

HOUSE No. 4197

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 19, 2014.

The committee on Election Laws to whom were referred the petition (accompanied by bill, Senate, No. 321) of James B. Eldridge, Cory Atkins, William N. Brownsberger, Christopher G. Fallon and other members of the General Court for legislation to disclose political spending and the petition (accompanied by bill, House, No. 651) of Martha M. Walz and others for legislation to further regulate the financing of political campaigns, reports recommending that the accompanying bill (House, No. 4197) ought to pass.

For the committee,

JAMES M. MURPHY.

HOUSE No. 4197

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to campaign finance disclosure and transparency.

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. The definition of “Electioneering communication” in section 1 of chapter
2 55 of the General Laws, as appearing in the 2010 official edition, is hereby amended by striking
3 out, in line 89, the words “and (7) internet or email communications” and inserting in place
4 thereof the following words:- (7) email communications; and (8) internet communications which
5 are not paid advertisements.

6 SECTION 2. Said section 1 of said chapter 55, as so appearing, is hereby further
7 amended by inserting after the definition of “Electioneering communication” the following
8 definition:-

9 “Electioneering communication expenditure”, any expenditure made or liability incurred
10 by an individual, group, association, corporation, labor union or other entity as payment for an
11 electioneering communication including any transfer of money or anything of value to that
12 individual or entity or another individual or entity for the purpose of making an electioneering
13 communication.

14 SECTION 3. Said section 1 of said chapter 55, as so appearing, is hereby further
15 amended by striking out the definition of “Independent expenditure” and inserting in place
16 thereof the following definition:-

17 "Independent expenditure", an expenditure made or liability incurred by an individual,
18 group, association, corporation, labor union, political committee, or other entity as payment for
19 goods or services including any transfer of money or anything of value to that individual or
20 entity for the purpose of expressly advocating the election or defeat of a clearly identified
21 candidate, which is made or incurred without cooperation or consultation with any candidate or
22 a nonelected political committee organized on behalf of the candidate or an agent of the

23 candidate and which is not made or incurred in concert with, or at the request or suggestion of,
24 the candidate, a nonelected political committee organized on behalf of the candidate or agent of
25 such candidate.

26 SECTION 4. Said section 1 of said chapter 55, as so appearing, is hereby further
27 amended by inserting after the definition of "Legislative agent" the following definition:-

28 "People's committee", a political committee which is not a candidate's committee, a
29 political party committee or a ballot question committee, which (a) only receives contributions
30 from individuals, (b) limits contributions received from any individual to the indexed amount
31 provided for in this section, in the definition of "political action committee", (c) which has been
32 in existence for six months or more, and (d) and which contributes to five or more candidates.
33 Such a committee shall initially organize as a political action committee and may become a
34 people's committee after six months.

35 SECTION 5. Section 3 of said chapter 55, as so appearing, is hereby amended by adding
36 the following paragraph:-

37 The director shall adopt regulations regarding electioneering communication
38 expenditures and independent expenditures that involve the disclosure of any transfers of money
39 or anything of value from one individual, group, association, corporation, labor union or other
40 entity to another individual, group, association, corporation, labor union or other entity for the
41 purpose of making an electioneering expenditure or independent expenditure to ensure that the
42 true origin of that expenditure is disclosed in the manner and on the schedule for reports of such
43 expenditures provided for by this chapter.

44 SECTION 6. Said chapter 55 of the General Laws is hereby further amended by inserting
45 the following new section after section 5B:-

46
47 Section 5C. The office of campaign and political finance shall prepare and update from
48 time to time a training program to provide information on the requirements of this chapter
49 applicable to treasurers of political committees that file reports with the office. Every treasurer
50 of such a committee shall, within 30 days after filing an acceptance of the position with the
51 office in accordance with section 5, and every 2 years thereafter, complete the online training
52 program.

53 The office shall establish procedures for implementing this section and ensuring
54 compliance.

55 SECTION 7. Section 6 of chapter 55, as so appearing, is hereby amended by striking the
56 first and second paragraphs of the section and inserting in place thereof the following three
57 paragraphs:-

58 Section 6. A political committee organized or operating on behalf of a candidate for the
59 office of governor, lieutenant governor, attorney general, state secretary, treasurer and receiver
60 general, or auditor may receive, pay and expend money or other things of value for reasonable
61 and necessary expenses directly related to the campaign of such candidate but shall not make any
62 expenditure that is primarily for the candidate's or any other person's personal use. Any other
63 political committee, duly organized on behalf of a candidate may receive, pay and expend money
64 or other things of value for the enhancement of the political future of the candidate or the
65 principle, for which the committee was organized so long as such expenditure is not primarily for
66 the candidate's or any other person's personal use, provided, however, that the director shall
67 establish reasonable rules and regulations concerning such expenditures.

68 Any political committee duly organized on behalf of a candidate may contribute to other
69 political committees and may contribute to the campaign fund of a candidate; provided that the
70 aggregate of all such contributions made by such a committee organized on behalf of a candidate
71 to another non-elected political committee organized on behalf of a candidate shall not exceed in
72 any one calendar year the sum of one hundred dollars; and provided further, that the aggregate of
73 all such contributions made by such a committee organized on behalf of a candidate to other non-
74 elected political committees organized on behalf of candidates shall not exceed in any one
75 calendar year the sum of fifteen hundred dollars.

76 Notwithstanding the previous paragraph, a political committee organized on behalf of a
77 candidate for statewide office which receives public financing under chapter 55C may not
78 contribute to other political committees or the campaign fund of a candidate in the calendar year
79 in which such political committee receives public financing, except a committee that receives
80 such public financing may expend funds to a political party committee for goods or services
81 provided by the political party committee to the candidate's committee.

82
83 SECTION 8. Section 7 of said chapter 55 of the General Laws is hereby further amended
84 by striking out, in lines 36 to 49, the words "Except as provided in subsection (c) of section 19, a
85 candidate required to designate a depository for campaign funds by section nineteen and a person
86 acting for such a candidate or such a political committee shall pay for services rendered or goods
87 sold in excess of the sum of fifty dollars only through or by the means of a check drawn upon
88 such depository and bearing the legend "Campaign Account - (name of candidate or political
89 committee)", and shall secure the signature of the person receiving such check to the following
90 certificate to be printed on all such checks: "The undersigned affirms under the penalties of
91 perjury that he is the named payee of this check or an authorized officer thereof, that he or it
92 performed the services or delivered the goods indicated hereon, that the payment is for the sole
93 purpose of paying for such goods or services and that no person other than the named payee has
94 any interest, direct or indirect, in this payment".

95 SECTION 9. Section 7A of chapter 55 of the General Laws, as appearing in the 2014
96 official edition, is hereby amended by striking the words “five hundred” in line 4 and inserting in
97 place thereof:- “one thousand.”

98 SECTION 10. Said Section 7A of chapter 55 is further amended by deleting subsection
99 (a)(5) appearing in lines 19-22 of the 2014 official edition.

100 SECTION 11. Section 8 of said chapter 55, as so appearing, is hereby amended by
101 striking out, in line 22, the words “Any corporation violating any provision of this section” and
102 inserting in place thereof the following words:- Any such corporation violating this chapter.

103 SECTION 12. Section 9 of said chapter 55, as so appearing, is hereby amended by
104 striking out the second paragraph of the section and inserting in place thereof the following
105 paragraph:-

106 A political committee may maintain and use a credit or debit card, obtained in accordance
107 with applicable banking laws and in the ordinary course of business, in order to make
108 expenditures for the purpose for which said committee was organized, pursuant to the provisions
109 of section six, but provided that no contribution of money may be accepted by any individual,
110 candidate or political committee, or person acting on behalf of said individual, candidate or
111 political committee, other than in accordance with the first paragraph of this section. The director
112 shall establish reasonable rules and regulations concerning the use of such credit and debit cards,
113 and shall provide instruction on disclosure of said expenditures by credit and debit card, to
114 effectuate the purposes of this chapter.

115 SECTION 13. The first paragraph of section 13 of said chapter 55, as so appearing, is
116 hereby amended by inserting after first sentence, in line 8, the following words:- A person so
117 employed may not serve as treasurer of a political committee.

118 SECTION 14. The first paragraph of Section 18 of said Chapter 55, as appearing in the
119 2012 official edition, is hereby amended by striking out the words, in lines 6-10 “with a total
120 population, as determined by the most recent federal decennial census, of between 40,000 and
121 100,000 persons, if the candidate or the candidate's committee, during the election cycle, can
122 reasonably expect to raise or spend more than \$5,000”.

123 SECTION 15. Section 18 of said Chapter 55, as so appearing, is hereby amended by
124 inserting, after the words “as aforesaid,” in line 75, the following words:-other than political
125 action committees and people’s committees, as defined in section 1, and independent expenditure
126 PACs organized under section 18A,.

127 SECTION 16. Section 18A of said Chapter 55, as so appearing, is hereby amended by
128 striking out the section and inserting in place thereof the following section:-

Section 18A. (a) Every individual, group, association, corporation, labor union, political committee, or other entity that makes independent expenditures in an aggregate amount exceeding \$250 during any calendar year for the express purpose of promoting the election or defeat of a candidate shall file with the director, except as provided in subsections (b) and (c), within 7 business days after the goods or services for which the independent expenditure was made are utilized to advocate for the election or defeat of a clearly identified candidate, on a form prescribed by the director, a report stating: (1) the name and address of the individual, group, association, corporation, labor union, political committee, or other entity making any such independent expenditures; (2) the name of the candidate whose election or defeat the expenditure promoted; (3) the name and address of any person to whom the expenditures were made; (4) the total amount or value; and (5) the purpose and the date of each independent expenditure.

(b) In addition to any reports required by subsection (a), any individual, group, association, corporation, labor union, political committee, or other entity that makes an independent expenditure in an aggregate amount exceeding \$250 after the tenth day, but more than 24 hours, before the date of any election, shall file a preliminary report within 24 hours after the goods or services for which the independent expenditure was made are utilized, disclosing: (1) the name and address of the individual, group, association, corporation, labor union, political committee, or other entity making the expenditure; (2) the name of the candidate whose election or defeat the expenditure promoted; (3) the name and address of any person to whom the independent expenditures were made; and (4) the purpose and the date of each expenditure.

(c) The individual, group, association, corporation, labor union, political committee, or other entity shall file an additional preliminary report within 24 hours after each time goods or services valued at \$250 or more, obtained by the making of an independent expenditure, are utilized with respect to the same election as that to which the initial report relates, and shall also file any report required by subsection (a).

(d) The reports required by this section shall be filed with the director as provided in section 18C if expenditures are made to promote the election or defeat of any candidate who files with the director. Reports required by this section shall be filed with the city or town clerk if the expenditures are made to promote the election or defeat of any candidate seeking public office at a city or town election who does not file with the director.

(e) A political committee that receives donations to make independent expenditures is an "independent expenditure PAC." Such PACs shall organize in accordance with section 5, and file reports in accordance with the schedule in section 18A(a) to (c) to disclose expenditures. Such reports shall, in addition to disclosing expenditures, also disclose all campaign finance information required to be disclosed by other political action committees, as listed in section 18. The reporting period for the first report filed by an independent expenditure PAC shall commence on the day the committee was organized and be complete through the date of the expenditure(s) disclosed in the report. The reporting period for the next report shall commence

on the date following the last date included in the previous report and be complete through the date of the expenditure(s) disclosed. Independent expenditure PACs shall also file year-end reports on or before the twentieth day of January each year the committee remains in existence, and shall file a final report on dissolution. The reporting period for the year-end report shall be cumulative for the calendar year, commencing on January first and ending on December thirty-first of each calendar year. The director shall adopt regulations regarding independent expenditure PACs.

(f) A violation of any provision of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in a house of correction for not more than 1 year.

SECTION 17. Section 18C of Chapter 55, as appearing in the 2012 official edition, is hereby amended by striking out the section and inserting in place thereof the following section:-

Section 18C. (a) The director shall develop an electronic reporting system for the submission, retrieval, storage and public disclosure of campaign finance reports and financial activity statements required to be filed with the director.

(b) The following individuals and political committees shall be required to file electronically by modem or via computer terminals provided or approved by the director:

(1) Each candidate that files with the director and the committee organized on behalf of such candidate;

(2) Each ballot question committee that files with the director;

(3) Each state party committee referred to in section 1 of chapter 52;

(4) Each local party committee referred to in sections 2 and 3 of chapter 52, that raises or spends more than \$5,000 in an election cycle;

(5) any other political committee, other than a candidate's committee or a ballot question committee, if such political committee is aiding or promoting the success or defeat of one or more candidates that file with the director;

(6) reports of late contributions received, by every political committee organized on behalf of a candidate that files with the director, including committees required to designate a depository on behalf of a candidate and every ballot question committee that files with the director, which receives and deposits a contribution of \$500 or more after the eighteenth day, but more than 72 hours, before the date of a special, preliminary, primary or general election within 72 hours of depositing such contribution;

(7) reports of late contributions received, by every state committee referred to in section 1 of chapter 52 required to designate a depository by section 19 of this chapter, which receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours before, the date of

a special, preliminary, primary or general election, within 72 hours of depositing such contribution;

(8) for every political committee required to file campaign finance reports electronically with the director, any reports filed pursuant to section 18D made to disclose expenditures by vendors of the committee to subvendors;

(9) an individual, group, association, corporation, labor union, political committee, or other entity that is required to file a report of independent expenditures with the director in accordance with section 18A;

(10) every individual, group, association, corporation, labor union, or other entity that makes an electioneering communication expenditure in an aggregate amount exceeding \$250 during any calendar year in accordance with section 18F.

SECTION 18. Section 18D of Chapter 55, as appearing in the 2012 official edition, is hereby amended by striking out the section and inserting in place thereof the following section:-

Section 18D. (a) For the purpose of this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Expenditure", any payment made or liability incurred by a vendor on behalf of a political committee, or on behalf of an individual or group required to file a report of ballot question expenditures under section 22.

"Person", a natural person, corporation, association, partnership or other legal entity.

"Subvendor", 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 required to file a report of ballot question expenditures under section 22.

"Vendor", any person including, but not limited to, a consultant, who provides goods or services to a political committee that files with the director or to an individual or group required to file a report of ballot question expenditures under section 22, and either receives or is promised \$5,000 or more in the aggregate during a calendar year by the committee or individual or group for such goods or services, or contracts with another on behalf of the committee, individual or group for such goods or services valued at \$5,000 or more in the aggregate to be provided to the committee, individual or group.

(b) A vendor that makes an expenditure on behalf of a political committee, or to an individual or group required to file a report of ballot question expenditures under section 22, shall within 5 days of making such expenditure provide the political committee, individual or group, with a detailed account of the expenditure including, but not limited to, the date of the

234 expenditure, the person who received payment, the full name and address of the subvendor, the
235 purpose of the expenditure, and the amount of the expenditure.

236 (c) A political committee, or an individual or group required to file a report of ballot
237 question expenditures under section 22, that makes a payment to a vendor or incurs a liability to
238 a vendor shall file reports with the director, or if the expenditure concerns a local candidate who
239 does not file with the director, or a local ballot question, with the clerk, disclosing the full name
240 and address, listed alphabetically, of each subvendor receiving payments of more than \$500 in
241 the aggregate during a calendar year from the vendor, and of each subvendor to whom a liability
242 of more than \$500 was incurred. The contents of such report shall include the information
243 required by section 18 and shall be disclosed on a form prescribed by the director. For
244 committees required to designate a depository account under section 19, the reports shall be filed
245 on or before the fifth day of each month covering the preceding month; provided, however, that
246 for other committees, individuals or groups, the report must be filed in accordance with the
247 schedule established by sections 18 and 22.

248 (d) Vendors shall keep detailed accounts of all expenditures made on behalf of political
249 committees, or on behalf of individuals or groups required to file a report of ballot question
250 expenditures under section 22 .

251 SECTION 19. Said chapter 55 of the General Laws is hereby further amended by striking
252 out section 18F, as so appearing, and inserting in place thereof the following section:-

253 Section 18F. Every individual, group, association, corporation, labor union or other entity
254 not defined as a political committee who makes an electioneering communication expenditure, in
255 an aggregate amount exceeding \$250 during a calendar year, shall electronically file with the
256 director, within 7 days after making that expenditure, a report stating the name and address of the
257 individual, group, association, corporation, labor union or other entity making the electioneering
258 communication, the name of any candidate clearly identified in the communication, the total
259 amount or value of the communication, the name and address of the vendor to whom the
260 payments were made and the purpose and date of any such expenditure. In addition, any
261 individual, group, association, corporation, labor union or other entity not defined as a political
262 committee who makes electioneering communication expenditures, in an aggregate amount
263 exceeding \$250 during a calendar year, who receives funds for the purpose of making such
264 electioneering communications shall include in the electronic filing the date the funds were
265 received and the name and address of the provider of any such funds in excess of \$250, if any,
266 and the value of the funds received. Reports required under this section shall be filed with the
267 director, as provided in section 18C, if electioneering communications refer to any candidate
268 who files with the director. Reports required under this section shall be filed with the city or
269 town clerk if the electioneering communications refer to any candidate seeking public office in a
270 city or town election who does not otherwise file with the director.

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

A violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than 1 year.

SECTION 20. Section 18G of said chapter 55, as so appearing, is hereby amended by inserting after the first paragraph the following 1 paragraph:-

If the independent expenditure or electioneering communication is paid for by an entity that is not an individual, the advertisement or communication shall contain the words "Top Contributors" and a written statement listing the 5 persons or entities, or if less than 5 persons or entities then the total of all such persons or entities, making the largest contributions to that entity for the purpose of making an independent expenditure or electioneering communication; provided, that such contributions shall be in excess of \$5,000 reportable under this chapter during the 12-month period before the date of the advertisement or communication. If no such contribution is received by the entity making an independent expenditure or electioneering communication, then the advertisement or communication may exclude such a statement.

SECTION 21. Section 19 of said chapter 55, as so appearing, is hereby amended by striking out the section and inserting in place thereof the following section:-

Section 19. (a) Candidates for nomination or election to the offices of governor, lieutenant governor, secretary of state, attorney general, state treasurer and receiver general, auditor, governor's council, district attorney, clerk of court, register of probate, registrar of deeds, county commissioner, county treasurer, and sheriff, mayor or, city council or alderman in a city with a total population, as determined by the most recent decennial federal census, of seventy five thousand or more persons and the treasurer of each state committee referred to in section one of chapter fifty-two, and the treasurer of the nonelected political committee authorized by any of the aforesaid candidates, and the treasurers of political action committees that file with the director, other than independent expenditure PACs, shall forthwith, upon the organization of said political committee, or upon becoming a candidate in accordance with the provision of clauses (1) and (2) of the definition of candidate in section one, designate a financial institution as a depository for the campaign funds of such candidate or political committee. The financial institution so designated shall be a national bank, federal savings bank, federal savings and loan association or federal credit union, if such bank, association or credit union is authorized to transact business and has its main office or a branch office in the commonwealth; or a trust company, credit union, co-operative bank or savings bank, if such company, credit union or bank is organized and exists under the laws of the commonwealth or any other state of the United States or is otherwise authorized to transact business in the commonwealth and has its

308 main office or a branch office in the commonwealth. Each such candidate, and the treasurer of
309 each such political committee shall file with the director, no later than the third business day
310 following the designation of such depository, a certificate of appointment containing the name of
311 the financial institution so designated, and the name of the candidate or political committee, and
312 shall authorize the financial institution so designated to submit the reports required by subsection
313 (d). Such certificate of appointment, reflecting the financial institution's agreement to comply
314 with the requirements of this section, must also be signed by an authorized employee of the
315 financial institution.

316 (b) Every candidate and the treasurer of every committee required to designate a
317 depository shall deposit contributions in the form received within seven days of receipt. Any
318 candidate or treasurer required to designate a depository shall file with the director, by the fifth
319 and twentieth day of each month, the following information: (1) a list of all contributions of
320 more than fifty dollars deposited as of the first or fifteenth day of the month, and since the last
321 such statement, including the names and addresses alphabetically, (2) for each person who has
322 made a contribution in an amount or value of two hundred dollars or more in any calendar year,
323 the occupation and employer of the contributor, and such information for each contribution of
324 less than two hundred dollars, if the aggregate of all contributions received from such contributor
325 within any one calendar year is two hundred dollars or more, and (3) a summary of all
326 contributions of fifty dollars or less deposited during the reporting period that are not itemized in
327 the report.

328 (c) Except as otherwise provided in this section, all payments for campaign purposes
329 made by or for the benefit of a candidate or by the treasurer of a committee which are in excess
330 of one hundred dollars shall be made only from funds on deposit in said depository through
331 checks drawn on such depository and indicating that such checks are drawn on the campaign
332 account of the candidate or the political committee involved. All checks drawn on such
333 campaign accounts shall be payable either to the order of a named payee not the candidate or
334 treasurer or, if for no more than fifty one hundred dollars, may be payable to the candidate or
335 treasurer. The "memo" line of the check shall be used by the committee issuing the check to
336 indicate the specific purpose of the expenditure.

337 A candidate or treasurer of a political committee required to designate a depository may
338 make expenditures by wire transfer or other electronic means for broadcast, cablecast or other
339 media services and for payroll services made in connection with employee deductions and
340 withholdings. Expenditures may also be made by credit or debit card, provided that candidates
341 or treasurers making such expenditures shall ensure that the date, amount, and specific purpose
342 of each expenditure is disclosed in accordance with regulations to be issued by the director.

343 (d) The cashier or treasurer of the bank, selected by any candidate or committee as above
344 provided, shall file with the director by the fifth day and twentieth day of each month, the
345 following information: a statement of the balance as of the preceding first day or fifteenth day of

the month, together with a summary of all credits to the account since the last such statement and a list of all the debits to the account since the last such statement. The bank shall also report, to the extent such information is available, the names and addresses of the payees and the amount of each check, and the purposes for which the money was paid as thereon indicated.

(e) Such accounts shall remain in existence until the election and so long thereafter as a candidate or political committee has unpaid obligations still outstanding, and candidates and treasurers required to file reports under this section shall continue to file year-end campaign finance reports in accordance with section 18 every year the committee remains in existence.

(f) Each committee required to designate a depository on behalf of a candidate that files with the director in accordance with this section and which receives and deposits a contribution of \$500 or more after the eighteenth day but more than 72 hours before the date of a special, preliminary, primary or general election shall file a report to disclose the information required by this section within 72 hours of depositing such contribution. In addition, each state committee referred to in section 1 of chapter 52 required to designate a depository pursuant to this section and which receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.

Any candidate or political committee which fails to file any report required by this section shall be assessed, and shall pay to the state treasurer, a penalty not greater than ten dollars for each day such candidate or political committee has not filed such report.

Violation of any provision of this section shall be punished by imprisonment for not more than six months or by a fine of not more than five hundred dollars.

SECTION 22. Section 22 of said chapter 55, as so appearing, is hereby amended by adding the following sentence at the end of the fifth paragraph, at line 44:- A person, corporation, association, organization, or group required to file a report under this section is also subject to subvendor disclosure requirements under section 18D.

SECTION 23. Section 27 of said chapter 55, as so appearing, is hereby amended by striking out the section and inserting in place thereof the following section:-

Section 27. The director shall make available to city and town clerks a summary of this chapter and forms approved by him and by the attorney general, suitable for the submission of such statements and reports as are required by this chapter. The city and town clerk shall transmit forms to all candidates for nomination or election to city or town office, who are known to him, and to all political committees required to file with him.

381 The director shall make available to all candidates and political committees required to
382 file with him forms for filing and a summary of this chapter.

383 SECTION 24. Sections 9 and 10 shall take effect January 1, 2015.