

Changes to the Massachusetts Campaign Finance Law

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The Supreme Court's landmark rulings in Citizens United v. FEC, 558 U.S. 310 (2010), and McCutcheon v. FEC, 572 U.S. ____ (2014), altered the legal framework of campaign finance across the country. The Massachusetts legislature responded by enacting Chapter 210 of the Acts of 2014, "Act Relative to Campaign Finance Disclosure and Transparency", amending G.L. c.55, the Campaign Finance Law. The Act requires so-called "Super PACs" to disclose their donors when making independent expenditures to support or oppose candidates. The Act also includes revisions that will affect municipal elections, including new disclosure and reporting requirements for candidates, new training requirements for campaign treasurers, and certain restrictions on campaign involvement by public employees. The amendments are broad in scope, and we have limited this memorandum to a brief review of those sections of the legislation affecting municipal elections. These amendments made by the Act are now in effect.

Subvendor Reports are Now Required for All Municipal Candidates

Candidates and political committees often utilize outside parties for campaign-related work, including, for example, political consultants, fundraising specialists or advertising firms. If such parties provide goods or services valued at \$5,000 or more, they are defined as "vendors" for purposes of the Campaign Finance Law. A "subvendor" is defined as "a person providing goods or services to a vendor or who contracts with a vendor to provide goods or services to a committee or to an individual or group." Before the law was amended, only those candidates who were required to file with Office of Campaign & Political Finance ("OCPF") were required to file subvendor reports disclosing the identity of the subvendor, the amount of the expenditure made to the subvendor, and the purpose of the expenditure.

Pursuant to the new legislation, subvendor reports are required for all candidates and political committees, and such reports must be filed in the same manner as other OCPF-mandated reports.

Campaign Treasurers are Now Required to Undergo Online Training

Beginning in 2015, persons serving as treasurers of a political campaign required to file reports with OCPF are now required to complete an online training program within 30 days of officially accepting their position, and every two years thereafter. This training program is to be developed by OCPF.

Public Employees May Not Serve as Campaign Treasurers or Solicit or Receive Donations

The Act codifies the long-standing OCPF policy that public employees “may not serve as the treasurer of a political committee.” This prohibition is without exception, regardless of where the treasurer lives or works, or the location of the race at issue. Thus, for example, a City X department of public works employee is prohibited from serving as the treasurer of her sister’s campaign for selectman in Town Y.

As a reminder, G.L. c.55, §13 prohibits paid state, city or town employees, other than elected officials, from soliciting or receiving any contributions or anything of value for any political purpose. This prohibition applies to public employees at all times, both during or outside of regular work hours.

All Mayoral Candidates Must Now File Electronic Campaign Finance Reports with OCPF

Starting with 2015 municipal elections, the Act requires all mayoral candidates, regardless of the population of the cities in which they seek office, to file electronic campaign finance reports with OCPF. As a result of this change, mayoral candidates in 16 additional cities will be subject to this mandate.

Mayoral and City Council Candidates in Cities with Populations of 75,000 or More are “Depository Candidates”

The Act broadened the definition of “depository candidates” previously applicable to mayoral, city council and alderman candidates, from cities with populations of 100,000 or more, to now include such candidates from cities with populations of 75,000 or more. A depository candidate must designate a financial institution with a Massachusetts main or branch office into which all campaign contributions must be deposited, and from which all payments for campaign purposes in excess of \$100 must be made. Both the candidate and the designated financial institution must file twice-monthly campaign finance reports with OCPF, listing itemized expenditures and a summary of deposits.

Other Changes to Election Laws

Chapter 104 of the Acts of 2014 also amended the Campaign Finance Law, specifically G.L. c.55, §3. The law was revised to provide that municipal candidates who fail to make required filings with OCPF may be disqualified from appearing on a municipal preliminary or general or special election ballot under certain circumstances. Prior to this change, the law applied to candidates required to file with OCPF seeking election on state primary or election ballots. Disqualification occurs only after court proceedings have been initiated against an individual by the Attorney General, and OCPF is required to notify boards of registrars of voters of the initiation of such court action.

If you have further questions concerning the amendments to the Campaign Finance Law, please contact Lauren Goldberg at 617.556.0007 or lgoldberg@k-plaw.com.

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