SENATE DOCKET, NO. FILED ON: 7/24/2012

SENATE . . . . . No. 2375

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to 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. Section 1 of chapter 55 of the General Laws, as appearing in the 2010 official edition, is hereby further amended by striking the words "and (7) internet or email communications" and inserting the following words and new subparagraph: -

(7) email communications; and (8) internet communications which are not paid advertisements.

SECTION 2. Said section 1 of chapter 55 of the General Laws, 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

13 making an electioneering communication by the recipient or some other individual, group,
14 association, corporation, labor union or other entity.

15 SECTION 3. Said section 1 of chapter 55 of the General Laws, as so appearing, is hereby
16 amended by deleting the definition of “Independent expenditure” and inserting in place thereof
17 the following definition:-

18 "Independent expenditure", an expenditure made, or liability incurred, by an individual,
19 group, association, corporation, labor union or other entity as payment for goods or services
20 including any transfer money, or anything of value, to another individual, group, association,
21 corporation, labor union or other entity expressly advocating the election or defeat of a clearly
22 identified candidate which is made or incurred without cooperation or consultation with any
23 candidate, or a nonelected political committee organized on behalf of a candidate, or any agent
24 of a candidate and which is not made or incurred in concert with, or at the request or suggestion
25 of, any candidate, or any nonelected political committee organized on behalf of a candidate or
26 agent of such candidate.

27 SECTION 4. Section 3 of said chapter 55 of the General Laws, as so appearing, is hereby
28 amended by inserting after the last paragraph the following paragraph:-

29 The director shall adopt regulations regarding any electioneering communication
30 expenditure or independent expenditure that involves any transfer money, or anything of value,
31 from one individual, group, association, corporation, labor union or other entity to another
32 individual, group, association, corporation, labor union or other entity for the purpose of making
33 an electioneering expenditure or independent expenditure to ensure that the true origin of such

34 expenditure is disclosed in the manner and on the schedule for reports of such expenditures
35 provided for by this chapter.

36 SECTION 5. Section 8 of said chapter 55 of the General Laws, as so appearing, is hereby
37 amended by striking the words “Any corporation violating any provision of this section” and
38 inserting in place thereof:- Any such corporation violating any provision of this chapter.

39 SECTION 6. Chapter 55 of the General Laws is hereby amended by inserting after
40 section 8A the following section:-

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

46 SECTION 7. Subsection (a) of section 18A of said chapter 55 of the General Laws, as so
47 appearing, is hereby amended by striking out, in lines 1 and 9, the words “or association” and
48 inserting in place thereof, in each instance, the following:- association, corporation, labor union,
49 or other entity.

50 SECTION 8. Subsection (b) of said section 18A of said chapter 55 of the General Laws,
51 as so appearing, is hereby amended by inserting, in lines 16 and 21, after the word “association”
52 the following words:- , corporation, labor union, other entity.

53 SECTION 9. Subsection (c) of said section 18A of said chapter 55 of the General Laws,
54 as so appearing, is hereby amended by inserting, in line 25, after the word “association” the
55 following words:- , corporation, labor union, other entity.

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

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

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

65 Section 18F. Every individual, group, association, corporation, labor union or other entity
66 not defined as a political committee who makes an electioneering communication expenditure, in
67 an aggregate amount exceeding $250 during a calendar year, shall electronically file with the
68 director, within 7 days after making such an expenditure, a report stating the name and address of
69 the individual, group, association, corporation, labor union or other entity making the
70 electioneering communication, the name of any candidate clearly identified in the
71 communication, the total amount or value of the communication, the name and address of the
72 vendor to whom the payments were made and the purpose and date of any such expenditure. In
73 addition, any individual, group, association, corporation, labor union or other entity not defined
74 as a political committee who makes an electioneering communication expenditure, in an

75 aggregate amount exceeding $250 during a calendar year, who receives funds for the purpose of
76 making such electioneering communications shall include in the electronic filing the date the
77 funds were received and the name and address of the provider of any such funds in excess of
78 $250, if any, and the value of the funds so received. Reports required by this section shall be
79 filed with the director as provided in section 18C if electioneering communications refer to any
80 candidate who files with the director. Reports required by this section shall be filed with the city
81 or town clerk if the electioneering communications refer to any candidate seeking public office at
82 a city or town election who does not otherwise file with the director.

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

87 A violation of this section shall be punished by a fine of not more than $5,000 or by
88 imprisonment in the house of correction for not more than 1 year, except as otherwise provided
89 in this chapter.

90 SECTION 13. Section 18G of said chapter 55 of the General Laws, as so appearing, is
91 hereby amended by inserting after the first paragraph the following two paragraphs: -

92 If the independent expenditure or electioneering communication is paid for by any entity
93 that is not an individual, the advertisement or communication must contain the words "Top
94 Contributors" and a written statement listing the five persons or entities, or if less than five
95 persons or entities then the total of all such persons or entities, making the largest contributions
96 to that entity for the purpose of making an independent expenditure or electioneering

97 communication, provided that such contributions must be in excess of $5,000 reportable under
98 this chapter during the twelve-month period before the date of the advertisement or
99 communication. If no such contribution is received by the entity making an independent
100 expenditure or electioneering communication, then no statement need appear in the
101 advertisement or communication.

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