

HOUSE No. 04328

The Commonwealth of Massachusetts

HOUSE, July 24, 2012

The committee on Election Laws to whom was referred the petition (accompanied by bill, House, No. 1985) of Martha M. Walz and others for legislation to strengthen certain provisions of the campaign finance laws, reports recommending that the accompanying bill (House, No. 4328) ought to pass.

For the committee,

AARON MICHLEWITZ.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act to strengthen the campaign finance law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 55 of the General Laws, as appearing in the 2010 official
2 edition, is hereby further amended by striking the words “and (7) internet or email
3 communications” and inserting the following words and new subparagraph: -

4 (7) email communications; and (8) internet communications which are not paid advertisements.

5 SECTION 2. Said section 1 of chapter 55 of the General Laws, as so appearing, is hereby further
6 amended by inserting after the definition of “Electioneering communication” the following
7 definition:-

8 “Electioneering communication expenditure”, any expenditure made, or liability incurred, by an
9 individual, group, association, corporation, labor union or other entity as payment for an
10 electioneering communication including any transfer of money, or anything of value, to another
11 individual, group, association, corporation, labor union or other entity for the purpose of making
12 an electioneering communication by the recipient or some other individual, group, association,
13 corporation, labor union or other entity.

14 SECTION 3. Said section 1 of chapter 55 of the General Laws, as so appearing, is hereby
15 amended by deleting the definition of “Independent expenditure” and inserting in place thereof
16 the following definition:-

17 "Independent expenditure", an expenditure made, or liability incurred, by an individual, group,
18 association, corporation, labor union or other entity as payment for goods or services including
19 any transfer money, or anything of value, to another individual, group, association, corporation,
20 labor union or other entity expressly advocating the election or defeat of a clearly identified
21 candidate which is made or incurred without cooperation or consultation with any candidate, or a
22 nonelected political committee organized on behalf of a candidate, or any agent of a candidate
23 and which is not made or incurred in concert with, or at the request or suggestion of, any
24 candidate, or any nonelected political committee organized on behalf of a candidate or agent of
25 such candidate.

26 SECTION 4. Section 3 of said chapter 55 of the General Laws, as so appearing, is hereby
27 amended by inserting after the last paragraph the following paragraph:-

28 The director shall adopt regulations regarding any electioneering communication expenditure or
29 independent expenditure that involves any transfer money, or anything of value, from one
30 individual, group, association, corporation, labor union or other entity to another individual,
31 group, association, corporation, labor union or other entity for the purpose of making an
32 electioneering expenditure or independent expenditure to ensure that the true origin of such
33 expenditure is disclosed in the manner and on the schedule for reports of such expenditures
34 provided for by this chapter.

35 SECTION 5. Section 8 of said chapter 55 of the General Laws, as so appearing, is hereby
36 amended by striking the words “Any corporation violating any provision of this section” and
37 inserting in place thereof:- Any such corporation violating any provision of this chapter.

38 SECTION 6. Chapter 55 of the General Laws is hereby amended by inserting after section 8A
39 the following section:-

40 Section 8B. Nothing in this chapter shall be construed as authorizing an electioneering
41 communication, electioneering communication expenditure or an independent expenditure by a
42 corporation, including any requirement to report such communication or expenditure, unless
43 such communication or expenditure is expressly protected by the Constitution of the United
44 States or the Commonwealth.

45 SECTION 7. Subsection (a) of section 18A of said chapter 55 of the General Laws, as so
46 appearing, is hereby amended by striking out, in lines 1 and 9, the words “or association” and
47 inserting in place thereof, in each instance, the following:- association, corporation, labor union,
48 or other entity.

49 SECTION 8. Subsection (b) of said section 18A of said chapter 55 of the General Laws, as so
50 appearing, is hereby amended by inserting, in lines 16 and 21, after the word “association” the
51 following words:- , corporation, labor union, other entity.

52 SECTION 9. Subsection (c) of said section 18A of said chapter 55 of the General Laws, as so
53 appearing, is hereby amended by inserting, in line 25, after the word “association” the following
54 words:- , corporation, labor union, other entity.

55 SECTION 10. Paragraph (7) of subsection (b) of section 18C of said chapter 55 of the General
56 Laws, as so appearing, is hereby amended by inserting, in line 36, after the word “association”
57 the following words:- , corporation, labor union, other entity.

58 SECTION 11. Paragraph (9) of said subsection (b) of said section 18C of said chapter 55 of the
59 General Laws, as so appearing, is hereby amended by striking out, in line 44, the words “or
60 association” and inserting in place thereof the following:- association, corporation, labor union or
61 other entity.

62 SECTION 12. Chapter 55 of the General Laws is hereby further amended by striking out section
63 18F, as so appearing, and inserting in place thereof the following section:-

64 Section 18F. Every individual, group, association, corporation, labor union or other entity not
65 defined as a political committee who makes an electioneering communication expenditure, in an
66 aggregate amount exceeding \$250 during a calendar year, shall electronically file with the
67 director, within 7 days after making such an expenditure, a report stating the name and address of
68 the individual, group, association, corporation, labor union or other entity making the
69 electioneering communication, the name of any candidate clearly identified in the
70 communication, the total amount or value of the communication, the name and address of the
71 vendor to whom the payments were made and the purpose and date of any such expenditure. In
72 addition, any individual, group, association, corporation, labor union or other entity not defined
73 as a political committee who makes an electioneering communication expenditure, in an
74 aggregate amount exceeding \$250 during a calendar year, who receives funds for the purpose of
75 making such electioneering communications shall include in the electronic filing the date the
76 funds were received and the name and address of the provider of any such funds in excess of

77 \$250, if any, and the value of the funds so received. Reports required by this section shall be
78 filed with the director as provided in section 18C if electioneering communications refer to any
79 candidate who files with the director. Reports required by this section shall be filed with the city
80 or town clerk if the electioneering communications refer to any candidate seeking public office at
81 a city or town election who does not otherwise file with the director.

82 Any person, group, association, corporation, labor union or other entity that makes or contracts
83 to make electioneering communications aggregating \$1,000 or more within 7 days before the
84 date of an election shall file a report containing the information required by this section within 48
85 hours after making such expenditure.

86 A violation of this section shall be punished by a fine of not more than \$5,000 or by
87 imprisonment in the house of correction for not more than 1 year, except as otherwise provided
88 in this chapter.

89 SECTION 13. Section 18G of said chapter 55 of the General Laws, as so appearing, is hereby
90 amended by inserting after the first paragraph the following two paragraphs: -

91 If the independent expenditure or electioneering communication is paid for by any entity that is
92 not an individual, the advertisement or communication must contain the words "Top
93 Contributors" and a written statement listing the five persons or entities, or if less than five
94 persons or entities then the total of all such persons or entities, making the largest contributions
95 to that entity for the purpose of making an independent expenditure or electioneering
96 communication, provided that such contributions must be in excess of \$5,000 reportable under
97 this chapter during the twelve-month period before the date of the advertisement or
98 communication. If no such contribution is received by the entity making an independent

99 expenditure or electioneering communication, then no statement need appear in the
100 advertisement or communication.

101 An individual, corporation, group, association, or other entity that makes an independent
102 expenditure or electioneering communication shall not engage or retain an advertising firm,
103 campaign staff member or consultant that has also been engaged or retained within the prior six
104 months by the candidate or candidate's committee that is benefited by the independent
105 expenditure or electioneering communication.