OLR Bill Analysis

HB 7093

AN ACT CONCERNING REFERENDA, INDEPENDENT EXPENDITURES AND OTHER CAMPAIGN FINANCE CHANGES.

SUMMARY

This bill changes laws affecting campaign finance and elections, including independent expenditures (IE) and political action committees (PAC). Principally, it does the following:

1. codifies "independent expenditure political committee" (known as an IE-only PAC) as a type of PAC and requires IE-only PACs to register with the State Elections Enforcement Commission (SEEC) (§§ 1-3, 6, 7 & 9-15);

2. classifies referendum PACs as IE-only PACs and makes conforming changes (§ 15);

3. expands IE disclosure requirements (§ 4);

4. increases the maximum penalties for failing to file IE reports (§ 4);

5. modifies PAC registration requirements, including expanding the contents of the registration statement (§ 5);

6. in conformity with current practice, eliminates aggregate individual contribution limits to certain committees (§ 8);

7. expands disclaimer requirements for referenda and party candidate listings (§§ 16-19);

8. narrows the circumstances under which SEEC must dismiss a complaint within one year after receiving it (§ 20);

9. modifies the deadline by which a person must return surplus

funds from the Citizens' Election Fund (CEF) before he or she is guilty of larceny (§ 21);

10. requires statewide candidates seeking to participate in the Citizen's Election Program (CEP) to receive a certain number of in-state contributions (§ 22); and

11. caps the inflation adjustments to CEP qualifying contributions (QCs) to match the limit generally applicable under the state's campaign finance laws (§ 22).

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

§§ 1-3, 6, 7 & 9-15 — IE-ONLY PACS

The law authorizes persons (including individuals, entities, and committees) to make unlimited IEs and defines "independent expenditure" as an expenditure made without the consent, coordination, or consultation of a (1) candidate or candidate's agent, (2) candidate committee, (3) PAC, or (4) party committee (CGS § 9-601c).

The bill codifies "independent expenditure political committee" (known as an IE-only PAC) as a type of PAC under Connecticut's campaign finance laws and, like for other committees that make IEs, requires their registration with SEEC. It defines them as PACs that make only (1) IEs and (2) contributions to other IE-only PACs (see BACKGROUND). It also allows these PACs to (1) coordinate with other IE-only PACs to make IEs and (2) make donations to tax-exempt 501(c)(3) (nonprofit) and 501(c)(19) (veterans) organizations and refund contributor contributions.

The bill makes several conforming changes, including specifying that (1) individuals, business entities, and labor unions may make contributions to IE-only PACs and (2) various types of IE-only PACs, such as those formed for a single election or primary, may not make contributions except to other IE-only PACs. It also classifies referendum PACs as IE-only PACs.

Lawful Purposes (§ 6)

The bill defines "lawful purposes of the committee" for IE-only PACs as promoting the following:

1. a political party,

2. the success or defeat of candidates for nomination or election to a public office or position regulated by state campaign finance laws, or

3. the success or defeat of referendum questions.

It also expands the "lawful purposes of the committee" for party committees to include promoting the success or defeat of referendum questions. Existing law generally allows PACs to pay specific expenses to accomplish their lawful purposes.

Surplus Distributions (§ 7)

By law, candidate committees and PACs, other than exploratory committees or PACs organized for ongoing political activities, must generally spend or distribute surplus funds (1) within 90 days after (a) a primary when a candidate loses or (b) an election or referendum not held in November or (2) by March 31 following an election or a referendum held in November.

The bill establishes a surplus distribution procedure for IE-only PACs, other than those formed for ongoing activities. Specifically, it requires them to distribute surplus funds, according to the schedule outlined above, to (1) their contributors, on a prorated basis; (2) state or municipal governments or agencies; or (3) tax-exempt 501(c)(3) and 501(c)(19) organizations.

Referendum PACs (§§ 7 & 15)

The bill classifies referendum PACs as IE-only PACs and makes conforming changes. Specifically, it allows any person to establish an IE-only PAC for a single referendum question or multiple questions submitted to a vote on the same day. Under the bill, the committee may make IEs only for these purposes.

Relatedly, the bill eliminates provisions in current law that establish surplus distributions for referendum PACs and instead subjects them to the bill's procedure for IE-only PACs.

§ 4 — REPORTING IES AND COVERED TRANSFERS

Under current law, a person must disclose information about IEs they make that exceed $1,000 in the aggregate by filing certain reports. A "person" is an individual, committee, firm, partnership, organization, association, syndicate, company trust, corporation, limited liability company, or other legal entity (other than the state or its political or administrative subdivisions) (CGS § 9-601(10)).

The bill does the following:

1. changes the period during which IE disclosure reports are subject to a 24-hour electronic filing deadline;

2. expands disclosure requirements for persons that make IEs without forming a PAC (known as "incidental spenders");

3. extends the law's covered transfer requirements to IEs related to certain referenda and generally expands an exemption to these requirements;

4. increases the maximum penalties for failing to file IE reports; and

5. conforms law to practice by requiring that, to disclose IEs, (a) incidental spenders use SEEC's long- and short-form reports and (b) PACs, including IE-only PACs, use SEEC's campaign finance forms for PACs formed in Connecticut.

As under existing law, IEs made for or against (1) statewide office or legislative candidates, or statewide referenda, must be filed with SEEC and (2) municipal office candidates or municipal referenda must be filed with town clerks.

24-Hour Report Filing Deadline

Under current law, a person must electronically file a disclosure report within 24 hours after making or obligating to make an IE during

a primary or general election campaign that exceeds $1,000 in the aggregate and promotes the success or defeat of a statewide office or legislative candidate.

The bill applies the 24-hour electronic filing requirement to these IEs made or obligated to be made during the period (1) beginning June 1 in a regular election year or, in the case of a special election for state senator or state representative, the day the governor issues writs of election, and (2) ending on the day after the primary or general election for which the IE is made or incurred. In the case of a special election, a person that makes or obligates to make an IE that exceeds $1,000 in the aggregate before the governor issues the writs must electronically file the IE report within 24 hours after the governor issues the writs.

Additionally, the bill applies the 24-hour reporting requirement to IEs within this timeframe that promote the success or defeat of a referendum question proposing a constitutional amendment, convention, or revision.

For any other IEs (those not subject to 24-hour reporting requirements), the bill requires that IE reports be filed according to the same schedule as the periodic statements filed by PACs.

Disclosures by Incidental Spenders

Existing law requires persons, other than PACs (as described above), to disclose information about IEs they make using SEEC's long- and short-form reports (i.e. SEEC Form 26) (see BACKGROUND). The bill adds to the information that these IE-makers must disclose in these reports.

Under the bill, for a long-form report, they must additionally disclose, for a referendum, its date, the question's text, and whether the IE supported or opposed it. For the short-form report, it must also disclose, for a referendum, the question's text and the allocation of the expenditure in support of or opposition to it.

Disclosing Covered Transfers. As part of both the long- and short-form reports, the law requires a person to disclose the source and

amount of any covered transfer of $5,000 or more, in the aggregate, received during the 12 months before the applicable primary or election if the IE for which the report is being filed is made or obligated to be made 180 days or less before the primary or election. The bill extends the requirement to covered transfers made to promote or oppose a referendum question proposing a constitutional amendment, convention, or revision.

The law exempts from this disclosure requirement a person that discloses the source and amount of a covered transfer in a report it files with the Federal Election Commission (FEC) or the IRS, as long as the person includes a copy of the report in the statement it files with SEEC. The bill extends this exemption to (1) apply to similar out-of-state agency reports and (2) persons that include information sufficient for SEEC to find their out-of-state, FEC, or IRS filing in their IE reports.

Under current law, if a person makes the IE from a dedicated IE account, the IE report and disclaimer (see below) may include only persons that made covered transfers to it directly. The bill requires the report and disclaimer to include this information but removes a provision limiting it to only this information.

By law, a "covered transfer" is, with certain exceptions, any donation, transfer, or payment of funds by a person to a recipient that (1) makes IEs or (2) transfers funds to another person that makes IEs (CGS § 9-601(29)).

Penalties for Failure to File an IE Report

The bill increases the maximum civil penalties SEEC may impose for failure to file certain required IE reports. It also subjects IEs that support or oppose referendum questions to these penalties.

Specifically, existing law allows SEEC to impose a maximum penalty of $10,000 for failing to file a report for an IE that is made or obligated more than 90 days before a primary or general election. The bill extends this penalty and the penalties described below to IEs that support or oppose a referendum.

For IEs made or obligated 90 days or fewer before a primary or general election, SEEC may currently impose a maximum penalty of $20,000 for failing to file a report. The bill instead allows SEEC to impose a penalty of up to $20,000 or twice the amount of any unreported IE, including for a referendum, whichever is greater.

Currently, a knowing and willful failure to file an IE report is punishable by an additional fine of up to $50,000. The bill instead allows SEEC to impose an additional civil penalty of up to $50,000 or 10 times the amount of any unreported expenditure, whichever is greater.

In addition, the bill establishes personal liability for a civil penalty that remains unpaid after the later of one year after the date when (1) SEEC imposed it or (2) a court issues a final judgment following any appeal of SEEC's action. Specifically, the bill makes the following individuals personally liable:

1. in the case of a committee, the chairperson and any officer, or

2. in the case of a person other than a committee, (a) the CEO, CFO, or equivalent; (b) any other officer; and (c) any manager who had direct, extensive, and substantive decision-making authority over the IE or IEs made or obligated to be made.

§ 5 — PAC REGISTRATIONS

By law, most PACs must register with SEEC and designate a treasurer. They may also designate a deputy treasurer. The registration statement must include, among other things, the committee's name and purpose.

The bill expands the required contents of the PAC registration statement. Under current law, for a committee that files reports with the FEC or an out-of-state agency, the registration must include a statement to that effect and the agency's name. The bill expands this provision to include reports filed with the IRS and requires the statement to include identifying information under which those filings are made.

In addition, if a committee is established or controlled by a person or

individual acting as an agent for a person, the statement must indicate the person's name. If a committee is established or controlled by a person other than a human being, the statement must indicate the name of the CEO or an equivalent. Current law requires only that a PAC established by a business entity or organization (e.g., a labor union) indicate the name of the entity or organization and, if established by a person other than a human being, a certification that the person making the expenditure is not a foreign national.

§ 8 — AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS

State law generally limits the amount that individuals may contribute to a specific candidate committee, party committee, or PAC. The bill conforms the law to SEEC practice by eliminating an aggregate limit on certain contributions by an individual. Under this limit, an individual may not contribute more than $30,000 in the aggregate during a single primary and election to (1) candidate committees, (2) exploratory committees, and (3) slate committees for justice of the peace (in a primary). In practice, SEEC does not enforce this aggregate limit (see BACKGROUND).

§§ 16-19 — POLITICAL ATTRIBUTIONS

IEs and Referenda (§§ 16, 17 & 19)

By law, printed, video, and audio political communications (both IEs and non-IEs) must include certain attributions, known as "disclaimers." Among other things, they must identify the person making the expenditure for the communication.

Under current law, only the disclaimer requirements for written, typed, or other printed communications apply to expenditures made for a referendum. The bill extends, to IEs promoting a referendum question's success or defeat, existing law's disclaimer requirements for election- and primary-related IEs made for video and audio communications and telephone calls. Generally, each of these disclaimers must (1) include the name of the IE-maker and a statement that the expenditure was made independent of any candidate or political party and (2) state that additional information about the IE-maker is available on SEEC's website.

Additionally, communications made within 90 days before the primary or election must also state the names of the five persons that made the five largest covered transfers to the IE-maker, in the aggregate, during the 12 months immediately before the referendum. As under existing law for other communications, the bill allows disclaimers for referendum IEs to omit any person that made covered transfers to it of less than $5,000, in the aggregate, during the 12 months immediately before the referendum.

The bill also specifies that, concerning elections and primaries, existing law's disclaimer requirements apply only to those IEs promoting a candidate's success or defeat for nomination or election.

Party Candidate Listings (§ 18)

Current law requires that party committees (i.e. town and state central committees) use the appropriate disclaimer in any print, television, or social media promotion of a slate of candidates (disclaimers by individual candidates are not required). The bill instead requires that organization expenditures for party candidate listings by a party committee, legislative caucus committee, or legislative leadership committee use the appropriate disclaimer.

By law, a "party candidate listing" is a communication that (1) lists the name or names of candidates for election; (2) is distributed through public advertising (e.g., cable television, newspapers, or similar media), direct mail, telephone, electronic mail, publicly accessible Internet sites, or personal delivery; and (3) is made to promote the success or defeat of a candidate or slate of candidates seeking nomination or election, or to aid or promote the success or defeat of a referendum question or a political party. The communication may not be a solicitation for or on behalf of a candidate committee (CGS § 9-601(25)(A)).

§ 20 — SEEC INVESTIGATIONS

By law, SEEC receives complaints from the secretary of the state, registrars of voters, town clerks, and individuals under oath about alleged election law violations. It investigates and holds hearings as it deems appropriate (CGS § 9-7b(a)(1)). The bill (1) lowers the statutory

standard required for the commission to determine a violation exists and (2) narrows the circumstances under which SEEC must dismiss a complaint within one year after receiving it.

Standards for Investigating and Docketing

Under existing law, SEEC staff are required to evaluate written complaints it receives and determine whether or not to, among other resolutions, investigate and docket a complaint for a determination by the commission. Currently, the commission must determine if probable cause of a violation does or does not exist. The bill instead requires SEEC, in conformance with existing practice, to determine if it has reason, or no reason, to believe a violation exists.

After SEEC makes a determination about a violation, it generally may (1) initiate a contested case under the Uniform Administrative Procedures Act, (2) refer the matter to the chief state's attorney's office for criminal prosecution, (3) attempt to informally resolve the matter, or (4) dismiss it. (SEEC regulations generally prohibit the commission from proceeding with a contested case unless it finds, by a majority vote of a quorum, reason to believe that a violation occurred (Conn. Agencies Regs., § 9-7b-35).)

Time Limit

Currently, SEEC must dismiss a complaint it receives on or after January 1, 2018, if it does not issue a final decision within one year after receiving the complaint. However, the deadline must be extended if specified actions delay the final decision's issuance.

The bill relaxes this requirement for SEEC complaints received on or after July 1, 2025. It instead requires the commission to dismiss after one year any complaint for which it has not (1) found reason to believe a state election law violation occurred and (2) initiated a contested case proceeding.

The bill also (1) requires that the deadline for making this finding be extended for the same reasons that the final decision deadline must be extended under current law and (2) establishes an additional reason for

extending this deadline (see below). As under current law, the one-year deadline must be extended by the length of the delay.

Extensions

Under current law, the one-year deadline for SEEC to issue a final decision must be extended if its issuance is delayed for any of the following reasons:

1. extension or continuance granted to a respondent by SEEC or its staff before issuing the decision;

2. issuance of a subpoena in connection with the complaint;

3. litigation in state or federal court related to the complaint; or

4. any investigation by, or consultation with, the chief state's attorney, attorney general, U.S. Department of Justice, or U.S. attorney for Connecticut.

The bill similarly requires an extension, for these same reasons, of the one-year deadline for finding reason to believe that an election law violation occurred and initiating a contested case. The bill also requires an extension if the finding and commencement are delayed because of an investigation by SEEC or its staff involving a potential IE violation.

§ 21 — FAILURE TO RETURN SURPLUS CEF FUNDS

By law, candidates participating in the Citizens' Election Program receive a grant from the Citizens' Election Fund (CEF). Under current law, a person is guilty of larceny if he or she does not repay surplus CEF funds within 90 days following the election or primary for which the grant is made.

The bill instead aligns this deadline with state campaign finance law's deadline for distributing surplus funds (see § 7 above). The campaign finance law sets several surplus distribution deadlines that exceed 90 days after an election or primary.

§ 22 — CEP QUALIFYING CONTRIBUTION DONORS

By law, the CEP is the state's voluntary public campaign financing

system and is available to statewide and legislative office candidates. Candidates qualify for the CEP by raising an aggregate amount of qualifying contributions (QCs), which must come from individual donors. The bill requires that CEP candidates for (1) governor receive QCs from at least 2,250 in-state residents and (2) other statewide offices receive QCs from at least 675 in-state residents. Current law does not set a minimum number of contributors for these offices.

Under existing law, individual QC amounts range from $5 to $250, and the inflation-adjusted maximum for the 2024 election was $320. The bill caps inflation adjustments to maximum QC amounts at the broadly applicable limits for contributions by an individual for the relevant office set in state campaign finance law. Under existing law, these limits are (1) $3,500 for governor; (2) $2,000 for other statewide offices (i.e. lieutenant governor, secretary of the state, state treasurer, state comptroller, and attorney general); (3) $1,000 for state senator; and (4) $250 for state representative (CGS § 9-611(a)).

BACKGROUND

Related Bills

SB 515, favorably reported by the Government Oversight Committee, adjusts the timing of inflation adjustments for QCs.

SB 1517, favorably reported by the Government Administration and Elections (GAE) Committee, makes identical changes.

sSB 1405, favorably reported by the Government Oversight Committee, among other things, amends the definition of organization expenditure and party candidate listing, adjusts the timing of inflation adjustments for QCs, modifies political advertising disclaimer requirements, and restricts the timing of commission actions.

sSB 1409, favorably reported by the Government Oversight Committee, generally requires all municipal campaign finance filings to be filed with SEEC instead of the municipality.

SB 1533, favorably reported by the GAE Committee, makes identical changes as this bill regarding the definition of "organization

expenditure" and adjusts the timing of inflation adjustments for QCs.

sHB 7089, favorably reported by the Government Oversight Committee, amends the definition of "organization expenditure" and adjusts the timing of inflation adjustments for QCs.

sHB 7221, favorably reported by the GAE Committee, generally requires all municipal campaign finance filings to be filed with SEEC instead of the municipality.

HB 7222, favorably reported by the GAE Committee, among other things, makes identical changes as this bill regarding the definition of "organization expenditure" and adjusts the timing of inflation adjustments for QCs.

sHB 7246, favorably reported by the GAE Committee, among other things, amends the definitions of "organization expenditure" and "solicit."

Aggregate Contribution Limits

In *McCutcheon et al.* v. *Federal Election Commission*, 134 S. Ct. 1434 (2014), the U.S. Supreme Court held that aggregate limits on contributions by individuals to federal candidates, political parties, and PACs were unconstitutional under the First Amendment.

In Advisory Opinion 2014-03, SEEC announced that, unless it received further guidance from the legislature or a court of competent jurisdiction, it would no longer enforce current law's $30,000 aggregate limit on contributions by individuals during a single primary and election to (1) candidate committees, (2) exploratory committees, and (3) slate committees for justice of the peace (in a primary).

IE-Only PACs

In Declaratory Ruling 2013-02, SEEC ruled that, in light of a line of cases ruling that contribution limits to IE-only PACs are unconstitutional, it would no longer enforce limits on contributions to PACs that receive and spend funds only for IEs unless it received further guidance from the legislature or a court.

Long- and Short-Form IE Reports

As part of these reports, a person must disclose the source and amount of any covered transfer of $5,000 or more in the aggregate that it received during the 12 months before the applicable primary or election. This requirement applies if the IE for which the report is being filed is made or obligated to be made 180 days or less before the primary or election (CGS § 9-601d(f)).

COMMITTEE ACTION

Government Oversight Committee

Joint Favorable
Yea 11 Nay 1 (03/18/2025)