

HOUSE No. 687

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to further regulate contributions and disclosure under campaign finance laws..

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

1 SECTION 1. Paragraph (2) of subsection (b) of section 18C of chapter 55 of the General
2 Laws, as appearing in the 2000 official edition, is hereby amended by striking out, in line 15, the
3 figure “\$25,000” and inserting in place thereof the figure “\$5,000”.

4 SECTION 2. Chapter 55 is hereby amended by inserting after Section 6B the
5 following:

6 Section 6C. (a) A ballot question committee, required by Section 18 to file
7 reports with the director, that makes an expenditure in connection with any literature or
8 advertisement to support or oppose a ballot question or questions shall disclose in such literature
9 or advertisement the four largest of its contributors as of the time the literature or advertisement
10 is printed, recorded or otherwise produced for dissemination. If a ballot question committee has
11 fewer than four contributors at such time, the committee shall disclose all contributors on such
12 literature or advertisement.

13 (b) If an out-of-state contributor or out-of-state group, organization, or other
14 entity is one of the four largest contributors to a ballot question committee disclosed pursuant to
15 subsection (a), the ballot question committee shall clearly identify such contributor as an out-of-
16 state contributor on its literature or advertisement in support of or in opposition to a ballot
17 question or questions.

18 (c) Contributors that make contributions to more than one ballot question
19 committee that support or oppose the same ballot question shall notify each ballot question
20 committee to whom they contribute at the time of the contribution of the cumulative total of such
21 contributions made to all ballot question committees. Cumulative totals must be disclosed by
22 each ballot question committee that receives contributions from the same contributor if the
23 cumulative total is to be disclosed pursuant to subsection (a).

24 (d) Any disclosure statement required by this section shall be printed clearly and
25 legibly in a conspicuous manner in type at least as large as the majority of the printed text. If the
26 communication is broadcast on radio, the information shall be spoken at the end of the
27 communication. If the communication is broadcast on a telecommunications system, the
28 information shall be both written and spoken at the end of the communication, except that if the
29 disclosure statement is written for at least five seconds of a thirty second advertisement broadcast
30 or ten seconds of a sixty second advertisement broadcast, a spoken disclosure statement is not
31 required. If the communication is broadcast on a telecommunications system, the written
32 disclosure statement shall be printed in letter equal to or larger than four percent of the vertical
33 picture height.

34 (e) Subsection (a) does not apply to bumper stickers, pins, buttons, pens and
35 similar small items on which the statements required in subsection (a) cannot be conveniently
36 printed or to a communication by a membership organization solely to its members and their
37 families.

38 (f) A ballot question committee shall change future literature and advertisements
39 to reflect any change in funding sources that must be disclosed pursuant to subsection (a).

40 (g) This section only applies to literature or advertisements the contents of which
41 are more than fifty percent devoted to one or more ballot question or questions.

42 (h) Any committee that violates this section is liable in a civil action for a civil
43 penalty of three times the total cost of the literature or advertisement. A contributor who does
44 not notify the ballot question committees to which the contributor has contributed in accordance
45 with paragraph (c) of this section is liable for a civil penalty of three times the amount
46 contributed. Such civil actions may be brought by the attorney general, district attorney, as
47 appropriate, or by any other person.

48 (i) For purposes of this section “Advertisement” means general public
49 advertisement through the print or electronic media, signs, billboards, direct mail, or
50 computerized electronic mail.

51 SECTION 3. (a) Section 1 of Chapter 55 is hereby amended by inserting the
52 following definition: “Late candidate contribution” is a contribution to those candidates and
53 candidate committees who are required to disclose their contributions pursuant to section 18C of
54 this chapter, including a loan, that (a) totals \$500 or more from any contributor that is received
55 by a candidate or candidate committee; and (b) is received by a candidate or candidate

56 committee for state senator or state representative in the 17 days immediately preceding the
57 election in which the candidate's name appears on the ballot and ending on the day the election
58 is held for such candidates; or (c) is received by a candidate or candidate committee for
59 governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver
60 general, auditor, governor's council, county office, or mayor required to designate a depository
61 in accordance with section 19 beginning September 1 immediately preceding the primary or
62 beginning October 16 immediately preceding the general election, through primary or election
63 day respectively on which the candidate's name appears on the ballot.

64 (b) Section 1 of Chapter 55 is hereby amended by inserting the following
65 definition: "Late ballot question committee contribution" is a contribution to a ballot question
66 committee which is required to disclose its contributions with the Director pursuant to section
67 18C of this chapter, including a loan, that (a) totals \$1,000 or more from any contributor that is
68 received by a ballot question committee; and (b) is received beginning October 16 through the
69 day that the election is held in the year in which the question appears on the ballot.

70 (c) Section 18C of Chapter 55 is hereby amended by inserting the following
71 section:

72 (j) (1) Each candidate, candidate's committee or ballot question committee that
73 receives a late candidate contribution or late ballot question committee contribution, as defined
74 in Section 1 of this chapter, shall file a report with the director. The recipient of the late
75 contribution shall report the candidate's or committee's full name and address, the date received
76 and the amount of the late contribution, and whether the contribution was made in the form of a
77 loan. The recipient shall also report the full name of the contributor, his or her residential

78 address, occupation, and the name of his or her employer, or if self-employed, the name of the
79 business. In the case of a non-monetary contribution, the recipient shall disclose a description of
80 the contribution.

81 (2) A late candidate contribution or late ballot question committee contribution
82 shall be reported electronically by the recipient by midnight of the day following its receipt. A
83 late candidate contribution or late ballot question committee contribution shall be reported on
84 subsequent campaign disclosure reports without regard to reports filed pursuant to this section.

85 (3) A late candidate contribution or late ballot question committee contribution
86 need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited
87 and is returned to the contributor in its original form within 24 hours of receipt.

88 (4) A report filed pursuant to this section shall be in addition to any other
89 campaign disclosure reports required to be filed by this chapter.

90 SECTION 4. (a) Section 1 of Chapter 55 is hereby amended by inserting the
91 following definition: "Independent expenditure" is an expenditure that expressly advocates the
92 election or defeat of a clearly identified candidate which is made without cooperation or
93 consultation with any candidate, or a nonelected political committee organized on behalf of a
94 candidate, or any agent of a candidate and which is not made in concert with, or at the request or
95 suggestion of, any candidate, or any nonelected political committee organized on behalf of a
96 candidate or agent of such candidate.

97 (b) Section 1 of Chapter 55 is hereby amended by inserting the following
98 definition:

99 “Late independent expenditure” is an independent expenditure or expenditures in an
100 aggregate amount exceeding \$1000 that is made after the 8th day, but more than 24 hours before
101 the date of the election.

102 (c) Section 18A of Chapter 55 is hereby amended by striking in line 7 the word
103 “business.”

104 (d) Section 18A of Chapter 55 is hereby amended by striking lines 15 to 23.

105 (e) Section 18A of Chapter 55 is hereby amended by inserting in line 5 after the
106 word director the following, “of the Office of Campaign and Political Finance, in accordance
107 with Section 18C.” Section 18A is also amended by inserting after line 14 the following:

108 Any individual, group or association not defined as a political committee who
109 makes a late independent expenditure or expenditures, as defined in Section 1, shall file with the
110 Director in accordance with Section 18C, on a form prescribed by the Director, a report stating
111 the name and address of the individual, group or association making the expenditure or
112 expenditures; the name of the candidate or candidates whose election or defeat the expenditure
113 promoted; the name and address of the person or persons to whom the expenditure or
114 expenditures were made; and the total amount or value; the purpose and the date of the
115 expenditure or expenditures. Such reports shall be filed by midnight of the day following the
116 date that such expenditure or expenditures are made. After this initial report is filed, an
117 additional report or reports shall be filed with the Director in the same manner by midnight of the
118 day following the date that any additional independent expenditures in an aggregate amount
119 exceeding \$1,000 are made by any individual, group or association not defined as a political
120 committee with respect to the same election as that to which the initial report relates.

121 Violation of any provision of this section or section 18C shall be punished by
122 imprisonment for not more than one year or by a fine of not more than five thousand dollars, or
123 both.

124 (f) Section 18C of Chapter 55 is hereby amended by striking in subsection (b) the
125 words “individuals and political committees” and inserting in place thereof the words
126 “individuals, political committees, groups and associations”. Section 18C is further amended by
127 inserting after section (b)(3) the following:

128 (4) Every individual, group, or association not defined as a political committee required
129 by Section 18A to file disclosure reports with the Director.

130 (g) Section 39 of Chapter 56 is amended by striking out lines one to fourteen and
131 inserting in place thereof: No person, group, organization or association shall publish or
132 broadcast or cause to be published or broadcast in a newspaper, periodical, radio broadcast,
133 television broadcast, including cable or other means of electronic dissemination, any paid
134 advertisement designed or tending to aid, injure, or defeat any candidate for public office or any
135 question submitted to the voters, unless the name of the chairman or secretary or the names of
136 two officers of the political or other organization advertising the same, or the name of one or
137 more persons eighteen years of age or older who are responsible therefor, with the residence and
138 the street and number thereof, of each such person eighteen years of age or older appears therein
139 in the case of any of the aforementioned visual media in a clearly visible and prominent typeface
140 and in the case of a radio broadcast clearly audible statement; provided, however, that each such
141 person eighteen years of age or older has signed his name in the presence of a witness to the
142 following statement authorizing the insertion or broadcast of such advertisement. The statement

143 shall be retained by the newspaper, periodical, radio broadcast, television broadcast, including
144 cable, for not less than one year, shall be available to any person upon request, and shall be in
145 substantially the following form:

146 (h) If any of section 39 of Chapter 56 shall be deemed unconstitutional, it shall be
147 struck without rendering the remaining sections unconstitutional.

148 SECTION 5. Section 7A(a)(1) of Chapter 55 of the General Laws of the 2000
149 Official Edition is hereby amended in line 4, by striking the word “five hundred” and inserting in
150 place thereof, the words “one thousand”. Section 7A(b) of Chapter 55 is amended in line 26, by
151 striking the word “two” and inserting in place thereof, the word “one”. Section 7A of Chapter 55
152 is further amended in line 29 by striking the word “two” and inserting in place thereof, the word,
153 “one”.

154 SECTION 6. Section 18A of Chapter 55 is hereby amended by adding in line 5
155 after the word “director” the following, “of Office of Campaign and Political Finance, as outline
156 in 55:18C”. Section 18A is also amended by inserting after line 23 the following: Any
157 person, group or association that makes or contracts to make independent expenditures
158 aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an
159 election shall file a report describing the expenditures within 24 hours. After a person files
160 a report as outline in (a), the person shall file an additional report within 24 hours after each time
161 the person makes or contracts to make independent expenditures aggregating an additional
162 \$1,000 with respect to the same election as that to which the initial report relates.

163 SECTION 7. Section 18C of Chapter 55 is amended by inserting after section
164 (b)(3) the following: (4) Every individual, group, or association who makes an

165 independent expenditure or expenditures in an aggregate amount exceeding two hundred and
166 fifty dollars during any calendar year for the purpose of promoting the election or defeat of any
167 candidate or candidates. (5) Any person, group, or association that makes or contracts to
168 make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24
169 hours, before the date of an election shall file a report describing the expenditures within 24
170 hours. (6) After a person files a report as outline in (a), the person shall file an additional
171 report within 24 hours after each time the person makes or contracts to make independent
172 expenditures aggregating an additional \$1,000 with respect to the same election as that to which
173 the initial report relates.

174 SECTION 8. Section 39 of Chapter 56 is amended by inserting after the word
175 “periodical” the words “,or broadcast or pay to broadcast”. Section 39 is further amended in line
176 13 by inserting after the word “periodical” the word, “broadcast station”. Section 39 is further
177 amended in line 28 by inserting after the word “periodical” the words “or broadcast station”

178 SECTION 9. If any of section shall be deemed unconstitutional, it shall be struck
179 without rendering the remaining sections unconstitutional.