AMENDED

February 12, 2015

**H. 3189**

Introduced by Reps. Finlay, Cole, Anderson, Bales, G.A. Brown, R.L. Brown, Felder, Funderburk, Hart, Knight, Lucas, Murphy, Newton, Norman, Norrell, Pope, Putnam, Rivers, Southard, Spires, Tallon, Taylor, Wells, Williams, Willis, Long, Henderson, G.M. Smith, G.R. Smith, McCoy, Clary, J.E. Smith, W.J. McLeod, Weeks, Whipper and Hicks

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Read the first time January 13, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8‑13‑1313 SO AS TO REQUIRE A PERSON WHO IS NOT A COMMITTEE AND WHO MAKES AN INDEPENDENT EXPENDITURE IN AN AGGREGATE AMOUNT OR VALUE IN EXCESS OF FIVE HUNDRED DOLLARS DURING A CALENDAR YEAR OR MAKES AN ELECTIONEERING COMMUNICATION TO FILE A REPORT OF SUCH EXPENDITURE OR COMMUNICATION WITH THE STATE ETHICS COMMISSION; AND TO AMEND SECTION 8‑13‑1300, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO CAMPAIGN PRACTICES, SO AS TO DEFINE “ELECTIONEERING COMMUNICATION”.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 13, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑1313. A person who is not a committee required to file subject to Section 8‑13‑1304 and who makes an independent expenditure in an aggregate amount or value in excess of five hundred dollars during a calendar year or makes an electioneering communication must file a report of the expenditure or communication with the State Ethics Commission electronically in the manner prescribed by the commission pursuant to Section 8‑13‑365 within thirty days of the expenditure being made, or if the independent expenditure or electioneering communication is made within thirty days before an election, the report must be filed within forty‑eight hours of the expenditure being made. The report must include:

(1) a detailed description of the use of the expenditure or communication and the amount of the expenditure or the cost of the communication;

(2) the full name, primary occupation of the reporting person, as well as the physical address and phone number for the residence or place of business for the reporting person;

(3) the identification of the chief executive officer or for all controlling individuals if the reporting person is a business or another organization that is not an individual, to include name, title, employer, and address;

(4) the name of the candidate or ballot measure that is the subject of the independent expenditure or electioneering communication and whether the expenditure or communication was made in support of, or opposition to, the candidate or ballot measure;

(5) the chief executive officer or controlling individual must file, under penalty of perjury, a certification that the independent expenditure is not made in cooperation, consultation, or coordination with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(6)(a) the identification of each person or entity making a donation of more than one hundred dollars to the entity filing the report if the donation was made to further the reported independent expenditure or electioneering communication.

(b) If the donor is an individual, the statement shall include the name, primary occupation, address, and amount of the donation.

(c) If the donor is a business or another organization that is not an individual, then the identification shall indicate the name and title of the chief executive officer or the controlling individual of the donor organization, and include the address and amount of the donation.

(7) For the purposes of item (6) of this section, a donation to the person or entity making the independent expenditure or electioneering communication is deemed to have been donated to further the independent expenditure or electioneering communication if any of items (1) through (4) of this section apply. For purposes of this section, the “filer” is the person or entity making the independent expenditure or electioneering communication and responsible for filing the report, or an agent of that person or entity. For purposes of this section, the “donor” is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

(a) The donor designates, requests, or suggests that the donation be used for an independent expenditure or electioneering communication or for multiple independent expenditures or electioneering communication, and the filer agrees to use the donation for an independent expenditure or electioneering communication.

(b) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure or electioneering communication.

(c) The donor and the filer engaged in substantial written or oral discussion regarding the donor’s making, donating, or paying for an independent expenditure or electioneering communication.

(d) The donor or the filer knew or had reason to know of the filer’s intent to make independent expenditures or electioneering communications with the donation.

A donation must not be deemed to be made to further an independent expenditure or electioneering communication if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an independent expenditure or electioneering communication. In determining the amount of a donation that was made to further a particular independent expenditure or electioneering communication, there must be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the independent expenditure or electioneering communication covered by the report.”

SECTION 2. Section 8‑13‑1300 of the 1976 Code, as last amended by Act 245 of 2008, is further amended by adding at the end:

“(35)(a) ‘Electioneering communication’ means a broadcast, cable, or satellite communication or mass postal mailing or telephone bank that has the following characteristics:

(1) refers to a clearly identified candidate for elected office or ballot measure; and

(2) that is publicly aired or distributed within sixty days prior to a general election or within thirty days prior to a primary election for that office.

(b) ‘Electioneering communication’ does not mean:

(1) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by a political party, political committee, or candidate;

(2) a communication that constitutes an expenditure or independent expenditure pursuant to this article;

(3) a communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by a political party or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(4) a communication that meets all of the following criteria:

(i) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public;

(ii) does not take a position on the candidate’s character or qualifications and fitness for office; and

(iii) proposes a commercial transaction.”

SECTION 3. This act takes effect upon approval by the Governor.

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