

Fiscal Note & Local Impact Statement

125th General Assembly of Ohio - Special Session

Ohio Legislative Service Commission
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BILL: **Am. Sub. H.B. 1 - Special Session** DATE: **December 16, 2004**

STATUS: **As Reported by Senate Rules** SPONSOR: **Rep. DeWine**

LOCAL IMPACT STATEMENT REQUIRED: **No - Minimal cost**

CONTENTS: **To revise the Campaign Finance Law**

State Fiscal Highlights

STATE FUND		FY 2005	FY 2006	FUTURE YEARS
Secretary of State – GRF				
Revenues		- 0 -	- 0 -	- 0 -
Expenditures	Potential increase in disclosure processing costs		Potential increase in disclosure processing costs	Potential increase in disclosure processing costs
Secretary of State – (Fund 413)				
Revenues	Potential gain in fees to offset paper filing costs		Potential gain in fees to offset paper filing costs	Potential gain in fees to offset paper filing costs
Expenditures	Potential increase in paper filing costs		Potential increase in paper filing costs	Potential increase in paper filing costs
Ohio Elections Commission – Fund 4P2				
Revenues	Potential large gain in fine revenue		Potential large gain in fine revenue	Potential large gain in fine revenue
Expenditures	Potential increase, corresponding to likely increased complaint volume		Potential increase, corresponding to likely increased complaint volume	Potential increase, corresponding to likely increased complaint volume
Auditor of State – GRF				
Revenues	-0-		-0-	-0-
Expenditures	Potential increase in "Restricted Funds" audit costs		Potential increase in "Restricted Funds" audit costs	Potential increase in "Restricted Funds" audit costs

Note: The state fiscal year is July 1 through June 30. For example, FY 2005 is July 1, 2004 – June 30, 2005.

- The bill requires disclosure of electioneering communications with the Secretary of State's office, which could increase the costs of processing such disclosures.
- There may be potential revenue gain from fines levied for failure to file or the late filing of electioneering communication statements, to be deposited in the Ohio Election Commission's Fund 4P2. The bill establishes a fine of not more than \$10,000 plus not more than \$1,000 per day for a person failing to file a required notice of establishment of an electioneering communication committee. The bill also establishes a fine for electioneering



communication committees that violate the 30-day pre-election communication restriction. This fine is equal to three times the direct costs of airing the violating communication.

- With the new reporting and disclosure requirements listed in the bill, and the availability of such information to the public, the Ohio Elections Commission may experience an increased number of violation complaints against specific candidates or political parties.
- The bill requires auditing of "restricted funds" of state and county political parties by the Auditor of State's office. This would increase the volume of audits already done by the Auditor, and presumably increase the costs of performing this function as well.
- The bill requires the Secretary of State to adopt rules that would allow candidates and campaign committees to file campaign finance statements by paper rather than electronic means. The Secretary of State will also be permitted to charge a fee that offsets the costs for converting these documents to electronic format.

Local Fiscal Highlights

LOCAL GOVERNMENT		FY 2005	FY 2006	FUTURE YEARS
County Boards of Elections				
Revenues	- 0 -		- 0 -	- 0 -
Expenditures	Potential increase in administrative costs		Potential increase in administrative costs	Potential increase in administrative costs
County Courts				
Revenues	Potential gain from fines		Potential gain from fines	Potential gain from fines
Expenditures	Potential increase due to case volume		Potential increase due to case volume	Potential increase due to case volume

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- There may be a potential decrease in costs for the removal of outdated campaign finance law. Local boards of elections would be able to use electronic means of transmission.
- Boards of Elections would likely incur new costs for administering the bill's new reporting requirements.
- There may be new court costs and offsetting revenues for potential prosecution of fifth degree felonies for failure to file the new statements required of petition circulators or those persons compensated for distributing and submitting voter registration applications. As the volume of such cases cannot be determined, it is difficult to quantify any new costs or revenues that would be created as a result.

Detailed Fiscal Analysis

The bill makes extensive changes to state campaign finance law. For detail on specific provisions concerning campaign contribution limits, the use of political party funds, and other changes made by the bill, consult the LSC bill analysis. This fiscal note describes the impact of these changes on the Secretary of State's office, which would assume new regulatory responsibilities, the Auditor of State's office, which would assume new auditing responsibilities, and the Ohio Elections Commission, as well as the effects on county boards of elections and county courts.

Fiscal Effect on Secretary of State for New Filing Requirements

There are several filing requirements made in the bill with respect to electioneering communications. There are also requirements for the Secretary of State to make such filings public on the Internet. This includes deposit and disbursement statements required to be filed with the Secretary of State by county political parties. These requirements are summarized below. In general, it is assumed that the large volume of new reporting required by the bill could lead to a large increase in the number of filings that will be received by the Secretary of State's office. Such an increased workload could lead to a minimal increase of administrative costs for the Secretary of State's office, but it is unlikely that any additional staff would be needed.

Paper Filing for Certain Campaign Committees

The Secretary of State must adopt rules permitting campaign committees of a candidate for statewide office that makes expenditures of less than \$25,000 during a filing period, or campaign committee of a candidate for member of the General Assembly or the office of judge of court of appeals that would otherwise be required to file campaign finance statements by electronic means, to file those statements by paper. Filing by paper must be done not sooner than 24 hours after the end of the filing period that is covered by the applicable statement. The paper filing will also be accompanied by a fee that will be determined by rule. This fee must not exceed the cost of the data entry and data verification incurred by the Secretary of State to convert the filing to an electronic format. If an eligible campaign committee, which files an affidavit, subsequently fails to file the statement on paper by the established deadline determined by the Secretary of State, penalties for the late filing of campaign finance statements will apply.

Electioneering Communication Committees

An electioneering communication committee must electronically file within 24 hours of its first disclosure date, and weekly thereafter under circumstances specified within the bill. The bill requires the Secretary of State's office to determine by rule or addendum when an electioneering communication amendment or correction of statement is to be filed. Next, any person who intends to make a disbursement for direct costs of producing or airing an electioneering communication must establish an electioneering communication committee, and file a notice to that effect with the Secretary of State's office, prior to making the disbursement. Finally, the bill requires that all county political parties file

campaign finance statements with respect to state candidate funds by electronic means to the Secretary of State.

The bill also requires the Secretary of State's office to indicate in what forms petition circulator disclosure statements and voter registration application-taker forms are to be created. The bill requires the Secretary of State to prescribe the form and content of these required statements. There is no new cost for developing these forms.

Auditor of State Auditing Requirements

The bill requires the Auditor of State to audit the restricted funds of state and county political parties to verify that the moneys in those funds were expended in accordance with campaign finance law. The Auditor of State must also distribute moneys in the Ohio Political Party Fund to political parties in a manner provided for under existing law after the Auditor deducts from those moneys the cost of conducting restricted fund audits. It is assumed that this would increase the State Auditor's cost to review this documentation, and possibly require additional staff. The Auditor of State will annually submit a report to the Department of Taxation estimating the costs the Auditor of State will incur during that year in conducting these audits. The costs indicated in the report will be paid from the Political Party Fund.

Fiscal Impact of New Filing and Auditing Requirements

Elections Commission Oversight

The bill also establishes a fine of not more than \$10,000 plus not more than \$1000 per day for a person who fails to file a required notice that the person is establishing an electioneering communication committee, or fails to file a required disclosure. The bill establishes a fine for the violation of the 30-day restriction clause. This fine is equal to three times the amount of money that was disbursed by the violating electioneering communication committee to air the violating communication. All revenues generated as a result of such fines will be deposited into the Elections Commission Fund (Fund 4P2).

County Boards of Elections – New Filing Requirements

The increased filing requirements of the bill may potentially lead to increased costs for county boards of elections. County boards of elections may need to hire additional staff to meet these increased demands. The bill requires the circulator of any election related petition to identify on the statement, the name of the person, if any, which is employing the circulator. Anyone receiving compensation for circulating a petition would be required to file a statement to that effect with the county board of elections. Also, the bill requires persons receiving compensation for registering an applicant to vote to file a statement to that effect with the county board of elections. In each of these cases, failure to do so will result in a fifth degree felony.

Offsetting these new expenses slightly, county boards of elections could see a potential decrease in administrative costs due to the elimination of obsolete Campaign Finance Law procedures for the filing of campaign finance statements by candidates for the office of member of the General Assembly, prior to March 1, 2004.

Potential Court Costs and Gains in Fine Revenue

There may also be an increase in costs to county courts for any potential prosecutions of those persons charged with the fifth degree felony violations described above. A fifth degree felony carries a sentence of six to twelve months in jail and a fine of \$2,500. It would seem unlikely that a jail term would be imposed. It is more likely that the courts will gain some fine revenue as a result of successful prosecutions. In addition, the Franklin County prosecutor would incur some costs if the Attorney General forwards complaints involving fundraiser reporting violations.

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