

SENATE No. 304

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to disclosure of political spending .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Kenneth J. Donnelly</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Linda Campbell</i>	<i>15th Essex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>William N. Brownsberger</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>

<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Christopher N. Speranzo</i>	<i>3rd Berkshire</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Daniel A. Wolf</i>	
<i>Charles A. Murphy</i>	<i>21st Middlesex</i>

SENATE No. 304

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 304) of James B. Eldridge, Carl M. Sciortino, Jr., Kenneth J. Donnelly, Kay Khan and other members of the General Court for legislation relative to disclosure of political spending . Election Laws.

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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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:

1 SECTION 1. This Act may be cited as the “Massachusetts Disclosure Act of 2011”.

2 SECTION 2. Section 8 of chapter 55 of the General Laws, as appearing in the 2008
3 Official Edition, as amended by section 33 of chapter 28 of the acts of 2009, is hereby amended
4 by adding the following paragraph: -

5 Nothing in this section shall be construed to restrict independent expenditures to the
6 extent that such expenditures are protected by the First Amendment.

7 SECTION 3. (a) Subsection (a) of section 18A of chapter 55 of the General Laws, as
8 appearing in section 41 of chapter 28 of the acts of 2009, is hereby amended by striking out the
9 words “or association” and inserting in place thereof the following words:- association,
10 corporation, labor union or other entity.

11 Paragraph (1) of subsection (a) of section 18A of chapter 55 of the General Laws, as
12 appearing in section 41 of chapter 28 of the acts of 2009, is hereby amended by striking out the

13 words “or association” and inserting in place thereof the following words:- association,
14 corporation, labor union or other entity.

15 Subsection (b) of section 18A of chapter 55 of the General Laws, as appearing in section
16 41 of chapter 28 of the acts of 2009, is hereby amended by inserting after the word “association”
17 the following words:- , corporation, labor union, other entity.

18 Paragraph (1) of subsection (b) of section 18A of chapter 55 of the General Laws, as
19 appearing in section 41 of chapter 28 of the acts of 2009, is hereby amended by inserting after
20 the word “association” the following words:- , corporation, labor union, other entity.

21 Subsection (c) of section 18A of chapter 55 of the General Laws, as appearing in section
22 41 of chapter 28 of the acts of 2009, is hereby amended by inserting after the word “association”
23 the following words:- , corporation, labor union, other entity.

24 (b) Paragraph (7) of subsection (b) of section 18C of chapter 55 of the General Laws, as
25 appearing in section 42 of chapter 28 of the acts of 2009, is hereby amended by inserting after
26 the word “association” the following words:- , corporation, labor union, other entity.

27 Paragraph (9) of subsection (b) of section 18C of chapter 55 of the General Laws, as
28 appearing in section 42 of chapter 28 of the acts of 2009, is hereby amended by striking out the
29 words “or association” and inserting in place thereof the words:- association, corporation, labor
30 union or other entity.

31 (c) The first sentence of section 18F of chapter 55 of the General Laws, as appearing in
32 section 43 of chapter 28 of the acts of 2009, is hereby amended by striking out the words “or

33 association”, wherever they appear, and inserting in place thereof the following words:-
34 association, corporation, labor union or other entity.

35 The second sentence of section 18F of chapter 55 of the General Laws, as appearing in
36 section 43 of chapter 28 of the acts of 2009, is hereby amended by striking out the words “or
37 association” and inserting in place thereof the following words:- association, corporation, labor
38 union or other entity.

39 The second paragraph of section 18F of chapter 55 of the General Laws, as appearing in
40 section 43 of chapter 28 of the acts of 2009, is hereby amended by striking out the words “or
41 association” and inserting in place thereof the following words:- association, corporation, labor
42 union or other entity.

43 SECTION 4. (a) Section 1 of chapter 55 of the General Laws, as appearing in the 2008
44 Official Edition, as amended by section 24 of chapter 28 of the acts of 2009, is hereby amended
45 by inserting after the definition of “Electioneering communication” the following definition: -

46 “Electioneering communication expenditure”, any expenditure made, or liability
47 incurred, by an individual, group, association, corporation, labor union or other entity:

48 (1) as payment for an electioneering communication; or

49 (2) to transfer money, or anything of value, to another individual, group, association,
50 corporation, labor union or other entity for the purpose that the recipient or some other
51 individual, group, association, corporation, labor union or other entity make an electioneering
52 communication or independent expenditure. A transfer of money or anything of value shall be
53 an “electioneering communication expenditure” if:

54 (i) the transferor designates, requests or suggests that the amounts be used to make
55 any electioneering communication or independent expenditure;

56 (ii) the transferor and the recipient of the money or thing of value engaged in written
57 or oral discussion regarding the recipient either making, or paying for, any electioneering
58 communication or independent expenditure, or donating or transferring the amounts to another
59 individual, group, association, corporation, labor union or other entity for that purpose;

60 (iii) the transferor knew or had reason to know that the recipient of the money or
61 thing of value intended to make any electioneering communication or independent expenditure,
62 or to donate or transfer the amounts to another individual, group, association, corporation, labor
63 union or other entity for that purpose.

64 Provided, however, that a transfer shall not be considered an “electioneering
65 communication expenditure” if the transfer was a commercial transaction occurring in the
66 ordinary course of business between the transferor and the recipient of the money or thing of
67 value, unless there is affirmative evidence that the amounts were transferred for the purpose of
68 making an electioneering communication or independent expenditure.

69 (b) Section 1 of chapter 55 of the General Laws, as so appearing, as amended by section
70 24 of chapter 28 of the acts of 2009, is hereby further amended by inserting after the words
71 “email communications” in the definition of “electioneering communication” the following
72 words:- which are not paid advertisements.

73 (c) Section 1 of chapter 55 of the General Laws, as so appearing, is hereby further
74 amended by inserting after the last sentence of the definition of “political committee” the words:-
75 “Political committee” includes any committee, association, organization or other group of

76 persons which solicits or receives contributions for the purpose of making any electioneering
77 communication or that makes any electioneering communication expenditures in an aggregate
78 amount during a calendar year equal to or greater than \$10,000.

79 (d) The second sentence of section 18F of chapter 55 of the General Laws, as appearing
80 in section 43 of chapter 28 of the acts of 2009, is hereby amended by inserting after the words “if
81 any” the following words: - , and the value of the funds so received.

82 SECTION 5. (a) Section 18G of chapter 55 of the General Laws, as appearing in section
83 34 of chapter 131 of the acts of 2010, is hereby amended by inserting at the end of the first
84 paragraph the following words: - If the independent expenditure or electioneering
85 communication is paid for by any entity that is not an individual, the advertisement or
86 communication must contain a statement listing the five persons or entities making the largest
87 contributions to that entity in excess of \$1000 reportable under this chapter 55 during the twelve-
88 month period before the date of the advertisement or communication, if any, with the words
89 “Top Five Contributors”.

90 (b) Section 18G of chapter 55 of the General Laws, as appearing in section 34 of chapter
91 131 of the acts of 2010, is further amended by inserting after the first paragraph the following
92 paragraph: -

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

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

100 Section 8B. (a) As used in this section, the following terms shall have the following
101 meanings:

102 (1) "foreign national" shall mean: (i) any individual who is not a citizen of the United
103 States and who is not lawfully admitted for permanent residence; or (ii) any foreign principal,
104 such as a government of a foreign country or a foreign political party, partnership, association,
105 corporation, organization, or other combination of persons that has its primary place of business
106 in or is organized under the laws of a foreign country. "Foreign national" does not include an
107 individual who is a citizen of the United States, who is a national of the United States, or who is
108 lawfully admitted for permanent residence.

109 (2) "foreign-controlled domestic corporation" shall mean any corporation which is not a
110 foreign national and:

111 (i) in which a foreign national that is a foreign country, a foreign government official
112 or a corporation principally owned or controlled by a foreign country or foreign government
113 official owns or controls 5 per cent or more of the voting shares;

114 (ii) in which a foreign national that is not a foreign country, a foreign government
115 official or a corporation principally owned or controlled by a foreign country or foreign
116 government official owns or controls 20 per cent or more of the voting shares;

117 (iii) in which two or more foreign nationals, each of whom owns or controls at least 5
118 per cent of the voting shares, directly or indirectly own or control 50 per cent or more of the
119 voting shares;

120 (iv) with respect to which the majority of the members of the board of directors are
121 foreign nationals;

122 (v) over which one or more foreign nationals has the power to direct, dictate, or
123 control the decision-making process of the corporation with respect to its interests in the United
124 States; or

125 (vi) over which one or more foreign nationals has power to direct, dictate, or control
126 the decision-making process of the corporation with respect to activities in connection with the
127 making of a contribution, expenditure, independent expenditure, or electioneering
128 communication expenditure.

129 (b) A foreign national or foreign-controlled domestic corporation shall not make a
130 contribution, independent expenditure or electioneering communication expenditure for the
131 purpose of influencing the nomination or election of a candidate, or candidates, or of presidential
132 and vice presidential electors, or for the purpose of opposing or promoting a charter change,
133 referendum question, constitutional amendment, or other question submitted to the voters.