

2021 -- H 5743

=====
LC001971
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

—————
A N A C T

RELATING TO ELECTIONS - CAMPAIGN CONTRIBUTIONS AND EXPENDITURES
REPORTING

Introduced By: Representative Jose F. Batista

Date Introduced: February 24, 2021

Referred To: House State Government & Elections

(Board of Elections)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 17-25-3 of the General Laws in Chapter 17-25 entitled "Rhode
2 Island Campaign Contributions and Expenditures Reporting" is hereby amended to read as follows:

3 **17-25-3. Definitions.**

4 As used in this chapter, unless a different meaning clearly appears from the context:

5 (1) "Business entity" means any corporation, whether for profit or not for profit, domestic
6 corporation or foreign corporation, as defined in § 7-1.2-106, financial institution, cooperative,
7 association, receivership, trust, holding company, firm, joint stock company, public utility, sole
8 proprietorship, partnership, limited partnership, or any other entity recognized by the laws of the
9 United States and/or the state of Rhode Island for the purpose of doing business. The term "business
10 entity" shall not include a political action committee organized pursuant to this chapter or a political
11 party committee or an authorized campaign committee of a candidate or office holder. ~~The term~~
12 ~~"business entity" shall not include any exempt nonprofit as defined herein or any organization~~
13 ~~described in § 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding~~
14 ~~internal revenue code of the United States, as amended from time to time, for the purposes of~~
15 ~~chapter 25.3 of title 17.~~

16 (2) "Candidate" means any individual who undertakes any action, whether preliminary or
17 final, which is necessary under the law to qualify for nomination for election or election to public
18 office, and/or any individual who receives a contribution or makes an expenditure, or gives his or

1 her consent for any other person to receive a contribution or make an expenditure, with a view to
2 bringing about his or her nomination or election to any public office, whether or not the specific
3 public office for which he or she will seek nomination or election is known at the time the
4 contribution is received or the expenditure is made and whether or not he or she has announced his
5 or her candidacy or filed a declaration of candidacy at that time.

6 (3) "Conduit" or "intermediary" means any person who receives and forwards an
7 earmarked contribution to a candidate or a candidate's authorized committee, except as otherwise
8 limited in this chapter.

9 (4) "Contributions" and "expenditures" include all transfers of money, credit or debit card
10 transactions, on-line or electronic payment systems such as "pay pal," paid personal services, or
11 other thing of value to or by any candidate, committee of a political party, or political action
12 committee or ballot question advocate. A loan shall be considered a contribution of money until it
13 is repaid.

14 (5) "Earmarked" means a designation, instruction, or encumbrance, whether direct or
15 indirect, express or implied, oral or written, that results in all or any part of a contribution or
16 expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's
17 authorized committee.

18 (6) "Election" means any primary, general, or special election or town meeting for any
19 public office of the state, municipality, or district, or for the determination of any question
20 submitted to the voters of the state, municipality, or district.

21 (7) "Election cycle" means the twenty-four month (24) period commencing on January 1
22 of odd number years and ending on December 31 of even number years; provided, with respect to
23 the public financing of election campaigns of general officers under §§ 17-25-19, 17-25-20, and
24 17-25-25, "election cycle" means the forty-eight month (48) period commencing on January 1 of
25 odd numbered years and ending December 31 of even numbered years.

26 (8) "In-kind contributions" means the monetary value of other things of value or paid
27 personal services donated to, or benefiting, any person required to file reports with the board of
28 elections.

29 (9) "Other thing of value" means any item of tangible real or personal property of a fair-
30 market value in excess of one hundred dollars (\$100).

31 (10) "Paid personal services" means personal services of every kind and nature, the cost or
32 consideration for which is paid or provided by someone other than the committee or candidate for
33 whom the services are rendered, but shall not include personal services provided without
34 compensation by persons volunteering their time.

1 (11) "Person" means an individual, partnership, committee, association, corporation, union,
2 charity, and/or any other organization. ~~The term "person" shall not include any exempt nonprofit
3 as defined herein or any organization described in § 501(c)(3) of the Internal Revenue Code of
4 1986, or any subsequent corresponding internal revenue code of the United States, as amended
5 from time to time, for the purposes of chapter 25.3 of title 17 only.~~

6 (12) "Political action committee" means any group of two (2) or more persons that accepts
7 any contributions to be used for advocating the election or defeat of any candidate or candidates.
8 Only political action committees that have accepted contributions from fifteen (15) or more persons
9 in amounts of ten dollars (\$10.00) or more within an election cycle shall be permitted to make
10 contributions, and those committees must make contributions to at least five (5) candidates for state
11 or local office within an election cycle.

12 (13) "Public office" means any state, municipal, school, or district office or other position
13 that is filled by popular election, except political party offices. "Political party offices" means any
14 state, city, town, ward, or representative or senatorial district committee office of a political party
15 or delegate to a political party convention, or any similar office.

16 (14) "State" means state of Rhode Island.

17 (15) "Testimonial affair" means an affair of any kind or nature including, but not limited
18 to, cocktail parties, breakfasts, luncheons, dinners, dances, picnics, or similar affairs expressly and
19 directly intended to raise campaign funds in behalf of a candidate to be used for nomination or
20 election to a public office in this state, or expressly and directly intended to raise funds in behalf of
21 any state or municipal committee of a political party, or expressly and directly intended to raise
22 funds in behalf of any political action committee.

23 (16) "Electioneering communication" means any print, broadcast, cable, satellite, or
24 electronic media communication not coordinated, as set forth in § 17-25-23, with any candidate,
25 authorized candidate campaign committee, or political party committee and that unambiguously
26 identifies a candidate or referendum and is made either within sixty (60) days before a general or
27 special election or town meeting for the office sought by the candidate or referendum; or thirty (30)
28 days before a primary election, for the office sought by the candidate; and is targeted to the relevant
29 electorate.

30 (i) A communication that refers to a clearly identified candidate or referendum is "targeted
31 to the relevant electorate" if the communication can be received by two thousand (2,000) or more
32 persons in the district the candidate seeks to represent or the constituency voting on the referendum.

33 (ii) Exceptions: The term "electioneering communication" does not include:

34 (A) A communication appearing in a news story, commentary, or editorial distributed

1 through the facilities of any broadcasting station, unless such facilities are owned or controlled by
2 any political party, political committee, or candidate;

3 (B) A communication that constitutes a candidate debate or forum conducted pursuant to
4 regulations adopted by the board of elections or that solely promotes such a debate or forum and is
5 made by or on behalf of the person sponsoring the debate or forum;

6 (C) A communication made by any business entity to its members, owners, stockholders,
7 or employees;

8 (D) A communication over the internet, except for (I) Communications placed for a fee on
9 the website of another person, business entity, or political action committee; and (II) Websites
10 formed primarily for the purpose, or whose primary purpose is, to expressly advocate the election
11 or defeat of a clearly identified candidate or the passage or defeat of a referendum; or

12 (E) Any other communication exempted under such regulations as the board of elections
13 may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate
14 implementation of this paragraph.

15 (17) "Independent expenditure" means an expenditure that, when taken as a whole,
16 expressly advocates the election or defeat of a clearly identified candidate, or the passage or defeat
17 of a referendum, or amounts to the functional equivalent of such express advocacy, and is in no
18 way coordinated, as set forth in § 17-25-23, with any candidate's campaign, authorized candidate
19 committee, or political party committee. An expenditure amounts to the functional equivalent of
20 express advocacy if it can only be interpreted by a reasonable person as advocating the election,
21 passage, or defeat of a candidate or referendum, taking into account whether the communication
22 mentions a candidate or referendum and takes a position on a candidate's character, qualifications,
23 or fitness for office. An independent expenditure is not a contribution to that candidate or
24 committee.

25 (i) Exceptions: The term "independent expenditure" does not include:

26 (A) A communication appearing in a news story, commentary, or editorial distributed
27 through the facilities of any broadcasting station, unless such facilities are owned or controlled by
28 any political party, political committee, or candidate;

29 (B) A communication that constitutes a candidate debate or forum conducted pursuant to
30 regulations adopted by the board of elections or that solely promotes such a debate or forum and is
31 made by or on behalf of the person sponsoring the debate or forum;

32 (C) A communication made by any business entity to its members, owners, stockholders,
33 or employees;

34 (D) A communication over the internet, except for (I) Communications placed for a fee on

1 the website of another person, business entity, or political action committee; and (II) Websites
2 formed primarily for the purpose, or whose primary purpose is, to expressly advocate the election
3 or defeat of a clearly identified candidate or the passage or defeat of a referendum; or

4 (E) Any other communication exempted under such regulations as the board of elections
5 may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate
6 implementation of this paragraph.

7 (18) "Covered transfer" means any transfer or payment of funds by any person, business
8 entity, or political action committee to another person, business entity, or political action committee
9 if the person, business entity, or political action committee making the transfer: (i) Designates,
10 requests, or suggests that the amounts be used for independent expenditures or electioneering
11 communications or making a transfer to another person for the purpose of making or paying for
12 such independent expenditures or electioneering communications; (ii) Made such transfer or
13 payment in response to a solicitation or other request for a transfer or payment for the making of
14 or paying for independent expenditures or electioneering communications or making a transfer to
15 another person for the purpose of making or paying for such independent expenditures or
16 electioneering communications; (iii) Engaged in discussions with the recipient of the transfer or
17 payment regarding independent expenditures or electioneering communications or making a
18 transfer to another person for the purpose of making or paying for such independent expenditures
19 or electioneering communications; or (iv) Made independent expenditures or electioneering
20 communications in an aggregate amount of five thousand dollars (\$5,000) or more during the two-
21 year (2) period ending on the date of the transfer or payment, or knew or had reason to know that
22 the person receiving the transfer or payment made such independent expenditures or electioneering
23 communications in such an aggregate amount during that two-year (2) period.

24 (A) Exceptions: The term "covered transfer" does not include:

25 (I) A transfer or payment made by a person, business entity, or political action committee
26 in the ordinary course of any trade or business conducted by the person, business entity, or political
27 action committee or in the form of investments made by the person, business entity, or political
28 action committee; or

29 (II) A transfer or payment made by a person, business entity, or political action committee
30 if the person, business entity, or political action committee making the transfer prohibited, in
31 writing, the use of such transfer or payment for independent expenditures, electioneering
32 communications, or covered transfers and the recipient of the transfer or payment agreed to follow
33 the prohibition and deposited the transfer or payment in an account that is segregated from any
34 account used to make independent expenditures, electioneering communications, or covered

1 transfers.

2 (19) For the purposes of chapter 25.3 of title 17, "donation" means all transfers of money,
3 credit or debit card transactions, on-line or electronic payment systems such as "pay pal," paid
4 personal services, or other thing of value to or by any person, business entity, or political action
5 committee. A loan shall be considered a donation of money until it is repaid.

6 (20) For the purposes of chapter 25.3 of title 17, "donor" means a person, business entity,
7 or political action committee that makes a donation.

8 (21) ~~"Exempt nonprofit" means any organization described in § 501(c)(4) of the Internal
9 Revenue Code that spends an aggregate annual amount of no more than ten percent (10%) of its
10 annual expenses or no more than fifteen thousand dollars (\$15,000), whichever is less, on
11 independent expenditures, electioneering communications, and covered transfers as defined herein
12 and certifies the same to the board of elections seven (7) days before and after a primary election
13 and seven (7) days before and after a general or special election.~~

14 (22) ~~For purposes of chapter 25.3 of title 17, "referendum"~~ "Referendum" means ~~the same~~
15 ~~as the definition set forth in § 17-5-1~~ any question, charter change, constitutional amendment,
16 referendum or voter initiated petition placed on any state, district, city, town or municipal ballot for
17 a general or special election.

18 SECTION 2. Sections 17-25.3-1 and 17-25.3-3 of the General Laws in Chapter 17-25.3
19 entitled "Independent Expenditures and Electioneering Communications" are hereby amended to
20 read as follows:

21 **17-25.3-1. Independent expenditures and electioneering communications for**
22 **elections.**

23 (a) It shall be lawful for any person, business entity or political action committee, not
24 otherwise prohibited by law and not acting in coordination with a candidate, authorized candidate
25 campaign committee, political action committee, or political party committee, to expend personally
26 from that person's own funds a sum which is not to be repaid to him or her for any purpose not
27 prohibited by law to support or defeat a candidate or referendum. Whether a person, business entity
28 or political action committee is "acting in coordination with a candidate, authorized candidate
29 campaign committee, political action committee or political party committee" for the purposes of
30 this subsection shall be determined by application of the standards set forth in § 17-25-23. All terms
31 used in this chapter shall have the same meaning as defined in § 17-25-3.

32 (b) Any person, business entity or political action committee making independent
33 expenditures, electioneering communications, or covered transfers shall report all such campaign
34 finance expenditures and expenses to the board of elections, provided the total of the money so

1 expended exceeds one thousand dollars (\$1,000) within a calendar year, to the board of elections
2 within seven (7) days of making the expenditure.

3 (c) A person, business entity or political action committee who makes or contracts to make
4 independent expenditures, electioneering communications, or covered transfers with an aggregate
5 value of one thousand dollars (\$1,000) or more shall electronically file a campaign finance report
6 to the board of elections describing the expenditures.

7 (d) After a person, business entity or political action committee files a report under
8 subsection (b), the person, business entity or political action committee shall file an additional
9 report after each time the person, business entity or political action committee makes or contracts
10 to make independent expenditures, electioneering communications, or covered transfers
11 aggregating an additional one thousand dollars (\$1,000) with respect to the same election as that to
12 which the initial report relates.

13 (e) When a report is required by subsection (c) or (d) of this section within thirty (30) days
14 prior to the election to which the expenditure was directed, it shall be filed within twenty-four (24)
15 hours of the expenditure. When such a report is required at any other time, it shall be filed within
16 seven (7) days after the expenditure.

17 (f) Reports of independent expenditures, electioneering communications, or covered
18 transfers by a person shall contain the name, street address, city, state, zip code, occupation,
19 employer (if self-employed, the name and place of business), of the person responsible for the
20 expenditure, the name, street address, city, state, and zip code of the person receiving the
21 expenditure the date and amount of each expenditure, and the year to date total.

22 (g) The report shall also include a statement identifying the candidate or referendum that
23 the independent expenditure or electioneering communication is intended to promote the success
24 or defeat, and affirm under penalty of false statement that the expenditure is not coordinated with
25 the campaign in question, and provide any information that the board of elections requires to
26 facilitate compliance with the provisions of this chapter.

27 (h) Reports of independent expenditures, electioneering communications, or covered
28 transfers by a person, business entity or political action committee shall also disclose the identity
29 of all donors of an aggregate of one thousand dollars (\$1,000) or more to such person, business
30 entity or committee within the current election cycle, if applicable, unless the person, business
31 entity or political action committee has established a separate campaign-related account for
32 independent expenditures, electioneering communications, and covered transfers as detailed in §
33 17-25.3-2 in which case this paragraph applies only to donors to the person's, business entity's or
34 political action committee's separate campaign-related account; provided that no person, business

1 entity, or political action committee shall be required to disclose in a report to the board of elections
2 the identity, which includes name, address, place of employment, and donation amount, of any
3 donor who makes no donation to such person, business entity, or political action committee after
4 the date of enactment of this section.

5 (i) If a person, business entity or political action committee and a donor mutually agree, at
6 the time a donation, payment, or transfer to the person, business entity or political action committee
7 which is required to disclose the identification under subsection (f) that the person, business entity
8 or political action committee will not use the donation, payment, or transfer for independent
9 expenditures, electioneering communications, or covered transfers, then not later than thirty (30)
10 days after the person, business entity or political action committee receives the donation, payment,
11 or transfer the person, business entity or political action committee shall transmit to the donor a
12 written certification by the chief financial officer of the person, business entity or political action
13 committee (or, if the organization does not have a chief financial officer, the highest ranking
14 financial official of the organization) that:

15 (1) The person, business entity or political action committee will not use the donation,
16 payment, or transfer for independent expenditures, electioneering communications, or covered
17 transfers; and

18 (2) The person, business entity or political action committee will not include any
19 information on the donor in any report filed by the person, business entity or political action
20 committee under this section with respect to independent expenditures, electioneering
21 communications, or covered transfers, so that the donor will not be required to appear in the list of
22 donors.

23 (3) Exception for payments made pursuant to commercial activities. Subsections (e) and
24 (f) do not apply with respect to any payment or transfer made pursuant to commercial activities in
25 the regular course of a person's, business entity's or political action committee's business.

26 (j) For the purposes of this chapter, two (2) or more entities (other than an ~~exempt nonprofit~~
27 ~~as defined in § 17-25-3 or an~~ organization described in § 501(c)(3) of the Internal Revenue Code
28 of 1986, or any subsequent corresponding internal revenue code of the United States, as amended
29 from time to time) are treated as a single entity if the entities:

30 (1) Share the majority of members on their boards of directors;

31 (2) Share two (2) or more officers;

32 (3) A candidate committee and a political committee other than a candidate committee are
33 for the purposes of this section treated as a single committee if the committees both have the
34 candidate or a member of the candidate's immediate family as an officer;

- 1 (4) Are owned or controlled by the same majority shareholder or shareholders or persons;
2 (5) Are in a parent-subsiary relationship; or
3 (6) Have bylaws so stating.

4 **17-25.3-3. Disclaimers.**

5 (a) No person, business entity or political action committee shall make or incur an
6 independent expenditure or fund an electioneering communication for any written, typed, or other
7 printed communication, unless such communication bears upon its face the words "Paid for by"
8 and the name of the entity, the name of its chief executive officer or equivalent, and its principal
9 business address. In the case of a person, business entity or political action committee making or
10 incurring such an independent expenditure or electioneering communication, which entity is a tax-
11 exempt organization under § 501(c) of the Internal Revenue Code of 1986 (other than an
12 organization described in § 501(c)(3) of such Code) ~~or an exempt nonprofit as defined in § 17-25-~~
13 ~~3,~~ or any subsequent corresponding internal revenue code of the United States, as amended from
14 time to time, or an organization organized under Section 527 of said code, such communication
15 shall also bear upon its face the words "Top Five Donors" followed by a list of the five (5) persons
16 or entities making the largest aggregate donations to such person, business entity or political action
17 committee during the twelve (12) month period before the date of such communication, provided
18 that no donor shall be listed who is not required to be disclosed in a report to the board of elections
19 by the person, business entity, or political action committee.

20 (b) The provisions of subsections (a) of this section shall not apply to:

21 (1) Any editorial, news story, or commentary published in any newspaper, magazine or
22 journal on its own behalf and upon its own responsibility and for which it does not charge or receive
23 any compensation whatsoever;

24 (2) Political paraphernalia including pins, buttons, badges, emblems, hats, bumper stickers
25 or other similar materials; or

26 (3) Signs or banners with a surface area of not more than thirty-two (32) square feet.

27 (c) No person, business entity or political action committee shall make or incur an
28 independent expenditure or fund an electioneering communication for paid television advertising
29 or paid Internet video advertising, unless at the end of such advertising there appears
30 simultaneously, for a period of not less than four (4) seconds:

31 (1) A clearly identifiable video, photographic or similar image of the entity's chief
32 executive officer or equivalent; and

33 (2) A personal audio message, in the following form: "I am _____ (name of entity's
34 chief executive officer or equivalent), _____ (title) of _____ (entity), and I approved its

1 content."

2 (3) In the case of a person, business entity or political action committee making or incurring
3 such an independent expenditure or electioneering communication, which person, business entity
4 or political action committee is a tax-exempt organization under § 501(c) of the Internal Revenue
5 Code of 1986 (other than an organization described in § 501(c)(3) of such Code) ~~or an exempt~~
6 ~~nonprofit as defined in § 17-25-3~~, or any subsequent corresponding internal revenue code of the
7 United States, as amended from time to time, or an organization organized under Section 527 of
8 said code, such advertising shall also include a written message in the following form: "The top
9 five (5) donors to the organization responsible for this advertisement are" followed by a list of the
10 five (5) persons or entities making the largest aggregate donations during the twelve (12) month
11 period before the date of such advertisement, provided that no donor shall be listed who is not
12 required to be disclosed in a report to the board of elections by the person, business entity, or
13 political action committee.

14 (d) No person, business entity or political action committee shall make or incur an
15 independent expenditure or fund an electioneering communication for paid radio advertising or
16 paid Internet audio advertising, unless the advertising ends with a personal audio statement by the
17 entity's chief executive officer or equivalent;

18 (1) Identifying the entity paying for the expenditure; and

19 (2) A personal audio message, in the following form: "I am _____ (name of entity's
20 chief executive officer or equivalent), _____ (title), of _____ (entity), and I approved its
21 content."

22 (3) In the case of a person, business entity or political action committee making or incurring
23 such an independent expenditure or electioneering communication, which entity is a tax-exempt
24 organization under § 501(c) of the Internal Revenue Code of 1986 (other than an organization
25 described in § 501(c)(3) of such Code) ~~or an exempt nonprofit as defined in § 17-25-3~~, or any
26 subsequent corresponding internal revenue code of the United States, as amended from time to
27 time, or an organization organized under Section 527 of said code, such advertising shall also
28 include:

29 (A) An audio message in the following form: "The top five (5) donors to the organization
30 responsible for this advertisement are" followed by a list of the five (5) persons or entities making
31 the largest aggregate donations during the twelve (12) month period before the date of such
32 advertisement, provided that no donor shall be listed who is not required to be disclosed in a report
33 to the board of elections by the person, business entity, or political action committee; or

34 (B) In the case of such an advertisement that is thirty (30) seconds in duration or shorter,

1 an audio message providing a website address that lists such five (5) persons or entities, provided
2 that no contributor shall be listed who is not required to be disclosed in a report to the board of
3 elections by the person, business entity, or political action committee. In such case, the person,
4 business entity or political action committee shall establish and maintain such a website with such
5 listing for the entire period during which such person, business entity or political action committee
6 makes such advertisement.

7 (e) No person, business entity or political action committee shall make or incur an
8 independent expenditure or fund an electioneering communication for automated telephone calls,
9 unless the narrative of the telephone call identifies the person, business entity or political action
10 committee making the expenditure and its chief executive officer or equivalent. In the case of a
11 person, business entity or political action committee making or incurring such an independent
12 expenditure, which entity is a tax-exempt organization under § 501(c) of the Internal Revenue Code
13 of 1986 (other than an organization described in § 501(c)(3) of such Code) ~~or an exempt nonprofit~~
14 ~~as defined in § 17-25-3~~, or any subsequent corresponding internal revenue code of the United
15 States, as amended from time to time, or an organization organized under Section 527 of said code,
16 such narrative shall also include an audio message in the following form: "The top five (5) donors
17 to the organization responsible for this telephone call are" followed by a list of the five (5) persons
18 or entities making the largest aggregate donations during the twelve (12) month period before the
19 date of such telephone call, provided that no donor shall be listed who is not required to be disclosed
20 in a report to the board of elections by the person, business entity, or political action committee.

21 SECTION 3. Chapter 17-25.1 of the General Laws entitled "Gambling Referenda" is
22 hereby repealed in its entirety.

23 ~~CHAPTER 17-25.1~~

24 ~~Gambling Referenda~~

25 ~~17-25.1-1.1. Gambling referenda -- Ballot question advocates.~~

26 ~~Any "ballot question advocate", as defined in chapter 25.2 of title 17, advocating the~~
27 ~~passage or defeat of any gambling question shall, in addition to complying with and being subject~~
28 ~~to the provisions of chapter 25.2 of title 17, include in its reports filed under said chapter the~~
29 ~~following: (i) the name, address and, if applicable, the place of employment of every person making~~
30 ~~a contribution or contributions that in the aggregate exceed one thousand eight hundred dollars~~
31 ~~(\$1,800) per election cycle to such ballot question advocate; and (ii) whether or not such contributor~~
32 ~~has any direct or indirect affiliation with any entity or person that operates or owns any type or kind~~
33 ~~of gambling facility or entity in any jurisdiction and, if so, the name of such facility or entity.~~
34 ~~"Gambling question" means any referendum that relates to a proposal to institute a casino within~~

1 ~~the state or to otherwise expand gambling in any form.~~

2 SECTION 4. Chapter 17-25.2 of the General Laws entitled "Ballot Question Advocacy and
3 Reporting" is hereby repealed in its entirety.

4 ~~CHAPTER 17-25.2~~

5 ~~Ballot Question Advocacy and Reporting~~

6 ~~**17-25.2-1. Short title.**~~

7 ~~This chapter shall be known and may be cited as the "Rhode Island Ballot Question~~
8 ~~Advocacy and Reporting Act".~~

9 ~~**17-25.2-2. Declaration of policy.**~~

10 ~~It is declared to be in the public interest and to be the policy of the state to foster greater~~
11 ~~participation in ballot question advocacy in a transparent and open manner and to provide the public~~
12 ~~with sufficient information regarding the source of contributions received and expenditures made~~
13 ~~for ballot question advocacy.~~

14 ~~**17-25.2-3. Definitions.**~~

15 ~~As used in this chapter, unless a different meaning clearly appears from the context:~~

16 ~~(1) "Ballot question" means any question, charter change, constitutional amendment,~~
17 ~~referendum or voter initiated petition placed on any state, district, city, town or municipal ballot for~~
18 ~~a general or special election.~~

19 ~~(2) "Ballot question advocacy" means advocating the passage or defeat of a ballot question.~~

20 ~~(3) "Ballot question advocate" means (i) for purposes of referenda as defined in § 17-5-1~~
21 ~~of the general laws only, any exempt nonprofit as defined in § 17-25-3 or any organization~~
22 ~~described under § 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent~~
23 ~~corresponding internal revenue code of the United States; and (ii) for all other ballot questions as~~
24 ~~defined herein, any person making an expenditure with a cumulative total that exceeds one~~
25 ~~thousand dollars (\$1,000) in a calendar year for ballot question advocacy on a particular ballot~~
26 ~~question.~~

27 ~~(4) "Contributions" means donations to a ballot question advocate in the form of money,~~
28 ~~gifts, loans, paid personal services, or in kind contributions as defined herein.~~

29 ~~(5) "In Kind Contributions" means the monetary value of other things of value or paid~~
30 ~~personal services donated to any person required to file reports with the board of elections, except~~
31 ~~for newsletters and other communications paid for and transmitted by an organization to its own~~
32 ~~members and not to the general public;~~

33 ~~(6) "Paid personal services" means personal services of every kind and nature, the cost or~~
34 ~~consideration for which is paid or provided by someone other than the ballot question advocate for~~

1 ~~whom the services are rendered, but shall not include personal services provided without~~
2 ~~compensation by persons volunteering their time.~~

3 (7) ~~"Expenditures" means the payment for any goods and services for the purpose of ballot-~~
4 ~~question advocacy as set forth in this paragraph:~~

5 (i) ~~Any media advertising services or products, including, but not limited to, newspapers,~~
6 ~~radio stations or television stations;~~

7 (ii) ~~General advertising in letters, brochures, flyers, handbills, lawn signs, posters, bumper~~
8 ~~stickers, buttons or other materials except for newsletters and other communications paid for and~~
9 ~~transmitted by an organization to its own members and not to the general public; or~~

10 (iii) ~~Paid personal services donated to any ballot question advocate including advertising~~
11 ~~agency services or other professional services including accounting services, printing, secretarial~~
12 ~~services, public opinion polls, research and professional campaign consultation or management,~~
13 ~~media production or computer services. A written contract, agreement or promise to make an~~
14 ~~expenditure, is an expenditure as of the date such contract expenditure or obligation is made.~~

15 (8) ~~"Person" means any individual, partnership, committee, association, corporation, city,~~
16 ~~town, or other governmental unit and any other organization.~~

17 (9) ~~"Election cycle" means the twenty four (24) month period commencing on January 1~~
18 ~~of odd number years and ending on December 31 of even number years.~~

19 **17-25.2-4. No limitations on contributions or expenditures.**

20 ~~Nothing contained in this chapter shall be construed to limit the amount of monies~~
21 ~~contributed to or expended by a ballot question advocate for the purpose of ballot question~~
22 ~~advocacy.~~

23 **17-25.2-5. Reporting by ballot question advocates.**

24 (a) ~~Every ballot question advocate shall file periodic reports signed by an individual~~
25 ~~responsible for its contents on a form prescribed by the board of elections setting forth the name~~
26 ~~and address of the ballot question advocate, including any other name under which the ballot-~~
27 ~~question advocate conducts ballot question advocacy, the name and address of the person filing the~~
28 ~~report; and~~

29 (1) ~~The name, address and, if applicable, the place of employment of each person making~~
30 ~~a contribution or contributions that in the aggregate exceed one thousand eight hundred dollars~~
31 ~~(\$1,800) per election cycle to a ballot question advocate for purposes of ballot question advocacy~~
32 ~~and the amount contributed by each person or source; provided, however, this information shall be~~
33 ~~reported only if:~~

34 (i) ~~The contributions received by a ballot question advocate are solicited in any way;~~

1 ~~including by written, electronic, or verbal means, by the ballot question advocate specifically for~~
2 ~~ballot question advocacy; or~~

3 ~~(ii) The contributions were specifically designated by the contributor for ballot question~~
4 ~~advocacy; or~~

5 ~~(iii) The ballot question advocate knew or had reason to know that the contributor intended~~
6 ~~or expected that the majority of the contributions be used for ballot question advocacy; and~~

7 ~~(2) The name and address of every person or entity receiving an expenditure for ballot-~~
8 ~~question advocacy, which in the aggregate exceeds one hundred dollars (\$100), the amount of each~~
9 ~~expenditure for ballot question advocacy, and the total amount of expenditures for ballot question~~
10 ~~advocacy made by the ballot question advocate as of the last report date; and~~

11 ~~(3) A statement of the position of the ballot question advocate in support of or opposition~~
12 ~~to the ballot question; and~~

13 ~~(4) The names and addresses of all identified members or endorsing organizations,~~
14 ~~corporations, and/or associations that authorize the ballot question advocate to represent to the~~
15 ~~public that they support the positions of the ballot question advocate; and~~

16 ~~(5) The name and address of at least one of the officers of the ballot question advocate, if~~
17 ~~any, or one individual that is responsible for the ballot question advocate's compliance with the~~
18 ~~provisions of this chapter.~~

19 ~~(b) The first report must be filed by a ballot question advocate for the period beginning~~
20 ~~when the ballot question advocate expends a cumulative total that exceeds one thousand dollars~~
21 ~~(\$1,000) for ballot question advocacy and ending the last day of the first full month following such~~
22 ~~date, to be filed with the board of elections due no later than seven (7) days after the end of the~~
23 ~~month. A ballot question advocate must thereafter file calendar month reports with the board of~~
24 ~~elections due no later than seven (7) days after the end of the month; provided, that in lieu of filing~~
25 ~~for the last full calendar month preceding the ballot question election, a report must be filed due no~~
26 ~~later than seven (7) days before the election.~~

27 ~~(c) A ballot question advocate must file a final report of contributions received and~~
28 ~~expenditures made for ballot question advocacy no later than thirty (30) days after the election for~~
29 ~~the ballot question is held subject to the provisions of § 17-25.2-6. All reports filed with the board~~
30 ~~of elections must be received no later than 4:00 p.m. on the due date.~~

31 ~~(d)(1) The board of elections may, for good cause shown and upon receipt of a written or~~
32 ~~electronic request, grant a seven (7) day extension for filing a report; provided, however, that the~~
33 ~~request must be received no later than the date and time upon which the report is due to be filed,~~
34 ~~and further if the election for the ballot question is to be held less than seven (7) days from the~~

1 ~~report due date and time, the report must be filed prior to the election date.~~

2 ~~(2) Any ballot question advocate required to file reports with the board of elections~~
3 ~~pursuant to this section and who has not filed the report by the required date and time, unless~~
4 ~~granted an extension by the board, shall be fined twenty five dollars (\$25.00).~~

5 ~~(3) The board of elections shall send a notice of noncompliance, by certified mail, to the~~
6 ~~ballot question advocate who fails to file the reports required by this section. A ballot question~~
7 ~~advocate that has been sent a notice of noncompliance and fails to file the required report within~~
8 ~~seven (7) days of the receipt of the notice shall be fined two dollars (\$2.00) per day from the date~~
9 ~~of the receipt of the notice of noncompliance until the day the report is received by the board of~~
10 ~~elections. Notwithstanding any of the provisions of this section, the board of election shall have the~~
11 ~~authority to waive late filing fees for good cause shown.~~

12 **17-25.2-6. Monies not expended on ballot measure.**

13 ~~(a) At the time of the filing of the final report required by subsection 17-25.2-5(e), any~~
14 ~~contributions received for ballot question advocacy and remaining with a ballot question advocate~~
15 ~~that exceed one thousand dollars (\$1,000) and have not been expended shall be disbursed in one or~~
16 ~~more of the following four (4) manners:~~

17 ~~(1) Transferal in whole or in part into another ballot question advocate account which has~~
18 ~~a purpose related to or consistent with that of the donating ballot question advocate;~~

19 ~~(2) Donations to or retention by a nonprofit organization recognized under § 501(c) of the~~
20 ~~Internal Revenue Code of 1986, 26 U.S.C. § 501, or any subsequent corresponding internal revenue~~
21 ~~code of the United States as from time to time amended;~~

22 ~~(3) Donations to the state of Rhode Island; or~~

23 ~~(4) Refund to the donor.~~

24 ~~(b) The ballot question advocate must annually report to the board of elections by June 30~~
25 ~~of the calendar year any such remaining contributions and shall report distributions of any such~~
26 ~~remaining contributions within thirty (30) days of such distributions.~~

27 **17-25.2-7. Disclosure of true origin of contributions required.**

28 ~~(a) No person shall make a contribution to a ballot question advocate for the purpose of~~
29 ~~ballot question advocacy in any name except its own or in any manner for the purpose of disguising~~
30 ~~the true origin of the contribution.~~

31 ~~(b) No person shall form or use a corporation or other legal entity to advocate for the~~
32 ~~approval or defeat of a ballot question with the intent to:~~

33 ~~(1) Disguise the true origin of the funds; or~~

34 ~~(2) Evade the reporting requirements of this chapter.~~

1 **17-25.2-8. Duties and powers of the board of elections.**

2 ~~The board of elections is authorized to perform any duties that are necessary to implement~~
3 ~~the provisions of this chapter. Without limiting the generality of this provision, the board of~~
4 ~~elections is authorized and empowered to undertake all actions set forth in § 17-25-5.~~

5 **17-25.2-9. Penalties for violation.**

6 ~~(a) Whenever the board of elections has reason to believe that a ballot question advocate~~
7 ~~willfully and knowingly made a false statement in any report required under this chapter or failed~~
8 ~~to file any report, or has otherwise violated this chapter, the board of elections may, in addition to~~
9 ~~all other actions authorized by law, request the attorney general to bring an action in the name of~~
10 ~~the state of Rhode Island in the superior court against the person signing any such report and/or~~
11 ~~organization to enjoin them from continuing the violation, or doing any acts in furtherance of the~~
12 ~~violation, and for any other relief the court deems appropriate. In addition, the court may order the~~
13 ~~forfeiture of any and all contributions not reported in violation of this chapter.~~

14 ~~(b) The court may also impose a civil penalty for any violation of this chapter up to but not~~
15 ~~exceeding three (3) times the amount of:~~

16 ~~(1) Contributions and/or expenditures made or accepted in violation of this chapter; and/or~~

17 ~~(2) Contributions or expenditures not reported as required by this chapter.~~

18 ~~(c) All funds collected pursuant to this section shall be deposited in the fund established by~~
19 ~~the state for public information and education regarding the election process.~~

20 **17-25.2-10. Severability.**

21 ~~If any provision of this chapter or the application thereof shall for any reason be judged~~
22 ~~invalid, that judgment shall not affect, impair or invalidate the remainder of the law, but shall be~~
23 ~~confined in its effect to the provisions or application directly involved in the controversy giving~~
24 ~~rise to the judgment.~~

25 SECTION 5. This act shall take effect upon passage.

=====
LC001971
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO ELECTIONS - CAMPAIGN CONTRIBUTIONS AND EXPENDITURES
REPORTING

1 This act would eliminate competing reporting requirements relating to referenda and
2 consolidate all reporting requirements concerning the independent expenditures and electioneering
3 communications for elections.

4 This act would take effect upon passage.

=====
LC001971
=====