

State Elections Enforcement Commission



2008 Legislative Analysis

Sources of Information

The following summaries have been compiled from the Office of Legislative Research bill analyses and tailored specifically for the State Elections Enforcement Commission. Only Public Acts affecting or of interest to the Commission were included in this issue.

For Further Information

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Availability on the G:/Drive

The 2008 Legislative Analysis is available on the following site:
<g:/seec/legislation/2008legislation>

Availability on the Internet

The 2008 Public Acts and reports are available through the Connecticut General Assembly's web site:
<http://www.cga.ct.gov/>

Acknowledgments

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AGENCY PROPOSALS

Public Act 08-2

HB 5505

AN ACT CONCERNING THE CITIZENS' ELECTION PROGRAM

EFFECTIVE DATE: Upon passage, except for the provision limiting the sessional ban on contributions from lobbyists to contributions from client lobbyists, which is effective October 1, 2008.

SUMMARY:

This act changes state election laws addressing the State Elections Enforcement Commission (SEEC), campaign finance, and the Citizens' Election Program. Specifically, it expands the SEEC's authority by allowing it to issue cease and desist orders for violations of statutes and regulations under its jurisdiction and order improper campaign contributions remitted to the Citizens' Election Fund (CEF), among other things.

Concerning campaign finance laws, the act makes changes to the registration forms for political action committees (known as PACs) and expands the law granting individuals the right to incur legal expenses to contest or maintain the results of an election. It subjects party candidate listings to the attribution law and repeals a requirement for certain mailings to bear a photograph of the candidate for office.

The act exempts from the contractor contribution and solicitation ban all principals of state and prospective state contractors who are elected officials. It makes minor and technical changes to that ban and the similar ban affecting lobbyists. It also transfers from the SEEC to the State Contracting Standards Board (SCSB), the responsibility for studying subcontracts for state contracts.

With respect to the Citizens' Election Program, the act establishes grant application deadlines and a corresponding schedule for payments from the CEF. It revises the process for reporting excess receipts and expenditures and receiving and spending supplemental grant money. The act eliminates the requirement that supplemental grant money remain in escrow until the excess spending of an opposing candidate reaches specified thresholds. Instead, it allows participating candidates to spend supplemental grant money immediately upon receiving it. The act also requires individuals who give qualifying contributions of over \$50 to certify the name of their employer.

The act extends the definitions of terms under state election law to the Citizens' Election Program. These terms include major party, minor party, primary, municipal office, and state office.

The act makes several technical and conforming changes. It also eliminates obsolete provisions. Specifically, it eliminates references to the secretary of the state as the filing repository for campaign finance reports and replaces her with the SEEC, thus codifying current practice. It similarly eliminates a provision requiring the secretary of the state to submit to the SEEC a biennial PAC registration report since, by law, these committees register with commission. It also eliminates a provision concerning a primary for delegates to a U.S. senatorial or congressional district convention, which no longer exists. Finally, the act eliminates references to penalties for lobbyists who fail to file campaign finance reports since they are no longer required to file with the SEEC because the law prohibits them from contributing to most committees.

SEEC'S POWERS AND DUTIES

The act authorizes the SEEC to:

1. Issue cease and desist orders and act to compel compliance with any law or regulation under its jurisdiction;
2. Order any improper campaign finance contribution remitted to the CEF;
3. Issue an order, after providing an opportunity for a hearing, upon a finding that there has been an intentional violation of the Citizens' Election Program;
4. Attempt to secure voluntary compliance, by informal methods, with the Citizens' Election Program; and
5. Refer evidence of Citizens' Election Program violations to the chief state's attorney.

The act also specifies that the commission may conduct inspections or audits concerning candidates who participate in the Citizens' Election Program. Absent a complaint, the law restricts when and for how long the commission may audit a candidate who is currently seeking election and ran in the previous election.

Finally, the act allows the SEEC to ask Hartford Superior Court to order compliance with an SEEC order concerning the Citizens' Election Program. It gives Hartford Superior Court the authority to order compliance with an SEEC order concerning the program.

CAMPAIGN FINANCE

PAC Registration

By law, a PAC must register with the SEEC within 10 days after its date of organization (that is, the date when it first solicits or receives contributions or funds, or makes or incurs expenditures, whichever is earlier). The act changes the name of the form PACs must submit from “statement of organization” to “registration statement,” thus codifying current practice.

In addition, the act gives the SEEC broader authority regarding the registration statements' contents. It authorizes the SEEC to require PACs to furnish any information the commission needs to facilitate compliance with campaign finance laws or the Citizens' Election Program.

Legal Expenses

Under current law, a person who exercises his or her right to incur legal expenses to contest or maintain the results of an election does so without violating campaign finance laws. The act extends the same protection against violations to primaries and to individuals under the Citizens' Election Program. The act specifies that only contributions from eligible sources may pay for a candidate's legal expenses. This means that candidates who participate in the Citizens' Election Program (participating candidates) may use only contributions from individuals. Candidates who do not participate in the program (nonparticipating candidates) may use contributions from individuals, most PACs, and state and prospective state contractors that do not have a state contract or state contract solicitation with the branch of government in which they are seeking office.

Campaign Finance Statements

The law requires each campaign treasurer of a committee, other than a state central committee, to file a campaign finance statement with the SEEC according to a specified schedule. The act confirms the schedule for PACs and party committees that receive or spend \$1,000 or less in a calendar year to such committees that receive or spend more than \$1,000 in a year. It requires those that receive or spend \$1,000 or less to file campaign finance statements on the tenth calendar day, rather than the second Thursday, in January. By law, committees that receive or spend more than \$1,000 file on the tenth calendar days in January, April, July, and October, and both types of committees file on the seventh day preceding an election.

When a treasurer files a campaign finance statement, the statement must include, among other things, information about individuals who have contributed over \$1,000 to the committee in the aggregate. The act repeals the requirement

that these individuals disclose whether they or their associated businesses have a state contract valued at more than \$5,000. (By law, individuals who contribute over \$50 to most candidates and committees must already certify that they are not a principal of a state or prospective state contractor or a communicator lobbyist or such a lobbyist's immediate family member.)

Attribution Requirement

By law, political communications paid for by people or committees cooperating with, in consultation with, or acting at the request of a candidate or his or her agent or committee to promote or defeat a candidate must include an attribution.

The act expands the attribution law. It subjects party candidate listings to the attribution requirement for written communications, including those that are web-based. It does not cover party candidate listings for television, radio, or Internet video or audio advertising (see BACKGROUND). Under current law, a party candidate listing, like other organization expenditures, is not considered a campaign finance expenditure and thus is not subject to the attribution law.

The act also narrows the attribution law. It eliminates the requirement that mailings promoting the success or defeat of a candidate include (1) a photograph of the candidate who conducts the mailing and (2) the name of the candidate conducting the mailing in the same size font as the mailing's narrative.

Lobbyists

The law imposes a complete ban on contributions from communicator lobbyists, their immediate family members, and PACs they establish or control to (1) exploratory or candidate committees for statewide or legislative office candidates, (2) PACs these candidates establish or control, (3) legislative caucus or legislative leadership committees, or (4) party committees. It also imposes a ban on contributions from client and communicator lobbyists when the General Assembly is in session to committees associated with candidates for statewide or legislative office.

Since the former provision supersedes the latter with respect to communicator lobbyists, the act limits the sessional ban to client lobbyists. The act also eliminates references to PACs established "on behalf of" lobbyists.

The act makes a technical correction by reinserting a provision that was inadvertently omitted from PA 06-137. The provision bans communicator lobbyists from soliciting the purchase of advertising space in a fundraising program sponsored by a town committee.

State and Prospective State Contractors

The law imposes a ban on political contributions from state and prospective state contractors, pre-qualified contractors, and their principals that is similar to the one it imposes on lobbyists except that the prohibition on giving and receiving contributions between contractors and candidates applies when the contractor has a contract with the branch of government in which the candidate is seeking office, other than the judicial branch (see BACKGROUND).

Both bans create an exception for candidates for public office. The act makes a technical change, conforming the contractor ban to the lobbyist ban with respect to candidates for public office. It further exempts from the contractor ban all principals of state and prospective state contractors who are elected officials. (By law, "principals" include the spouses and dependent children of individuals covered by the ban.) Since lobbyists are prohibited from holding state public office, the lobbyist ban exempts only the immediate family members who are elected officials, not the lobbyist himself or herself.

In addition, the act specifies that the contractor contribution and solicitation ban applies to state and prospective state contractors with state contracts or state contract solicitations, not only to those with state contract solicitations. By law, "state contract" means an agreement or contract with the state or any state or quasi-public agency, let through the procurement process or otherwise, with a value of \$50,000 or more, or a combination of contracts with a value of \$100,000 or more in a calendar year for (1) the rendition of services; (2) the furnishing of goods, supplies, or items of any kind; (3) the construction, alteration, or repair of any public building or public work; (4) the acquisition, sale, or lease of any land or building; (5) a licensing agreement; or (6) a grant, loan, or loan guarantee. "State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including an invitation to bid; request for proposals; request for information or quotes; or inviting bids, quotes, or other types of submittals. The definition includes requests made within or outside the competitive procurement process as authorized by law.

Lastly, the act transfers, from the SEEC to the SCSB, the responsibility for studying subcontracts for state contracts. Under the act, the SCSB must submit proposed legislation to the Government Administration and Elections Committee by February 1, 2010 with recommendations for extending the provisions of state contractor contribution and solicitation ban to subcontractors. Under current law, the SEEC is required to do so by February 1, 2009. PA 07-1, September Special Session, established the SCSB effective January 1, 2009.

CITIZENS' ELECTION PROGRAM

Qualifying Contributions

The act gives campaign treasurers the option of returning to the contributor or transmitting to the SEEC contributions that are not valid qualifying contributions. It requires the SEEC to deposit in the CEF any contribution it receives in this manner. The act does not specify when either option must be chosen. Under current law, campaign treasurers must return contributions that do not qualify under the Citizens' Election Program to their contributors. The act specifies that a contribution of less than \$5 is not a valid qualifying contribution.

By law, individuals who contribute more than \$50 to a participating candidate must include a certification with their qualifying contribution. The act requires these individuals to include in the certification the name of their employer. They must already certify that they are not a communicator lobbyist, immediate family member of such a lobbyist, or a principal of a state or prospective state contractor.

The act also directs these individuals to follow the same procedures as individuals follow when they contribute to nonparticipating candidates under CGS § 9-608(c)(3). But since this section of the statute outlines procedures for the SEEC and campaign treasurers to follow, the act's intent is unclear.

Grants from the Citizens' Election Fund

Application Deadline and Payment Schedule. The act establishes grant application deadlines and a corresponding payment schedule; however, it has no effect on when candidates are initially authorized to apply for a grant (see BACKGROUND).

Under the act, participating candidates submit grant applications by (1) 5:00 pm on the third Thursday in May of the year in which they are seeking nomination at a primary or election or (2) by 5:00 pm on a subsequent Thursday. The SEEC may accept applications only until 5:00 pm on the second to last Thursday before the primary or election, whichever is applicable.

Within four business days after the deadline (i.e., by the following Wednesday), the SEEC must review the applications it has received and determine whether to approve or reject each one. The act specifies that in the event of a national, regional, or local emergency or disaster, the SEEC must make this determination "as soon thereafter as is practicable." During state election years, the act requires the SEEC to meet two times a week from the third week of June until the third week of July to review any pending applications.

The SEEC must publish its meeting and application review schedules on its website as well as the secretary of the state's website. The act authorizes the commission to adopt regulations establishing application deadlines and payment schedules for participating candidates in a special election.

Current law does not specify application deadlines. It requires the SEEC to review each application and, within three business days of receiving one, determine whether a candidate qualifies for a grant.

The law, unchanged by the act, requires the SEEC to determine the amount of funds for which a candidate is eligible and inform the comptroller and the candidate of the amount. The comptroller then has two business days to notify the state treasurer and issue the check.

Written Certifications and Cumulative Itemized Accounting. By law, the candidate and campaign treasurer must sign the grant application. The application must include certain written certifications and a cumulative itemized accounting of campaign finances.

The act expands one of the certifications by requiring campaign treasurers to attest that they will comply with all state campaign finance laws, not only the Citizens' Election Program. It also requires treasurers to certify that they will maintain and furnish all records required under any campaign finance law, the Citizens' Election Program, or related regulation.

In addition, the act requires the cumulative itemized accounting to show expenditures as of three days before the applicable application deadline, rather than the date when the application is signed. By law, the treasurer signs the accounting under penalty of false statement.

Ballot Status. If the SEEC cannot conclude whether a candidate who applies for a grant from the CEF qualifies for the applicable full grant because the secretary of the state has not determined a candidate's "ballot status" (undefined by the act), the commission must approve the "lesser applicable partial initial grant" (also undefined by the act). Presumably, "ballot status" indicates whether a candidate (1) qualifies for access to the ballot, (2) will run in a primary campaign, and (3) will run opposed or unopposed in the general election. To determine a participating candidate's grant amount, whether full or "lesser applicable partial initial grant," the SEEC must receive this information from the secretary.

If a candidates receives a "lesser applicable partial initial grant," the act directs the SEEC to authorize payment for the remaining portion of the applicable grant after receiving knowledge of the ballot status of the opposing candidates in the primary or general election.

Excess Expenditures and Supplemental Grants

By law, participating candidates are entitled to additional money from the CEF if their opponents exceed certain spending limits; that is, if they make excess expenditures. The act revises the procedure for reporting excess expenditures, establishes the same one for reporting excess contributions, and changes the process for receiving and spending supplemental grant money.

Reporting. Under current law, if a candidate in a primary or general election campaign with at least one participating candidate makes or becomes obligated to make an expenditure exceeding 90% of the applicable grant for that campaign, his or her campaign treasurer must file a supplemental campaign finance statement with the SEEC within 48 hours of doing so. After filing the initial supplemental statement, the candidate and opposing candidate or candidates file weekly supplemental statements according to a specified schedule.

Under the act, if a candidate in a primary or general election campaign with at least one participating candidate receives contributions, loans, or other funds, or makes or obligates to make an expenditure that in the aggregate exceeds 90% of the applicable spending limit for the primary or general election period, his or her campaign treasurer must file a supplemental campaign finance statement with the SEEC.

If a candidate receives such funds or makes or obligates to make such an expenditure more than 20 days before the primary or general election, his or her treasurer must file an initial supplemental campaign finance disclosure statement with the commission within 48 hours doing so. If a candidate receives such funds or makes or obligates to make such an expenditure 20 days or less before the primary or election, the treasurer must file the initial supplemental campaign finance disclosure statement with the commission within 24 hours.

The act eliminates the requirement for candidates who make or obligate to make an excess expenditure within the above timeframes to file a declaration of excess expenditures by the above deadlines.

Thereafter, the campaign treasurer filing the initial supplemental statement and the campaign treasurers for all opposing candidates must file periodic supplemental campaign finance statements. If the applicable primary or general election is more than five weeks away, they must file periodic statements every other Thursday, beginning with the second Thursday after the filing of the initial statement. If it is five weeks or less away, they file according to the schedule current law sets out, except, in the case of a general election, they must continue to file until the Thursday after, rather than before, the election (see BACKGROUND).

The act additionally requires the campaign treasurer of a candidate in a primary or general election campaign with at least one participating candidate to file a declaration of excess receipts or expenditures statement when the candidate committee receives contributions, loans, or other funds, or makes or obligates to make, an expenditure that in the aggregate exceeds 100% of the applicable spending limit. The treasurer must do the same if the candidate has receipts or expenditures that, in the aggregate, exceed 125%, 150%, or 175% of the applicable spending limit for the primary or general election.

Finally, the act expands the mandatory contents of supplemental statements. It requires these statements to disclose, as of the day before the filing deadline, campaign contributions, loans, and other funds received, not only expenditures made or obligated during the primary or general election campaign, whichever is applicable.

Threshold. The act redefines “excess expenditure” as an expenditure made or obligated to be made by a nonparticipating or participating candidate who is opposed by at least one participating candidate in a primary or general election that exceeds the applicable spending limit for the participating candidate and that is the sum of (1) the qualifying contributions the participating candidate must receive and (2) 100% of the applicable full grant for a major party candidate for the primary or general election. Under current law, the term means expenditures made or obligated in excess of the applicable spending limit.

Processing Payments. The act changes the administrative procedure for processing payments to candidates whose opponents make excess expenditures. Under current law, the SEEC must notify each participating candidate, in addition to the state comptroller, when it determines that a nonparticipating candidate has made or become obligated to make an expenditure exceeding 90% of the applicable grant. The SEEC directs the comptroller to hold the funds in escrow until it determines that the nonparticipating candidate has made or become obligated to make an expenditure exceeding 100% of the grant. Within two business days of making that determination, the SEEC must process a voucher payment using the comptroller's accounting system. Within three business days of receiving the authorized voucher, the comptroller draws an order on the state treasurer to electronically transfer the payment into each participating candidate's account. The same process occurs when a nonparticipating candidate makes or obligates to make an expenditure exceeding 115%, 140%, and 165% of the applicable grant.

Under the act, if the SEEC determines that a nonparticipating candidate has received contributions, loans, or other funds, or has made or become obligated to make expenditures that in the aggregate exceed 100% of the applicable spending limit for the primary or general election, it must process a voucher payment for each opposing participating candidate. By law, the commission has

two business days to do so and within three business days of receiving the authorized voucher, the comptroller must draw an order on the state treasurer to electronically transfer the payment into each participating candidate's account.

The act authorizes a participating candidate to receive 25% of the applicable primary or general election grant, provided he or she has not made expenditures exceeding the sum of (1) the applicable qualifying contributions and (2) 100% of the applicable full grant for the primary or general election. The candidate may spend the supplemental grant immediately upon receiving it. The same process occurs when the SEEC determines that a nonparticipating candidate has received contributions, loans, or other funds, or has made or obligated to make expenditures that in the aggregate exceed 125%, 150%, and 175% of the applicable spending limit for the primary or general election campaign.

The act makes a similar change to the way payments are processed when a participating candidate who is opposed by at least one other participating candidate exceeds the applicable spending limit. The act directs the SEEC to process a voucher payment using comptroller's accounting system if it determines that a participating candidate has made or obligated to make an expenditure exceeding the sum of the required qualifying contributions and the applicable grant. The voucher payment must equal the excess expenditure. By law, the commission has two business days to do so and within three business days of receiving the authorized voucher, the comptroller must draw an order on the state treasurer to electronically transfer the payment into every other participating candidate's account.

By law, the maximum aggregate amount that a participating candidate can receive to match an opponent's excess spending is (1) an amount equal to the total excess spending or (2) an amount equal to the original grant, whichever is less.

Notices Within 96 hours of a Primary or an Election. Under the act, if, during the 96-hour period beginning at 5 pm on the Thursday preceding a primary or an election, the SEEC receives a notice from a participating candidate that his or her opponent has received contributions, loans, or other funds, or made or obligated to make expenditures exceeding 100%, 125%, 150%, or 175% of the applicable spending limit for the primary or general election campaign that are not yet reported, it must immediately review the notice. The SEEC must notify the comptroller who must process the voucher using her accounting system. The amount of the additional money is equal to 25% of the applicable grant for the primary or general election campaign.

Under current law, if the SEEC receives a notice during the 96-hour period from a participating candidate that his or her opponent has made or become obligated to make an excess expenditure that is not yet reported, it must immediately review the notice. The SEEC must notify the comptroller and direct her to pay the

qualified candidate committee, or a person the candidate's treasurer chooses, an amount equal to the estimated or confirmed excess expenditures.

BACKGROUND

Party Candidate Listing

A “party candidate listing” is any communication that (1) lists the names of one or more candidates; (2) is distributed through public advertising including broadcast stations, cable television, newspapers or similar media, direct mail, telephone, electronic mail, public Internet sites, or personal delivery; and (3) treats all candidates in a substantially similar way. The content must be limited to (1) the identification of each candidate, including photographs; (2) the offices sought; (3) the offices the candidates currently hold, if any; (4) the party and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies; (5) an encouragement to vote for the candidates; and (6) information about voting, such as voting hours and locations.

State Contractor Contribution and Solicitation Ban

The law bans principals of state contractors, prospective state contractors, and prequalified contractors from making or soliciting contributions to or on behalf of (1) exploratory or candidate committees for statewide or legislative office candidates, (2) PACs authorized to make contributions to or spend on behalf of candidates for statewide or legislative office, or (3) party committees. For contractors with executive state agency or quasi-public agency contracts or responding to such state contract solicitations, the ban applies to statewide office candidates. For those with General Assembly contracts or responding such to state contract solicitations, the ban applies to legislative candidates.

Grant Applications

For a primary campaign, a participating candidate applies after the close of the party's nominating convention if he or she (1) receives the party endorsement; (2) receives at least 15% of the delegate vote on a roll-call at the party convention, if applicable; or (3) qualifies as a petitioning candidate for the party's nomination. The law distinguishes legislative candidates seeking election to a district office (i.e., multiple-town district) from those seeking election to a municipal office (i.e., single-town district). A state senator or state representative who represents a single-town district holds a municipal office. Since municipal office candidates are not endorsed at a state or district convention, candidates for these offices apply for a primary grant after their party endorsement or qualifying as a petitioning candidate.

For a general election campaign, a candidate applies after the close of the party's nominating convention or municipal caucus, convention, or town committee

meeting, whichever is applicable, if he or she (1) receives the party's endorsement and will not have to run in a primary; (2) receives at least 15% of the delegate vote on a roll-call at the party convention, no other candidate receives the party endorsement or 15% of the delegate vote, and no other candidate files a nominating petition; or (3) qualifies as a petitioning candidate and no candidate receives the party endorsement or 15% of the delegate vote. The candidate applies after a primary if the secretary of the state declares him or her the party nominee. A legislative candidate in a special election applies after the close of his party's district convention, municipal caucus, convention, or town committee meeting.

Supplemental Statements when Primary or Election is Five or Less Weeks Away

In the case of a primary campaign, campaign treasurers file on the first Thursday following (a) the July filing date required by law or (b) the date when the initial supplemental campaign finance statement was filed, whichever is later, and each Thursday thereafter until the primary. In the case of a general election campaign, treasurers file on the first Thursday following (a) the October filing date required by law or (b) the date when the initial supplemental campaign finance statement was filed, whichever is later, and each Thursday thereafter until the election.

AN ACT CONCERNING ELECTRONIC FILING OF CAMPAIGN REPORTS

SUMMARY:

By law, candidate committees, political committees (known as PACs), and party committees that raise or spend over \$1,000 during a primary or election campaign, or a calendar year, whichever is applicable, file periodic campaign finance statements with the State Elections Enforcement Commission (SEEC).

Beginning January 1, 2009, this bill subjects (1) party committees and PACs that maintain a balance of \$5,000 and register with the SEEC, and (2) individuals or committees that make or obligate to make independent expenditures exceeding \$1,000 in the aggregate, to the mandatory electronic filing requirement. Beginning January 1, 2010, this bill also lowers, from \$250,000 to \$5,000, the threshold for the mandatory electronic filing of these statements that applies to statewide office candidates and makes it applicable to all candidates who file with SEEC.

Under the bill, as under current law, candidate committees that do not reach the threshold in contributions or expenditures may file online. Similarly, party committees and PACs that do not have a \$5,000 balance may file online.

In light of the new online filing system known as eCRIS, the bill eliminates references to a SEEC-created "software" program replacing them with a "web-based" program. It retains provisions requiring the SEEC to prescribe a standard reporting format for instances when treasurers choose to submit statements online through a program other than eCRIS. Since the law requires committee treasurers to submit all electronic filings online, the bill eliminates an obsolete provision allowing mandatory electronic filings to be made using alternative media forms (e.g., disks or tapes). However it retains alternative media forms for voluntary electronic filings.

CANDIDATES

Beginning January 1, 2010, campaign treasurers for statewide office candidates, legislative candidates, and candidates for judge of probate who raise or spend \$5,000 or more must file their campaign finance statements online using eCRIS or a SEEC-prescribed software program. The requirement applies to exploratory and candidate committees. Current law applies only to the candidate committees of statewide office candidates. Statewide office candidates are those running for governor, lieutenant governor, attorney general, state comptroller, state treasurer, or secretary of the state.

The bill expands the mandated refiling requirement. Beginning January 1, 2010, candidate and exploratory committees that reach the \$ 5,000 threshold must resubmit, whether through eCRIS or a SEEC-prescribed software program, any previously-filed statements that were not filed electronically. Before that date, only, statewide office candidates must resubmit previous statements when they reach the \$ 250,000 threshold that were not filed electronically.

PARTY COMMITTEES AND PACS

Beginning January 1, 2009, a state central committee, legislative caucus or legislative leadership committee, or any other party committee or PAC registered with the SEEC that has a balance of \$5,000 or more must file all required campaign finance statements online using eCRIS or a SEEC-prescribed software program.

Under the bill, party committees and PACs must continue to file electronically unless their balance on hand is less than \$5,000 and they obtain a waiver from the SEEC.

INDIVIDUALS AND COMMITTEES THAT MAKE INDEPENDENT EXPENDITURES

By law, any individual or committee that, during a primary or general election campaign, makes or becomes obligated to make an independent expenditure or expenditures exceeding \$1,000 in the aggregate to promote the success or defeat of a statewide office or legislative candidate must file a report with the SEEC.

Beginning January 1, 2009, the bill requires any such individuals or committees to file the report online using eCRIS or a SEEC-prescribed software program.

RESOLUTIONS

RA 08-1

HJ 21

RESOLUTION PROPOSING AN AMENDMENT TO THE STATE CONSTITUTION TO ALLOW SEVENTEEN-YEAR-OLD PERSONS WHO WILL BE EIGHTEEN YEARS OF AGE AT THE NEXT REGULAR ELECTION TO VOTE IN PRIMARIES RELATED TO SUCH ELECTION.

EFFECTIVE DATE: The resolution will be placed on the 2008 general election ballot. If a majority of those voting in the general election approves the amendment, it becomes part of the state constitution.

SUMMARY:

This resolution proposes a constitutional amendment allowing 17-year-old citizens who will turn 18 on or before the day of a regular election to vote in its primary. Under the resolution, such an individual must apply and otherwise qualify for admission as an elector. He or she may then vote in the primary held to determine nominees for the regular election. Upon turning 18, the individual's electoral rights attach. By law, a "regular election" means any municipal or state election. State elections include candidates for federal office.

The ballot designation to be used when the amendment is presented at the general election is: "Shall the Constitution of the State be amended to permit any person who will have attained the age of eighteen years on or before the day of a regular election to vote in the primary for such regular election?"

SPECIAL SESSION

Public Act 08-3

HB 6502

Emergency Certification

AN ACT CONCERNING COMPREHENSIVE ETHICS REFORMS

EFFECTIVE DATE: October 1, 2008

SUMMARY:

This act:

1. Generally permits state courts to revoke or reduce any retirement or other benefit due to state or municipal officials or employees who commit certain crimes related to their employment;
2. Makes it a class A misdemeanor for public servants to fail to report a bribe;
3. Expands illegal campaign finance practices to cover certain solicitations by chiefs of staff;
4. Makes several changes to state codes of ethics such as limiting gift exceptions, prohibiting state contractors from hiring certain former public officials and state employees, restricting the Office of State Ethics' (OSE) authority to issue subpoenas, prohibiting *ex parte* communications during OSE hearings on ethics complaints, limiting Citizens' Advisory Board members who can act on ethics complaints, and subjecting the governor's spouse to the code;
5. Requires OSE to provide mandatory training to legislators on the Code of Ethics for Public Officials; and
6. Requires public agencies to post, on available web sites, meeting dates, times, and minutes required by law to be publicly disclosed.

§§ 1-5 — CORRUPT OFFICIALS AND EMPLOYEES

The act generally permits state courts to revoke or reduce any retirement or other benefit due to state or municipal public officials or employees or quasi-public agency members and directors who commit certain crimes related to their employment.

The act requires the court to order payment of any benefit or payment that is not revoked or reduced.

Exceptions to Reduction or Revocation

Under the act:

1. No revocation or reduction may prohibit or limit benefits that are the subject of a qualified domestic relations order (e. g., child support);
2. No pension may be reduced or revoked if the IRS determines that the action will negatively affect or invalidate the status of the state's or a municipality's government retirement plans under Section 401 (a) of the Internal Revenue Code of 1986; and
3. The pension benefits of a public official or employee who cooperated with the state as a whistleblower before learning of the criminal investigation may not be revoked or reduced if the court determines or the attorney general certifies that the official or employee voluntarily provided information to the attorney general, state auditors, or a law enforcement agency against a person more blameworthy than the official or employee.

Additionally, no pension may be revoked if the court determines that to do so would constitute a unilateral breach of a collective bargaining agreement. Instead the court may issue an order to reduce the pension by an amount necessary to (1) satisfy any fine, restitution, or other monetary order issued by the criminal court and (2) pay the cost of the official's or employee's incarceration.

Crimes Related to Office or Employment

The act requires the attorney general to apply to the Superior Court for an order to revoke or reduce the benefits of a public official or employee who, on and after the act's passage is convicted of or pleads guilty or *nolo contendere* (no contest) in federal or state court to:

1. Committing or aiding or abetting the embezzlement of public funds from the state, a municipality, or a quasi-public agency;
2. Committing or aiding or abetting any felonious theft from the state, a municipality, or a quasi-public agency;
3. Bribery connected to his or her role as a public official or employee;
or

4. Felonies committed willfully and with intent to defraud to obtain or attempt to obtain an advantage for himself or herself or others through the use or attempted use of his or her office.

The attorney general must notify the prosecutor in these criminal cases of the pension revocation statute and that the pension may be used to pay any fine, restitution, or other monetary order the court issues.

“Public officials” are (1) statewide elected officers, (2) legislators and legislators-elect, (3) judges, (4) gubernatorial appointees, (5) municipal elected and appointed officials, (6) public members and union representatives on the Investment Advisory Council, (7) quasi-public agency members and directors, and (8) people appointed or elected by the General Assembly or either chamber. The term does not include advisory board members or members of Congress.

“State employees” includes employees of quasi-public agencies.

Sentencing Considerations

When determining whether to revoke or reduce a public official's or employee's benefits or payments, the act requires the court to consider:

1. The severity of the crime;
2. The amount of money the state, municipality, quasi-public agency, or anyone else lost as a result of the crime;
3. The degree of public trust reposed in the person by virtue of his or her position;
4. If the crime was part of a fraudulent scheme against the state or a municipality, the defendant's role in it; and
5. Any other factors the court determines that justice requires.

After determining to reduce pension benefits, the court must consider the needs of an innocent spouse or beneficiary and may order that all or part of the benefits be paid to the spouse or beneficiary.

Pension Contributions

If an official's or employee's pension is revoked, the act entitles the person to the return of any contributions he or she made to it, without interest. But, the repayment cannot be made until the court determines that the official or employee has fully satisfied any judgment or court-ordered restitution related to

the crime against the office. If the court determines that he or she has not, it may deduct the unpaid amount from the individual's pension contributions.

Collective Bargaining Agreements

Beginning October 1, 2008, the act prohibits collective bargaining agreements from containing any provision that bars the revocation or reduction of a corrupt state or municipal employee's pension.

§§ 6 & 7 — BRIBERY

The act makes it a class A misdemeanor for public servants to fail to report a bribe (see BACKGROUND). Public servants commit this crime when they do not report to a law enforcement agency as soon as reasonably practicable that (1) another person has attempted to bribe them by promising, offering, transferring, or agreeing to transfer to them any benefit as consideration for their decision, opinion, recommendation, or vote or (2) they knowingly witnessed someone attempting to bribe another public servant or another public servant committing bribe receiving. By law, a person is guilty of bribe receiving if he or she solicits, accepts, or agrees to accept any benefit for, because of, or in consideration for his or her decision, opinion, recommendation, or vote.

The act expands the definition of “public servant” that applies to existing bribery and bribe receiving crimes, as well as this new crime. The act expands the public servants covered by these crimes to include quasi-public agency officers and employees. Elected and appointed government officers and employees and people performing a government function, including advisors and consultants, are already covered.

§ 12 — CAMPAIGN FINANCE

The act makes it an illegal campaign practice for chiefs of staff to solicit contributions from certain people on behalf of, or for the benefit of, any state, district, or municipal office candidate. Under the act, the chief of staff (1) for a legislative caucus cannot solicit an employee of the caucus, (2) for a statewide elected official cannot solicit a member of the official's office, and (3) for the governor or lieutenant governor cannot solicit from any member of the official's office or from any state commissioner or deputy commissioner.

By law, it is an illegal campaign finance practice for, among other things, state department heads and their deputies to solicit political contributions at any time, and for anyone to knowingly and willfully violate a campaign finance law. Campaign finance violators are subject to criminal penalties of up to five years in prison, a \$5,000 fine, or both for knowing and willful violations. They are also subject to civil penalties of up to \$2,000 per offense.

STATE ETHICS CODE

§§ 16 & 17 — ETHICS COMPLAINT ENFORCEMENT

By law, when an ethics complaint is filed with OSE, the office conducts probable cause investigations, including hearings. If probable cause is found, OSE's Citizens' Advisory Board initiates a hearing to determine whether there has been a violation. A judge trial referee conducts the hearing. Both OSE and its advisory board can subpoena witnesses and records during their respective proceedings.

Subpoenas. The act restricts OSE's authority to issue subpoenas by requiring it to get (1) approval from a majority of the advisory board members or (2) the chairperson of the board to sign the subpoena. It authorizes the vice chair to sign the subpoena if the chair is unavailable.

Ex Parte Communications. During the hearing on whether a violation has occurred, the act prohibits ex parte communications about the complaint or respondent between the board or any of its members and the judge trial referee conducting the hearing or a member of OSE's staff.

Voting on Existence of Violation. By law, the Citizens' Advisory Board, at the conclusion of the hearing, determines whether a violation occurred and, if so, imposes penalties. The act restricts the board members who can vote on whether a violation occurred to those who were physically present during the entire violation hearing.

The act makes a technical change by specifying the number of board members, rather than the fraction of the board, necessary to find a violation of the State Code for Lobbyists. The act requires six members, rather than two-thirds of the board, to find a violation. By law, there are nine board members.

§§ 13 & 14 — GIFTS

With several exceptions, the law prohibits public officials, candidates for public office, and state employees from accepting gifts (generally anything of value over \$10) from lobbyists. It also prohibits public officials and state employees from accepting gifts from people doing, or seeking to do, business with their agency; people engaged in activities regulated by their agency; or prequalified state contractors. The law also prohibits these people from giving gifts to public officials and employees.

The act caps at \$1,000 the exception for gifts provided at celebrations of major life events by people unrelated to the recipient. Major life events include a ceremony commemorating an individual's induction into religious adulthood such as a confirmation or bar or bat mitzvah, a wedding, a funeral, and the birth or

adoption of a child. It does not include any event that occurs on an annual basis such as an anniversary (Conn. State Agency Regulations § 1-92-53).

§ 15 — EMPLOYMENT RESTRICTIONS

The act prohibits a party to a state contract or agreement from employing a former public official or state employee who substantially helped negotiate or award a contract valued at \$50,000 or more or an agreement for the approval of a payroll deduction. The prohibition applies to employees or officials who resign within one year after the contract or agreement is signed and ends one year after the resignation. The law already prohibits former officials and employees from accepting the job. The penalty for violations is a fine of up to \$10,000. First-time intentional violations are punishable by up to one year in prison, a \$2,000, or both. Subsequent intentional violations are punishable by up to five years in prison, a \$5,000 fine, or both.

§§ 9 & 10 — GOVERNOR'S SPOUSE

The act makes the governor's spouse subject to the State Ethics Code by extending the definition of "public official" to include him or her. Currently, "public officials" are statewide elected officers, legislators and legislators-elect, gubernatorial appointees, public members and union representatives on the Investment Advisory Council, quasi-public agency members and directors, and people appointed or elected by the General Assembly or any house thereof. The term does not include judges, advisory board members, or members of Congress.

§ 8 — TRAINING

By December 31, 2010, the act requires OSE to establish and administer a program for providing mandatory training to legislators on the Code of Ethics for Public Officials. The program must provide for mandatory training of (1) newly elected legislators and (2) all legislators every four years beginning in 2011. However, the Legislative Management Committee must request OSE to train all legislators before the next regularly scheduled training if it determines that there has been a significant revision to the Code of Ethics for Public Officials.

BACKGROUND

Penalties for Class A Misdemeanors

A class A misdemeanor is punishable by up to one year in prison, a \$2,000 fine, or both.