



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** Sub. S.B. 240 of the 128th G.A.      **Date:** May 26, 2010  
**Status:** As Reported by Senate State & Local Government & Veterans Affairs      **Sponsor:** Sen. Husted

**Local Impact Statement Procedure Required:** No — Minimal cost

**Contents:** Permits domestic corporations and labor organizations to make independent expenditures and electioneering communications

### State Fiscal Highlights

- The bill eliminates the current prohibitions against corporations and labor organizations making independent expenditures and electioneering communications in support of or in opposition to candidates for office. This could lead to an increase in the volume of statements of expenditures filed with the Elections Division within the Secretary of State's Office, thereby increasing processing costs.
- The Elections Division is primarily funded through GRF appropriation item 050321, Operating Expenses, but is supplemented by funding from appropriation item 050603, Business Services Operating Expenses, within the Uniform Commercial Code Filing Fund (Fund 5990).

### Local Fiscal Highlights

- The bill's requirements could lead to an increased volume of statements of expenditures filed by corporations and labor organizations for elections at the local level. These filings would be handled by the county boards of elections. County boards of elections could incur new general fund costs for handling these additional filings.

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## Detailed Fiscal Analysis

Ohio law currently contains prohibitions against corporations and labor organizations making independent expenditures and electioneering communications in support of or opposition to a candidate. In a recent decision, the United States Supreme Court held that corporations cannot be prohibited from making independent expenditures and invalidated, on First Amendment grounds, federal prohibitions substantially similar to those currently existing in Ohio law. The bill therefore eliminates the current prohibitions against corporations and labor organizations making independent expenditures and electioneering communications in support of or in opposition to candidates for office and related penalties and instead regulates these activities in a way similar to how they are regulated under existing law for other entities, such as political action committees (PACs). As a result of the changes in the bill, the Elections Division within the Secretary of State's Office could incur additional costs for processing filings related to statewide elections. County boards of elections could incur new costs for processing these filings for races at the local level.

The bill regulates the electioneering communications of corporations and labor organizations in the same fashion as other entities that are currently permitted to make such communications under current law. Because they are regulated in the same fashion, and would make the same filings, the only additional costs associated with the bill would be for any additional filings resulting from the need of corporations or labor organizations to file statements of independent expenditures. Because many of these filings would be electronic, these additional costs are likely to be minimal, and would be borne by either the Elections Division within the Secretary of State's Office for statewide elections or county boards of elections for local elections. The Elections Division is primarily funded through GRF appropriation item 050321, Operating Expenses, but is supplemented by funding from appropriation item 050603, Business Services Operating Expenses, within the Uniform Commercial Code Filing Fund (Fund 5990). County boards of elections are funded through a county's general fund. Much of the additional costs resulting from the bill would be incurred during the 90 days before an election, during which independent expenditure statements must be filed on a weekly basis.

At the state level, there are seven electioneering communication entities that are listed on the Secretary of State's web site. Between calendar years 2006 and 2008, these entities made 22 disbursements of cash that required a filing, totaling \$4.4 million. There are also 1,108 active status PACs listed on the Secretary of State's web site. Between 2006 and 2008, these entities made 64,879 expenditure filings required under law. Of this number, it is not clear how many were statements of independent expenditures.