



Lynda J. Jacobsen

Bill Analysis
Legislative Service Commission

Am. Sub. S.B. 115*
126th General Assembly
(As Reported by H. Elections and Ethics)

Sen. Jacobson

BILL SUMMARY

- Establishes political contributing entities for purposes of the Campaign Finance Law.
- Declares an emergency.

CONTENT AND OPERATION

Background

Before the effective date of Am. Sub. H.B. 1 of the Special Session of the 125th General Assembly (March 31, 2005), political contributing entities (PCEs) were authorized and covered by the reporting requirements, campaign contribution limitations, and other provisions of the Campaign Finance Law (R.C. Chapter 3517.). That act abolished PCEs and their coverage by those reporting requirements, campaign contribution limitations, and other provisions.

Changes proposed by the bill

Overview

The bill reestablishes PCEs for the purposes of the Campaign Finance Law essentially in the same manner as they were authorized and covered by the Law's reporting requirements, campaign contribution limitations, and other provisions before Am. Sub. H.B. 1 (but see the *higher* campaign contribution limitations in the following tables). A "political contributing entity" is any entity, including a corporation or labor organization, that may lawfully make contributions and

* This analysis was prepared before the report of the House Elections and Ethics Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

expenditures and that is not an individual or a political action committee, continuing association, campaign committee, political party, legislative campaign fund, designated state campaign committee, or state candidate fund (R.C. 3517.01(B)(25)).¹ In most cases, the bill treats PCEs similar to political action committees (PACs), as was the case under the Campaign Finance Law before Am. Sub. H.B. 1's effective date.

Affected statutory provisions

Table A below lists (a) each relevant section of the Campaign Finance Law and certain other laws into which the bill adds PCE references and (b) the general subject matter of those sections. Again, the PCE references generally are in the same provisions of the Law as before Am. Sub. H.B. 1's effective date, but a few PCE references are added to provisions enacted by that legislation.

TABLE A: PCE COVERAGE IN THE CAMPAIGN FINANCE LAW

R.C. SECTION	PCE REFERENCE²	TOPIC--IN GENERAL
R.C. 102.03	Division (G)	Ethics Law exception
R.C. 2921.01 and 2921.43	Division (H) and Divisions (C) and (F), respectively	Criminal Code definitional section for the Offenses Against Justice and Public Administration Law, and the offense of "soliciting improper compensation"
R.C. 3517.01	Divisions (B)(4), (5), (8), (16), (17), and (25)	Campaign Finance Law definitional section
R.C. 3517.08	Divisions (B) and (C)	Expenditures not considered to be a contribution or expenditure for purposes of the Campaign Finance Law
R.C. 3517.09	Division (B)	Prohibition against coercion, intimidation, etc. to make or not make contribution

¹ In this definition, "lawfully" means not prohibited by a Revised Code section, or authorized by a final judgment of a court of competent jurisdiction.

² This column's listing of express PCE references should not be construed to indicate that other general provisions of the Campaign Finance Law do not apply to PCEs. There are general provisions of that nature.

R.C. SECTION	PCE REFERENCE²	TOPIC--IN GENERAL
R.C. 3517.092	Division (A)(6)	Certain limitations on solicitation or acceptance of contributions from a state employee or county employee by state elected officers, county elected officers, candidates for those offices, their campaign committees, etc.
R.C. 3517.10	Divisions (A), (B), (C), (D), (E), (F), and (L)	Filing of campaign finance statements--when and their content--and designated treasurer for a PCE
R.C. 3517.102	Divisions (B), (C), and (D)	Campaign contribution limitations--see Tables B and C below
R.C. 3517.105	Divisions (A) and (B)	Independent expenditures and their reporting
R.C. 3517.106	Divisions (B), (C), (E)(2), and (K)	Secretary of State record maintenance, and filing of campaign finance statements by electronic means of transmission to the Secretary of State's office--when permitted or required
R.C. 3517.108	Division (B)	Unpaid candidate debt and additional contributions
R.C. 3517.109	Division (A)(7)	Cross-reference to campaign contribution limitations in statute dealing with (a) disposal of excess aggregate contributions and excess funds, and (b) carry-in limits
R.C. 3517.11	Division (A)	Where to file campaign finance statements (Secretary of State or board of elections)
R.C. 3517.13	Divisions (G)(2), (O), (Q), and (W)	Certain prohibitions for the Campaign Finance Law

R.C. SECTION	PCE REFERENCE ²	TOPIC--IN GENERAL
R.C. 3517.152 and 3517.155	Divisions (F) and (A)(2), respectively	Ohio Elections Commission--member and employee prohibited connections with PCE; Campaign Finance Law enforcement responsibilities
R.C. 3517.20	Divisions (A)(1)(i), (2), (3), and (4), (B), and (C)	PCE and <i>limited</i> PCE political publications for or against a candidate; expenditures for the purpose of financing political communications in support of or opposition to a candidate through political advertising; certain communications uttered over the broadcasting facilities of a radio or television station; and conducting of a telephone bank
R.C. 3517.23	Not applicable	Secretary of State instructions and explanations about compliance with the Campaign Finance Law
R.C. 3517.992	Divisions (I)(4)(c), (J)(4), and (Z)	Penalties tied to the Campaign Finance Law's prohibitions, especially the campaign finance limitations (donation and receipt)

Campaign contribution limitations

Tables B and C below set forth the campaign contribution limitations applicable to PCEs under the bill (R.C. 3517.102). Generally, the limitations are higher than those applicable to PCEs before Am. Sub. H.B. 1's effective date to reflect the enhanced limitations the General Assembly adopted in that act. And, as mentioned previously, the limitations are similar to those applicable to political action committees.

**TABLE B: PCE CAMPAIGN CONTRIBUTION
"MAKING" LIMITATIONS**

RECIPIENT OF PCE CONTRIBUTION	DOLLAR LIMITATION	R.C. SECTION
Any one statewide candidate in a primary election period or in a general election period	\$10,000	R.C. 3517.102(B)(7)(a)(i) and (C)(1)(a)(ii)
Any one Ohio Senate candidate in a primary election period or in a general election period	\$10,000	R.C. 3517.102(B)(7)(a)(ii) and (C)(2)(a)(ii)
Any one Ohio House of Representatives candidate in a primary election period or in a general election period	\$10,000	R.C. 3517.102(B)(7)(a)(iii) and (C)(3)(a)(ii)
Any one legislative campaign fund in a calendar year	\$15,000	R.C. 3517.102(B)(7)(a)(iv) and (C)(5)(b)
Any one state political party for the party's state candidate fund in a calendar year	\$30,000	R.C. 3517.102(B)(7)(a)(v) and (C)(4)(b)(ii)
Another PCE or a political action committee in a calendar year	\$10,000	R.C. 3517.102(B)(7)(a)(vi) and (C)(7)(b)

The bill also prohibits a PCE from making *any* contribution or contributions to a county political party for the party's state candidate fund (R.C. 3517.102(B)(7)(b) and (C)(4)(a)(ii)).

**TABLE C: PCE CAMPAIGN CONTRIBUTION
"RECEIPT" LIMITATIONS**

CONTRIBUTOR TO PCE	DOLLAR LIMITATION	R.C. SECTION
Individual who is seven years of age or older ³	\$10,000 to any one PCE in a calendar year	R.C. 3517.102(B)(1)(a)(viii) and (C)(7)(a)(ii)
Political action committee	\$10,000 to any one PCE in a calendar year	R.C. 3517.102(B)(2)(a)(vi) and (C)(7)(b)
Political party	\$10,000 to any one PCE in a calendar year	R.C. 3517.102(B)(4)(a) and (C)(7)(a)(ii)
Campaign committee	\$10,000 to any one PCE in a calendar year	R.C. 3517.102(B)(3)(e) and (C)(7)(a)(ii)
Another political contributing entity	\$10,000 to the PCE in a calendar year	R.C. 3517.102(B)(7)(a)(vi) and (C)(7)(b)

The bill also prohibits a PCE from knowingly accepting a contribution or contributions from any individual who is under seven years of age (R.C. 3517.102(B)(1)(c) and (C)(7)(a)(i)).

COMMENT

1. Under the campaign contribution limitations before Am. Sub. H.B. 1's effective date, a PCE could make the following permissible contributions:

RECIPIENT OF PCE CONTRIBUTION	DOLLAR LIMITATION
Any one statewide candidate in a primary election period or in a general election period	\$2,500
Any one Ohio Senate candidate in a primary election period or in a general election period	\$2,500
Any one Ohio House of Representatives candidate in a primary election period or in a general election period	\$2,500

³ Note that no individual who is under seven years of age may make any campaign contribution to any political entity (R.C. 3517.102(B)(1)(c)).

RECIPIENT OF PCE CONTRIBUTION	DOLLAR LIMITATION
Any one county political party for the party's state calendar fund in a calendar year	\$5,000
Any one legislative campaign fund in a calendar year	\$5,000
Any one state political party for the party's state candidate fund in a calendar year	\$15,000
Another PCE or a political action committee in a calendar year	\$2,500

2. The bill's emergency clause refers to the decision on March 30, 2005, in the Court of Common Pleas of Franklin County entitled *United Auto Workers Local Union 1112 v. Blackwell* (Case No. 05CVH-03-2553). In that decision, a preliminary injunction was issued prohibiting the enforcement of R.C. 3599.03(A) and (B), as enacted by Am. Sub. H.B. 1, "as those divisions relate to labor organizations" and ordering "[t]he Secretary of State, as chief elections officer for the State of Ohio, . . . [to] insure that county boards of election are aware of, and abide by . . ." the Court's order (page 12 of the decision).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-29-05	p. 348
Reported, S. State & Local Gov't & Veterans Affairs	04-13-05	pp. 391-392
Passed Senate (28-3)	04-13-05	pp. 395-396
Reported, H. Elections & Ethics	---	---

s0115-rh-126.doc/kl

