

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 2866

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2022

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Bill No. 2866, with committee amendments.

As amended by the committee, this bill, “The Elections Transparency Act,” requires independent expenditure committees to report campaign contributions and expenditures exceeding \$1,000, increases campaign contribution limits, and makes various changes to campaign contribution reports and other requirements. As amended, the bill modifies the reporting requirement for independent expenditure committees to require them to report their independent expenditures; modifies the definitions of independent expenditure, independent expenditure committee, and electioneering communication.

Under current law, candidate committees, joint candidate committees, political committees, continuing political committees, political party committees, and legislative leadership committees are required to file with the Election Law Enforcement Commission (ELEC) a cumulative quarterly report (on the 15th of April, July, October, and January each year) of all contributions in the form of moneys, loans, paid personal services, or other things of value made to it and all expenditures made, incurred, or authorized by it in furtherance of the nomination, election, or defeat of any candidate, or in aid of the passage or defeat of any public question, or to provide political information on any candidate or public question.

This bill requires candidates and various campaign committees to report to ELEC on a quarterly basis each year. However, under the bill, all contributions in excess of \$2,000 would be required to be reported within 96 hours of receiving the contribution.

This bill also doubles the statutory maximum contribution limits. The bill also provides for the index used by ELEC to adjust limits to be applied annually for campaigns other than gubernatorial. Under the bill, those limits would reset each year. However, the bill specifies that the adjustment of limits would be conducted annually with respect to limits applicable to candidates and committees for

the office of Member of the General Assembly, and would be conducted annually in the first two years of each decade and every two years thereafter with respect to limits applicable to candidates and committees for the office of Member of the Senate, provided that such limits would be applicable for each primary election and each general election separately. The bill also allows gubernatorial candidates receiving public financing to accept additional contributions without receiving matching funds.

As amended by the committee, the bill also provides that whenever any candidate declares a candidacy for any election and establishes a candidate committee, a joint candidates committee, or both, as the case may be, for the purpose of receiving contributions and making expenditures in connection with that election, the candidate must only accept from each entity permitted to make contributions to the candidate an amount not greater than the maximum contribution limit permitted by law to be made by the entity to the candidate for that election, even if the candidate declares candidacy and establishes the committee or committees before the election year in which the candidate will run for office. The bill, as amended, prohibits an entity from making additional contributions to a candidate for any election beyond the maximum contribution permitted by law.

The bill requires business entities to disclose all contributions made while they hold a public contract. The bill directs ELEC to create and maintain a database containing information that business entities are required to disclose and report to the commission concerning contributions made by the business entity and any contribution made during the duration of a public entity contract held by the business entity. Under the bill, a business entity who fails to disclose a contribution or the existence of a public contract would be subject to a fine of not less than \$250.

Finally, the bill sunsets any local ordinances, resolutions, or regulations limiting the awarding of public contracts to business entities that have made a contribution and limiting the contributions that the holders of a contract can make during the term of a contract. The bill would subject local units to the provisions of current law and this bill. This provision of the bill would affect such ordinances, resolutions, or regulations of a county, municipality, independent authority, board of education, or fire district, as appropriate. The bill also amends the current law public contract provisions to remove the prohibition against business entity contributions to the State committee of the political party of a presiding officer of either or both houses of the Legislature and to a legislative leadership committee; to any county committee of a political party; and to any municipal committee of a political party. This bill retains the public contract prohibitions against business entity contributions to candidates in such governmental capacities.

COMMITTEE AMENDMENTS:

The amendments:

(1) modify the reporting requirement for independent expenditure committees to require them to report their independent expenditures;

(2) change the definition of “independent expenditure” to mean an electioneering communication expenditure, which is not coordinated with a candidate or political party, and is made for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or that amounts to the functional equivalent of express advocacy. The term “independent expenditure” also includes an electioneering communication expenditure made for the purpose of expressly advocating the passage or defeat of a public question or referendum, or that amounts to the functional equivalent of express advocacy. An independent expenditure qualifies as the functional equivalent of express advocacy if it can only be interpreted by a reasonable person as advocating the election or defeat of a candidate or the passage or defeat of a public question or referendum, taking into consideration whether the communication mentions a candidate, public question, or referendum and discusses a candidate’s character, qualifications, fitness for office, position on an issue, or in the case of a public question or referendum, its merits or lack thereof;

(3) change the definition of “electioneering communication” to mean any communication that mentions a clearly identified candidate and expressly supports or opposes that candidate or, by virtue of the communication, is the functional equivalent of express advocacy, meaning the communication is unable to be interpreted by a reasonable person in any other way than the communication is supporting or opposing the candidate. An electioneering communication includes any communication that clearly identifies a public question or referendum, or is the functional equivalent of express advocacy, meaning the communication is unable to be interpreted by a reasonable person in any other way than the communication is supporting or opposing the public question or referendum;

(4) change the definition of “independent expenditure committee” to mean a person organized under section 527 of the federal Internal Revenue Code (26 U.S.C. s.527) or under paragraph (4) of subsection (c) of section 501 of the federal Internal Revenue Code (26 U.S.C. s.501) that does not fall within the definition of any other organization subject to the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.), that makes independent expenditures; and

(5) provide that whenever any candidate declares a candidacy for any election and establishes a candidate committee, a joint candidates committee, or both, as the case may be, for the purpose of receiving contributions and making expenditures in connection with that election, the candidate must only accept from each entity permitted to make contributions to the candidate an amount not greater than the maximum contribution limit permitted by law to be made by the entity

to the candidate for that election, even if the candidate declares candidacy and establishes the committee or committees before the election year in which the candidate will run for office. The amendments prohibit an entity from making additional contributions to a candidate for any election beyond the maximum contribution permitted by law.