



STATE OF CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

Public Act No. 10-187 – “An Act Concerning Independent Expenditures”

During the 2010 legislative session, lawmakers amended Connecticut’s campaign finance statutes to bring them into harmony with the Supreme Court’s January 2010 decision in *Citizens United v. FEC*. This decision declared that corporations have a constitutional right to make unlimited independent expenditures on behalf of candidates or political parties. Public Act No. 10-187 reflects this decision and requires those entities now permitted to make independent expenditures to claim their advertisements with attribution and to report the cost of those expenditures promptly to state regulators upon reaching specified thresholds.

“Entity” Defined

Before Public Act No. 10-187 was passed, corporations and unions were required to form political committees for making political expenditures (coordinated or independent) and contributions. The Public Act changed this with respect to independent expenditures made by those who qualify as “entities” under the new law. The definition of “entity” includes corporations, cooperative and professional associations, limited liability companies and partnerships, and labor unions. Such entities may now make unlimited independent expenditures without forming a political committee first. Entities wishing to make contributions and expenditures *coordinated* with candidates or parties are still required to form political committees.

Reporting Requirement

Any entity that makes or incurs an independent expenditure in excess of one thousand dollars *in the aggregate* must report that spending to the Commission on SEEC Form 26 entitled “Independent Expenditure Statement for an Entity.” Generally, such reporting is done on the same schedule required of a candidate committee. When the expenditure targets the success or defeat of a candidate running for statewide office or the General Assembly, however, the entity must electronically report that expenditure *within 48 hours* if it was made or incurred more than 90 days before a primary or election or *within 24 hours* of making the expenditure if it was made or incurred 90 days or less before a primary or election. Once the entity has submitted its initial report, it is required to file according to the same schedule as a candidate committee, with a final statement due any time between the day after the election and January 10 of the subsequent year.

Independent v. Coordinated

Now that independent expenditures and coordinated expenditures, which are contributions, are treated so differently under the law, it becomes important to distinguish between the two. In order to be deemed independent, expenditures must be made without the consent, coordination, or consultation with any candidate, political or party committee.

In Public Act No. 10-187, the General Assembly has created a “rebuttable presumption” that expenditures made in certain ways or by certain persons or groups were not independent. Those making expenditures that they would like to be deemed independent should exercise caution under any of the following fact patterns:

- The individual or group making the expenditure and the candidate or committee benefiting from the expenditure share the same leadership, consultants or providers of creative services, such as advertising campaigns;
- An individual or group makes an expenditure in cooperation with a candidate or committee or based on information received from the candidate or someone acting on behalf of the candidate about the candidate’s plans or needs;
- The individual or group pays for political advertising or communications that uses material prepared by the benefiting committee or a consultant hired by the benefiting committee;
- The individual or group pays for fundraising activities with or for a candidate or committee; or
- The individual or group pays for communications or advertising that clearly identify the candidate and the candidate or candidate’s representative knows about the manner, contents, and target audience, among other facts, beforehand.

Such presumptions may be rebutted by presenting evidence to show that an expenditure truly was independent.

Attribution – “Claim Your Speech”

When an entity pays for any communication, it must claim that speech with the words “Paid for by” and the name of the entity, the name of the entity’s chief executive officer or equivalent, its principal business address, and an affirmation that “This message was made independent of any candidate or political party.” This attribution requirement applies to all forms of communication including printed, radio, internet, television, and telephone messages. Not-for-profit groups must also report the “Top Five Contributors” who have given to the group within the 12 months prior to the communication.

Threshold Provisions for Formation of a Political Committee

Before Public Act No. 10-187 was passed, any group of two or more individuals was required to form a political committee before making any political expenditures or contributions. The new law has relaxed this requirement, now allowing a group of two or more individuals acting together to collect and spend money up to one thousand dollars before they are required to form a committee and eliminating the need for groups to file a certification of exemption before making any expenditures or accepting contributions. Once the group receives funds or makes or incurs expenditures exceeding one thousand dollars in the aggregate, the group must form a political committee and file disclosure statements.

For more information contact our Compliance Unit at (860) 256-2925