SENATE . . . . . No. 2397

The committee on Ways and Means, to whom was referred the Senate bill relative to disclosure of political spending (Senate, No. 2375); reports, recommending that the same ought to pass with an amendment substituting a new draft of the same title (Senate, No. 2397).

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to disclosure of political spending .

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

SECTION 1. The definition of "Electioneering communication" in section 1 of chapter 55 of the General Laws, as appearing in the 2010 official edition, is hereby amended by striking out, in line 89, the words "and (7) internet or email communications" and inserting in place thereof the following words:- (7) email communications; and (8) internet communications which are not paid advertisements.

SECTION 2. Said section 1 of said chapter 55, as so appearing, is hereby further amended by inserting after the definition of "Electioneering communication" the following definition:-

"Electioneering communication expenditure", any expenditure made or liability incurred by an individual, group, association, corporation, labor union or other entity as payment for an electioneering communication including any transfer of money or anything of value to another individual, group, association, corporation, labor union or other entity for the purpose of making

13 an electioneering communication by the recipient or some other individual, group, association,
14 corporation, labor union or other entity.

15 SECTION 3. Said section 1 of said chapter 55, as so appearing, is hereby further
16 amended by striking out the definition of “Independent expenditure” and inserting in place
17 thereof the following definition:-

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

27 SECTION 4. Section 3 of said chapter 55, as so appearing, is hereby amended by adding
28 the following paragraph:-

29 The director shall adopt regulations regarding electioneering communication
30 expenditures and independent expenditure that involves the transfer of money or anything of
31 value from 1 individual, group, association, corporation, labor union or other entity to another
32 individual, group, association, corporation, labor union or other entity for the purpose of making
33 an electioneering expenditure or independent expenditure to ensure that the true origin of that

34 expenditure is disclosed in the manner and on the schedule for reports of such expenditures
35 provided for by this chapter.

36 SECTION 5. Section 8 of said chapter 55, as so appearing, is hereby amended by striking
37 out, in line 22, the words “Any corporation violating any provision of this section” and inserting
38 in place thereof the following words:- Any such corporation violating this chapter.

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

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

46 SECTION 7. Subsection (a) of section 18A of said chapter 55, as appearing in the 2010
47 Official Edition, is hereby amended by striking out, in lines 1 and 9, the words “or association”
48 and inserting in place thereof, in each instance, the following words:- association, corporation,
49 labor union or other entity.

50 SECTION 8. Said section 18A of said chapter 55, as so appearing, is hereby amended by
51 inserting after the word “association”, in lines 16, 20 and 21 and 25, each time it appears, the
52 following words:- , corporation, labor union, other entity.

53 SECTION 9. Paragraph (7) of subsection (b) of section 18C of said chapter 55, as so
54 appearing, is hereby amended by inserting after the word “association”, in line 36, the following
55 words:- , corporation, labor union, other entity.

56 SECTION 10. Paragraph (9) of said subsection (b) of said section 18C of said chapter 55,
57 as so appearing, is hereby amended by striking out, in line 44, the words “or association” and
58 inserting in place thereof the following words:- association, corporation, labor union or other
59 entity.

60 SECTION 11. Said chapter 55 of the General Laws is hereby further amended by striking
61 out section 18F, as so appearing, and inserting in place thereof the following section:-

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

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

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

84 A violation of this section shall be punished by a fine of not more than $5,000 or by
85 imprisonment in the house of correction for not more than 1 year.

86 SECTION 12. Section 18G of said chapter 55, as so appearing, is hereby amended by
87 inserting after the first paragraph the following 2 paragraphs: -

88 If the independent expenditure or electioneering communication is paid for by an entity
89 that is not an individual, the advertisement or communication shall contain the words "Top
90 Contributors" and a written statement listing the 5 persons or entities, or if less than 5 persons or
91 entities then the total of all such persons or entities, making the largest contributions to that
92 entity for the purpose of making an independent expenditure or electioneering communication;
93 provided, that such contributions shall be in excess of $5,000 reportable under this chapter
94 during the 12-month period before the date of the advertisement or communication. If no such
95 contribution is received by the entity making an independent expenditure or electioneering
96 communication, then the advertisement or communication may exclude such a statement.