



General Assembly

Substitute Bill No. 914

January Session, 2019



AN ACT CONCERNING DISCLOSURE OF COORDINATED AND INDEPENDENT POLITICAL SPENDING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-601c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2020*):

3 (a) (1) As used in this chapter and chapter 157, [the term]
4 "independent expenditure" means an expenditure, as defined in
5 section 9-601b, that is made entirely without the consent, coordination
6 [.] or consultation of [.] a candidate or agent of [the] such candidate,
7 candidate committee, political committee or party committee.

8 (2) For the purposes of this section, a payment shall not be
9 considered to be made by a person with the consent, coordination or
10 consultation of, or at the request or suggestion of, a candidate or
11 committee solely on the grounds that such person or the agent of such
12 person engaged in discussion with such candidate or committee, or
13 any agent of such candidate or committee, regarding such person's
14 position on a legislative or policy matter, including urging the
15 candidate or committee to adopt such person's position, provided any
16 such discussion between such person and such candidate or
17 committee, or any agent of such candidate or committee, shall not
18 regard the campaign advertising, message, strategy, policy, polling,

19 fund-raising, campaign operations or allocation of resources of such
20 candidate, committee or person.

21 (b) As used in this section, (1) "candidate" includes any person who,
22 during an election cycle, becomes a candidate later in such election
23 cycle and benefits from any expenditure, (2) "election cycle" means,
24 with respect to an office to which a person seeks nomination or
25 election, the period beginning the day after a regular election for such
26 office and ending the day of the next regular election for such office,
27 and (3) "member of the family" means (A) a spouse, (B) any sibling,
28 parent, child, grandparent, grandchild, aunt or uncle, (C) any sibling,
29 parent, child, grandparent, grandchild, aunt or uncle of such spouse,
30 or (D) the spouse of any child of any such individual described in
31 subparagraph (B) or (C) of this subdivision.

32 (c) As used in this section, "coordinated spender" means, with
33 respect to a candidate or committee:

34 (1) Any person directly or indirectly formed, controlled or
35 established in an election cycle or the immediately preceding election
36 cycle by, at the request or suggestion of, or with the encouragement or
37 approval of, such candidate or committee, or any agent of such
38 candidate or committee;

39 (2) Except as otherwise provided in this subdivision, any person on
40 whose behalf during an election cycle such candidate or committee, or
41 any agent of such candidate or committee, solicits funds or engages in
42 fund-raising activity, including the provision to such person of the
43 name of any potential donor or other list to be used by such person in
44 engaging in fund-raising activity, regardless of whether such person
45 pays fair market value for any such name or list. Such person shall not
46 be considered a coordinated spender under this subdivision if any
47 funds raised by such candidate or committee, or any agent of such
48 candidate or committee, are (A) segregated from each other account
49 controlled by such person, and (B) not used to make (i) any
50 independent expenditure that benefits such candidate or committee, or

51 (ii) any contribution or covered transfer to another person who later in
52 such election cycle makes any independent expenditure, contribution
53 or covered transfer that benefits such candidate or committee;

54 (3) Any person established, directed or managed by another person
55 who during an election cycle (A) served in such election cycle as a
56 political, media or fund-raising advisor or consultant for such
57 candidate or committee, or for any entity controlled by such candidate
58 or committee, or (B) held in such election cycle a formal position with a
59 title for such candidate or committee;

60 (4) Any person who is a member of the family of such candidate or
61 who is established, directed or managed by any member of the family
62 of such candidate; or

63 (5) Any person, or any officer or agent of such person, who has had
64 more than incidental discussion with a member of the family of such
65 candidate regarding campaign advertising, message, strategy, policy,
66 polling, fund-raising, campaign operations or allocation of resources of
67 such candidate, committee or person.

68 (d) Any expenditure made by a coordinated spender, as described
69 in subsection (c) of this section, shall be deemed to have been made
70 with the consent, coordination or consultation of, or at the request or
71 suggestion of, a candidate or committee, or any agent of such
72 candidate or committee.

73 [(b)] (e) When the State Elections Enforcement Commission
74 evaluates an expenditure, other than an expenditure described in
75 subsection (d) of this section, to determine whether such expenditure is
76 an independent expenditure, there shall be a rebuttable presumption
77 that the following expenditures are not independent expenditures:

78 (1) An expenditure made by a person [in cooperation, consultation
79 or in concert with, at the request, suggestion or direction of, or]
80 pursuant to a general or [particular] tacit understanding with (A) a
81 candidate, candidate committee, political committee or party

82 committee, or (B) a consultant or other agent acting on behalf of a
83 candidate, candidate committee, political committee or party
84 committee;

85 (2) An expenditure made by a person for the production,
86 dissemination, distribution or publication, in whole or in substantial
87 part, of any broadcast or any written, graphic or other form of political
88 advertising or campaign communication prepared by (A) a candidate,
89 candidate committee, political committee or party committee, or (B) a
90 consultant or other agent acting on behalf of a candidate, candidate
91 committee, political committee or party committee;

92 (3) An expenditure made by a person based on information about a
93 candidate's, political committee's, or party committee's plans, projects
94 or needs, provided by (A) a candidate, candidate committee, political
95 committee or party committee, or (B) a consultant or other agent acting
96 on behalf of a candidate, candidate committee, political committee or
97 party committee, with the intent that such expenditure be made;

98 (4) An expenditure made by an individual who [, in the same]
99 during an election cycle [,] is serving or has served in such election
100 cycle (A) as the campaign chairperson, treasurer or deputy treasurer of
101 a candidate committee, political committee or party committee
102 benefiting from such expenditure, or (B) in any other executive or
103 policymaking position, including as a member, employee, fundraiser,
104 consultant or other agent, of a candidate, candidate committee,
105 political committee or party committee;

106 (5) An expenditure made by a person or an entity on or after
107 January first in the year of an election in which a candidate is seeking
108 public office that benefits such candidate when such person or entity
109 has hired an individual as an employee or consultant and such
110 individual was an employee of or consultant to such candidate, such
111 candidate's candidate committee or such candidate's opponent's
112 candidate committee during [any part of the eighteen-month period
113 preceding such expenditure] an election cycle or the immediately

114 preceding election cycle;

115 (6) An expenditure made by a person for fundraising activities (A)
116 for a candidate, candidate committee, political committee or party
117 committee, or a consultant or other agent acting on behalf of a
118 candidate, candidate committee, political committee or party
119 committee, or (B) for the solicitation or receipt of contributions on
120 behalf of a candidate, candidate committee, political committee or
121 party committee, or a consultant or other agent acting on behalf of a
122 candidate, candidate committee, political committee or party
123 committee;

124 (7) An expenditure made by a person based on information about a
125 candidate's campaign plans, projects or needs, that is directly or
126 indirectly provided by a candidate, the candidate's candidate
127 committee, a political committee or a party committee, or a consultant
128 or other agent acting on behalf of such candidate, candidate
129 committee, political committee or party committee, to the person
130 making the expenditure or such person's agent, with an express or tacit
131 understanding that such person is considering making the
132 expenditure;

133 (8) An expenditure made by a person for a communication that
134 clearly identifies a candidate during an election campaign, if the
135 person making the expenditure, or such person's agent, has informed
136 the candidate who benefits from the expenditure, [that] such
137 candidate's candidate committee, a political committee or a party
138 committee, or a consultant or other agent acting on behalf of the
139 benefiting candidate or candidate committee, political committee, or
140 party committee, concerning the communication's contents, or of the
141 intended audience, timing, location or mode or frequency of
142 dissemination. [As used in] For the purposes of this subdivision, a
143 communication clearly identifies a candidate when that
144 communication contains the name, nickname, initials, photograph or
145 drawing of the candidate or an unambiguous reference to [that] such
146 candidate, which includes, but is not limited to, a reference that can

147 only mean [that] such candidate; [and]

148 (9) An expenditure made by a person or an entity for consultant or
149 creative services, including, but not limited to, services related to
150 communications strategy or design or campaign strategy or to engage
151 a campaign-related vendor, to be used to promote or oppose a
152 candidate's election to office if the provider of such services is
153 providing or has provided consultant or creative services to such
154 candidate, such candidate's candidate committee or an agent of such
155 candidate committee, or to any opposing candidate's candidate
156 committee or an agent of such opposing candidate's candidate
157 committee after January first of the year in which the expenditure
158 occurs. For the purposes of this subdivision, [communications strategy
159 or design] "communications strategy or design" does not include the
160 costs of printing or costs for the use of a medium for the purpose of
161 communications. For the purposes of this subdivision, [campaign-
162 related vendor] "campaign-related vendor" includes, but is not limited
163 to, a vendor that provides any of the following services: Polling, mail
164 design, mail strategy, political strategy, general campaign advice or
165 telephone banking; [.] and

166 (10) An expenditure made by any person directly or indirectly
167 formed, controlled or established in an election cycle or the
168 immediately preceding election cycle by, at the request or suggestion
169 of, or with the encouragement of, another person deemed to be a
170 coordinated spender, or any agent of such coordinated spender,
171 including with the express or tacit approval of any such coordinated
172 spender or agent.

173 [(c) When the State Elections Enforcement Commission evaluates an
174 expenditure to determine whether an expenditure by entity is an
175 independent expenditure, the following shall not be presumed to
176 constitute evidence of consent, coordination or consultation within the
177 meaning of subsection (a) of this section: (1) Participation by a
178 candidate or an agent of the candidate in an event sponsored by the
179 entity, unless such event promotes the success of the candidate's

180 candidacy or the defeat of the candidate's opponent, or unless the
 181 event is during the period that is forty-five days prior to the primary
 182 for which the candidate is seeking nomination for election or election
 183 to office; (2) membership of the candidate or agent of the candidate in
 184 the entity, unless the candidate or agent of the candidate holds an
 185 executive or policymaking position within the entity after the
 186 candidate becomes a candidate; or (3) financial support for, or
 187 solicitation or fundraising on behalf of the entity by a candidate or an
 188 agent of the candidate, unless the entity has made or obligated to make
 189 independent expenditures in support of such candidate in the election
 190 or primary for which the candidate is a candidate.]

191 [(d)] (f) When the State Elections Enforcement Commission
 192 evaluates an expenditure to determine whether such expenditure is an
 193 independent expenditure, the commission shall consider, as an
 194 effective rebuttal to the presumptions provided in subsection [(b)] (e)
 195 of this section, the establishment by the person making the
 196 expenditure of a firewall policy designed and implemented to prohibit
 197 the flow of information between (1) employees, consultants or other
 198 individuals providing services to the person paying for the
 199 expenditure, and (2) the candidate or agents of the candidate.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2020	9-601c

Statement of Legislative Commissioners:

In Subsec. (b)(3), "of the candidate" was deleted to avoid repetition with Subdivs. (4) and (5) of said subsection; and in Subsec. (e)(9), "communications strategy or design" was changed to "[communications strategy or design] communications strategy or design" and "campaign-related vendor" was changed to "[campaign-related vendor] campaign-related vendor" for consistency.

GAE *Joint Favorable Subst. -LCO*