission (ELEC), and prohibits a candidate from establishing, authorizing the establishment of, maintaining, or participating directly or indirectly, in the management or control of any independent expenditure committee.

The bill, as amended, defines “electioneering communication” as any communication made from January 1 of an election year and the date of the election and refers to: 1) a clearly identified candidate for office and promotes or supports a candidate for that office or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate; or 2) a public question, and promotes or supports the passage or defeat of that question, regardless of whether the communication expressly advocates a vote for or against the passage of the question. The term includes communications published in any newspaper or periodical; or broadcast on radio, television, the Internet or digital media, or any public address system; placed on any billboard, outdoor facility, button, motor vehicle, window display, poster, card, pamphlet, leaflet,

flyer, or other circular; or contained in any direct mailing, robotic phone calls, or mass e-mails.

The bill, as amended, defines “independent expenditure” as an expenditure by a person expressly advocating, or the functional equivalent thereof, the election or defeat of: 1) a clearly identified candidate that is not made in concert or cooperation with or at the request or suggestion of the candidate, the candidate’s committee, a political party committee, or an agent thereof; or 2) a public question, legislation, or regulation, that is not made in concert or cooperation with or at the request or suggestion of the sponsors, organizers, or committee supporting or opposing the question, legislation, or regulation, a political party, or agents thereof. The “functional equivalent” of expressly advocating means specific advocacy that can be interpreted by a reasonable person as advocating the election or defeat of a candidate, or the passage or defeat of a public question, legislation, or regulation, taking into account whether the communication involved mentions a candidate, a political party, or a challenger to a candidate, or takes a position on a candidate’s character, qualifications, or fitness for office, or that can be interpreted by a reasonable person as taking a position on the merits of a public question, legislation, or regulation, or taking a position in favor or against the passage or defeat of the public question, legislation, or regulation.

As amended, the bill codifies the criteria used by ELEC to determine when coordination with a candidate or political party has occurred, and allows ELEC to issue additional criteria by regulation.

Under the bill, as amended, independent expenditure committees would file quarterly reports of contributions received in excess of \$10,000 and expenditures made in excess of \$3,000. The bill requires independent expenditure committees to also report within 48 hours any contribution received or expenditure made in excess of \$1,400 when such is received or made after the final day of a quarterly reporting period and on or before an election which occurs after that final day but before the final day of the next reporting period.

In addition, the bill increases the amount of money:

1) that can be contributed by an individual, a corporation or union, or a group to a candidate committee from \$2,600 to \$3,000 per election;

2) that can be contributed by a political committee or a continuing political committee to a candidate committee from \$8,200 to \$9,300 per election;

3) that can be contributed by an individual, a corporation or union, political committee, continuing political committee, candidate committee or joint candidates committee or any other group to: a) the State committee of a political party from \$25,000 to \$28,000 per year; b) a county committee of a political party from \$37,000 to \$42,000 per year; and c) a municipal committee of a political party from \$7,200 to \$8,200 per year;

4) that the national committee of a political party can contribute to the State committee of a political party from \$72,000 to \$82,000 per year;

5) that can be contributed by the candidate committee of one candidate to the candidate committee of another candidate from \$8,200 to \$9,300 per election; and

6) that can be contributed to a political committee, or that one political committee or continuing political committee can contribute to another political committee or continuing political committee, from \$7,200 to \$8,200 per election or per year, as the case may be.

The bill also repeals the current prohibition on the transfer of funds between county political party committees between January 1st and June 30th of each year.

As amended by the committee, the bill would take effect immediately and be retroactive to January 1, 2018.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) require independent expenditure committees to also disclose their activities concerning the passage or defeat of legislation or regulation;

(2) codify ELEC regulations concerning the criteria to determine whether coordination with a candidate or political party has occurred, and allows ELEC to specify further criteria by regulation;

(3) remove the \$10,000 value threshold from the definition of “electioneering communication,” and define such communication as made within the temporal window beginning on January 1 of an election year and the date of the election;

(4) require an independent expenditure committee to file quarterly reports of all contributions received in excess of \$10,000 and all expenditures made in excess of \$3,000, instead of \$300;

(5) prohibit foreign entities from registering as independent expenditure committees for the purpose of making independent expenditures in any State or local election;

(6) explicitly include Internet and digital advertisement in the definitions of “political information,” “electioneering communication,” and “communication;”

(7) require persons who accept compensation from any committee, group, or individual for the placement of communication to be disseminated to the electorate to require such committee, group, or individual to file a copy of their statement of registration they filed with ELEC;

(8) include a severability clause; and

(9) provide that the bill would take effect immediately, and be retroactive to January 1, 2018.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.