SENATE DOCKET, NO. 1082 FILED ON: 1/17/2013

SENATE . . . . . No. 321

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the disclosure of political spending.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Cory Atkins	*14th Middlesex*
William N. Brownsberger	*Second Suffolk and Middlesex*
Christopher G. Fallon	*33rd Middlesex*
Denise Andrews	*2nd Franklin*
Peter V. Kocot	*1st Hampshire*
Sal N. DiDomenico	*Middlesex and Suffolk*
Jonathan Hecht	*29th Middlesex*
Ruth B. Balser	*12th Middlesex*
Denise Provost	*27th Middlesex*
Thomas P. Conroy	*13th Middlesex*
Patricia D. Jehlen	*Second Middlesex*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Kay Khan	*11th Middlesex*
Carolyn C. Dykema	*8th Middlesex*
James Arciero	*2nd Middlesex*
Michael Barrett	*Third Middlesex*

Michael O. Moore	*Second Worcester*
Katherine M. Clark	*Fifth Middlesex*
Thomas M. McGee	*Third Essex*
Carl M. Sciortino, Jr.	*34th Middlesex*
Bruce E. Tarr	*First Essex and Middlesex*
Jennifer E. Benson	*37th Middlesex*
Cynthia S. Creem	*First Middlesex and Norfolk*

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SENATE . . . . . No. 321

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 321) of James B. Eldridge, Cory Atkins, William N. Brownsberger, Christopher G. Fallon and other members of the General Court for legislation to disclose political spending. Election Laws.

The Commonwealth of Massachusetts

An Act relative to the 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. This Act may be cited as the “Massachusetts Disclosure Act of 2013”.

SECTION 2. 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 3. 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 an electioneering communication by the recipient or some other individual, group, association, corporation, labor union or other entity.

SECTION 4. Said section 1 of said chapter 55, as so appearing, is hereby further amended by striking out the definition of “Independent expenditure” and inserting in place thereof the following definition:-

"Independent expenditure", an expenditure made or liability incurred by an individual, group, association, corporation, labor union or other entity as payment for goods or services including any transfer of money or anything of value to another individual, group, association, corporation, labor union or other entity expressly advocating the election or defeat of a clearly

23 identified candidate, which is made or incurred without cooperation or consultation with a
24 candidate, a nonelected political committee organized on behalf of a candidate or an agent of a
25 candidate and which is not made or incurred in concert with, or at the request or suggestion of, a
26 candidate, a nonelected political committee organized on behalf of a candidate or agent of such
27 candidate.

28 SECTION 5. Section 3 of said chapter 55, as so appearing, is hereby amended by adding
29 the following paragraph:-

30 The director shall adopt regulations regarding electioneering communication
31 expenditures and independent expenditure that involves the transfer of money or anything of
32 value from 1 individual, group, association, corporation, labor union or other entity to another
33 individual, group, association, corporation, labor union or other entity for the purpose of making
34 an electioneering expenditure or independent expenditure to ensure that the true origin of that
35 expenditure is disclosed in the manner and on the schedule for reports of such expenditures
36 provided for by this chapter.

37 SECTION 6. Section 8 of said chapter 55, as so appearing, is hereby amended by striking
38 out, in line 22, the words "Any corporation violating any provision of this section" and inserting
39 in place thereof the following words:- Any such corporation violating this chapter.

40 SECTION 7. Chapter 55 of the General Laws is hereby amended by inserting after
41 section 8A the following section:-

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

47 SECTION 8. Subsection (a) of section 18A of said chapter 55, as appearing in the 2010
48 Official Edition, is hereby amended by striking out, in lines 1 and 9, the words "or association"
49 and inserting in place thereof, in each instance, the following words:- association, corporation,
50 labor union or other entity.

51 SECTION 9. Said section 18A of said chapter 55, as so appearing, is hereby amended by
52 inserting after the word "association", in lines 16, 20 and 21 and 25, each time it appears, the
53 following words:- , corporation, labor union, other entity.

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

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

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

63 Section 18F. Every individual, group, association, corporation, labor union or other entity
64 not defined as a political committee who makes an electioneering communication expenditure, in
65 an aggregate amount exceeding $250 during a calendar year, shall electronically file with the
66 director, within 7 days after making that expenditure, a report stating the name and address of the
67 individual, group, association, corporation, labor union or other entity making the electioneering
68 communication, the name of any candidate clearly identified in the communication, the total
69 amount or value of the communication, the name and address of the vendor to whom the
70 payments were made and the purpose and date of any such expenditure. In addition, any
71 individual, group, association, corporation, labor union or other entity not defined as a political
72 committee who makes electioneering communication expenditures, in an aggregate amount
73 exceeding $250 during a calendar year, who receives funds for the purpose of making such
74 electioneering communications shall include in the electronic filing the date the funds were
75 received and the name and address of the provider of any such funds in excess of $250, if any,
76 and the value of the funds received. Reports required under this section shall be filed with the
77 director, as provided in section 18C, if electioneering communications refer to any candidate
78 who files with the director. Reports required under this section shall be filed with the city or
79 town clerk if the electioneering communications refer to any candidate seeking public office in a
80 city or town election who does not otherwise file with the director.

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

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

87 SECTION 13. Section 18G of said chapter 55, as so appearing, is hereby amended by
88 inserting after the first paragraph the following paragraphs: -

89 If the independent expenditure or electioneering communication is paid for by an entity
90 that is not an individual, the advertisement or communication shall contain the words “Top
91 Contributors” and a written statement listing the 5 persons or entities, or if less than 5 persons or
92 entities then the total of all such persons or entities, making the largest contributions to that
93 entity for the purpose of making an independent expenditure or electioneering communication;

94 provided, that such contributions shall be in excess of $5,000 reportable under this chapter
95 during the 12-month period before the date of the advertisement or communication. If no such
96 contribution is received by the entity making an independent expenditure or electioneering
97 communication, then the advertisement or communication may exclude such a statement.

98 An individual, corporation, group, association or other entity that makes an independent
99 expenditure or electioneering communication shall not engage or retain an advertising firm,
100 campaign staff member or consultant that has also been engaged or retained within the prior 6
101 months by the candidate or candidate's committee that is benefited by the independent
102 expenditure or electioneering communication.