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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
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H.B. 305\*  
135<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 305's Fiscal Note](#)

**Version:** As Reported by Senate Judiciary

**Primary Sponsors:** Reps. Stewart and Brown

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## SUMMARY

### Filing of pleadings and documents

#### Common pleas court

- Requires the clerk of a common pleas court to determine whether the filing of pleadings or documents in electronic format may be accomplished by electronic mail or through the use of an online platform.
- Prohibits the clerk from doing the following:
  - Requiring that any fee for such filing be paid before the filing, unless the clerk has provided for an electronic payment system for such filing.
  - Requiring a fee for such filing that is greater than the applicable fee for the filing of pleadings or documents in paper format.
- Provides that its provisions do not apply to a probate court or juvenile court.

#### Municipal court and county court

- Provides that, beginning not later than 270 days after the bill's effective date, pleadings or documents may be filed with the clerk of a municipal court or the clerk of a county court either in paper format or in electronic format.
- Stipulates that documents created by such clerk in the exercise of the clerk's duties may be created in an electronic format.

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\* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Requires the clerk of a municipal court or county court to determine whether the filing of pleadings or documents in electronic format may be accomplished by electronic mail or through the use of an online platform.
- Prohibits such clerk from doing the following:
  - Requiring that any fee for such filing be paid before the filing, unless the clerk has provided for an electronic payment system for such filing.
  - Requiring a fee for such filing that is greater than the applicable fee for the filing of pleadings or documents in paper format.

### **Clerks of court authorization**

- Removes the requirement that funds for the computerization of municipal, county, and common pleas court clerks must be authorized and disbursed by the court, and instead permits the clerk to do so if the clerk has been elected.
- Retains the requirement described in the prior dot point for appointed court clerks.

### **Municipal and county court additional fee increase**

- Permits municipal and county courts to increase the maximum amount of their additional fees from \$10 to \$20 to cover the computerization of the clerk's office.

### **Final appealable order**

- Classifies an order that restrains or restricts enforcement of a state statute or regulation as a final appealable order.

### **Conciliation for custody disputes between unmarried parents**

- Allows a court to order unmarried parents who are in a custody dispute to undergo conciliation with a magistrate.
- Requires a magistrate to resolve disputes through conciliation procedures and, upon resolution, to issue an order regarding the allocation of parental rights and responsibilities, parenting time, or companionship or visitation.
- Specifies that conciliation procedures may include the use of family counselors and service agencies, community health services, physicians, licensed psychologist, and clergy.

### **Ashtabula County County Court**

- Replaces the two part-time judgeships of the Ashtabula County County Court with one full-time judge and provides that those part-time judgeships cease to exist on January 1, 2031.
- Provides that the part-time judge of the Ashtabula County County Court to be elected in 2028, must be elected for a two-year term commencing on January 1, 2029, and ending on December 31, 2030, and that one full-time judge must be elected in 2030, for a six-year term to commence on January 1, 2031.

## **Conneaut Municipal Court**

- Beginning January 1, 2025, expands the territorial jurisdiction of the Conneaut Municipal Court to include the municipal corporation of North Kingsville, and within Kingsville, Monroe, and Sheffield townships, in Ashtabula County.
- Requires that all cases arising in the municipal corporation of North Kingsville in Ashtabula County and in Kingsville, Monroe, and Sheffield townships in Ashtabula County that are pending in the Eastern County Court in Ashtabula County on January 1, 2025, be adjudicated by the Ashtabula County Court.
- Requires that all cases arising in the municipal corporation of North Kingsville in Ashtabula County and in Kingsville, Monroe, and Sheffield townships in Ashtabula County on or after January 1, 2025, be brought before the Conneaut Municipal Court.

## **Legal aid society funds**

- Prohibits financial assistance received by legal aid societies from being used for the provision of legal services in any criminal case or proceeding or in the provision of legal assistance in any fee generating case.

## **Reimbursement deadline**

- Creates a one-year deadline for counties to submit reimbursement requests to the state for the per diem compensation paid to acting/assigned county or municipal court judges.

## **Ohio Criminal Sentencing Commission**

- Requires the Ohio Criminal Sentencing Commission to re-establish a standing juvenile committee.
- Re-establishes requirements for the Commission to review and develop a juvenile justice policy for the state, as well as assisting policymakers with legislation related to juvenile justice issues.

## **Political subdivision communications**

- Subjects chartered counties and municipal corporations to the requirements of an existing law that prohibits a political subdivision from using public funds to finance certain communications or from paying its staff for time spent on certain political activities.

## **Political subdivision soldiers' memorial**

- Expands the authority of a board of trustees of a political subdivision soldiers' memorial.

## **Indigent Defense Support Fund: funding restoration**

- Restores a provision from prior law that allocated increased amounts of the reinstatement fee associated with failure to maintain proof of financial responsibility to the Indigent Defense Support Fund.

## **Documentary service charges**

- Increases the maximum documentary service charge that may be imposed as part of the sale or lease of a motor vehicle.
- Requires the Registrar of Motor Vehicles to annually determine an updated maximum charge based on the cumulative percentage change to the Consumer Price Index (CPI) since July 2006.
- Requires the Registrar to publish the updated maximum charge on a website maintained by the Department of Public Safety.
- Retains a provision in current law that limits the amount of the charge to 10% of the sale or lease price.

## **Third-party driver's exam administrators**

- Clarifies who may be a third-party administrator for the standard motor vehicle skills test, which includes a clerk of the court of common pleas.
- Requires any fees collected by a clerk of the court of common pleas serving as a third-party administrator to be deposited into the existing Certificate of Title Administration Fund.
- Requires fees that have been so collected by clerks serving as third-party administrators between April 12, 2021, and the bill's effective date to be deposited into that fund.

## **Public depositories**

- Modifies the law governing public depositories.

## **Cemeteries**

- Modifies the laws governing the repair or replacement of a mausoleum or columbarium.
- Allows the disinterment of the cremated remains of a decedent who died of a contagious or infectious disease, without a permit issued by the local board of health.

## **Judicial release and transitional control**

- Reiterates that amendments to the judicial release and transitional control processes made in S.B. 288 of the 134<sup>th</sup> General Assembly apply only to prisoners serving prison terms on or after April 4, 2023, the effective date of that act.

## **Campaign finance**

### **Campaign spending by foreign nationals**

- Prohibits a foreign national from knowingly making a contribution or expenditure to support or oppose a state or local ballot issue, either directly or through another entity, and retains the current prohibition against a foreign national making a contribution or expenditure regarding a candidate.

- Prohibits a foreign national from soliciting another person to make a contribution or expenditure.
- Expands the list of entities that are prohibited from soliciting or accepting a contribution or expenditure from a foreign national to include a continuing association.
- Prohibits any person from knowingly aiding or facilitating a violation of the prohibitions described above regarding foreign nationals.
- Adds the term “knowingly” to each prohibition regarding foreign national campaign spending.
- Prohibits a lawful permanent U.S. resident, also known as a green card holder, from making contributions or expenditures regarding ballot issues or candidates.
- Requires all political entities to certify on their campaign finance filings, under penalty of election falsification, that they have not knowingly accepted, and will not knowingly accept, any campaign contributions that are prohibited under the Campaign Finance Law.

### **Expenditures from alternate sources of funds**

- Clarifies that the term “expenditure” means the disbursement or use of a contribution *or other funds* for the purpose of influencing the results of an election.

### **Independent expenditures regarding ballot issues**

- Clarifies that the term “independent expenditure” includes an expenditure to advocate support of or opposition to an identified ballot issue or to achieve the successful circulation of an initiative or referendum petition, regardless of whether the issue has yet been certified to appear on the ballot.

### **Ballot issue committees**

- Specifies that if the committee in charge of a statewide initiative or referendum petition receives a contribution or makes an expenditure for the purpose of achieving the successful circulation of the petition, the committee is considered a political action committee (PAC) for that purpose and must file periodic disclosures in the same manner as any other PAC.

### **Enforcement of the Campaign Finance Law**

- Requires, when the Ohio Elections Commission (OEC) refers a violation of the Campaign Finance Law for prosecution, that the Attorney General prosecute most cases that currently would go to the Franklin County Prosecutor.
- Provides a procedure for choosing a different prosecutor if the appropriate prosecutor is a victim or witness or otherwise involved in the case.
- Retains the existing penalty for violating the law regarding contributions and expenditures by foreign nationals, but requires a violator to return the contribution to the foreign national, in addition to paying a fine.

- Requires the OEC, if it finds a violation of that law, to either (1) impose the maximum fine and, if applicable, order the violator to return the funds, or (2) refer the matter for prosecution.
- Allows the Attorney General, if the OEC refers a violation of that law to a county prosecutor, to assume responsibility for prosecuting the case upon the request of the county prosecutor or upon the Attorney General’s own initiative, unless the Attorney General has a conflict of interest.

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## DETAILED ANALYSIS

### Filing of pleadings and documents

#### Court of common pleas

##### Filing in paper or electronic format

Continuing law provides that pleadings or documents may be filed with the clerk of the court of common pleas in paper format or in electronic format.<sup>1</sup>

Pleadings and documents filed in paper format may be converted to an electronic format. Documents created by the clerk of court in the exercise of the clerk’s duties may be created in an electronic format.<sup>2</sup>

##### Official record

Under continuing law, when pleadings or documents are received or created in, or converted to, an electronic format, the pleadings or documents in that format must be considered the official version of the record.<sup>3</sup>

##### Filing of pleadings or documents in electronic format

The bill requires the clerk to determine whether the filing of pleadings or documents in electronic format may be accomplished by electronic mail or through the use of an online platform.<sup>4</sup>

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<sup>1</sup> R.C. 2303.081(A).

<sup>2</sup> R.C. 2303.081(C).

<sup>3</sup> R.C. 2303.081(D).

<sup>4</sup> R.C. 2303.081(B)(1).

The fee for the filing of pleadings or documents in electronic format may be paid after the filing. The clerk must not do either of the following:<sup>5</sup>

- Require that any fee for such filing be paid before the filing, unless the clerk has provided for an electronic payment system for such filing.
- Require a fee for such filing that is greater than the applicable fee for the filing of pleadings or documents in paper format.

The bill's provisions above do not apply to the filing of pleadings or documents in a probate court or juvenile court.<sup>6</sup>

The bill applies the provision in the law described above in "**Official record**" to its provisions.<sup>7</sup>

## **Municipal court and county court**

### **Filing in paper or electronic format**

The bill provides that, beginning not later than 270 days after the bill's effective date, pleadings or documents may be filed with the clerk of a municipal court or the clerk of a county court either in paper format or in electronic format.<sup>8</sup>

Pleadings and documents filed in paper format may be converted to an electronic format. Documents created by the clerk of a municipal court or of a county court in the exercise of the clerk's duties may be created in an electronic format.<sup>9</sup>

### **Filing of pleadings or documents in electronic format**

The bill requires the clerk of a municipal court or the clerk of a county court to determine whether the filing of pleadings or documents in electronic format may be accomplished by electronic mail or through the use of an online platform.<sup>10</sup>

The fee for the filing of pleadings or documents in electronic format may be paid after the filing. The clerk must not do either of the following:<sup>11</sup>

- Require that any fee for such filing be paid before the filing, unless the clerk has provided for an electronic payment system for such filing.

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<sup>5</sup> R.C. 2303.081(B)(2) and (3).

<sup>6</sup> R.C. 2303.081(B)(4).

<sup>7</sup> R.C. 2303.081(D).

<sup>8</sup> R.C. 1901.313(A) and 1907.202(A).

<sup>9</sup> R.C. 1901.313(C) and 1907.202(C).

<sup>10</sup> R.C. 1901.313(B)(1) and 1907.202(B)(1)

<sup>11</sup> R.C. 1901.313(B)(2) and (3) and 1907.202(B)(2) and (3).



- Require a fee for such filing that is greater than the applicable fee for the filing of pleadings or documents in paper format.

### **Official record**

Under the bill, when pleadings or documents are received or created in, or converted to, an electronic format, the pleadings or documents in that format must be considered the official version of the record.<sup>12</sup>

### **Clerks of court authorization**

The bill permits an elected clerk of a municipal court, county court, or court of common pleas, rather than the court, to charge an additional fee for the computerization of the clerk's office and disburse those funds. In a county in which the clerk of the municipal court, county court, or court of common pleas is appointed, the bill retains existing law under which the court may make the determination as to whether additional funds are necessary and, upon that determination, include a computerization fee in its schedule of fees.<sup>13</sup>

### **Municipal and county court additional fee increase**

Continuing law provides that municipal and county courts may determine that additional funds are needed to computerize the offices of the clerks of court for efficient operation. The bill increases the additional fee municipal and county courts may include in their fees and costs schedule from not more than \$10 to not more than \$20 for electronic filing or related electronic tasks.<sup>14</sup>

### **Final appealable order**

The bill includes as a final order that may be reviewed, affirmed, modified or reversed, with or without retrial, an order restraining or restricting enforcement of any state statute or regulation, in whole or in part, facially or as applied, including, but not limited to, orders in the form of injunctions, declaratory judgments, or writs.<sup>15</sup>

### **Conciliation for custody disputes between unmarried parents**

The bill specifies that if a child is born to an unmarried woman and the father of the child has established paternity, the court may, on its own motion or the motion of one of the parties, order the parents to undergo conciliation with a magistrate in order to resolve any disputes regarding the allocation of parental rights and responsibilities between the parents in a pending case. An order must include the name of the magistrate who will serve as the conciliator and the manner that the costs of any conciliation procedures are to be paid.

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<sup>12</sup> R.C. 1901.313 (D) and 1907.202(D).

<sup>13</sup> R.C. 1901.261(B)(1)(a) and (b), 1907.261(B)(1)(a) and (b), and 2303.201(B)(1)(a) and (b).

<sup>14</sup> R.C. 1901.261(B)(1) and 1907.261(B)(1).

<sup>15</sup> R.C. 2505.02(B)(8).

The bill requires a magistrate who serves as a conciliator to use conciliation procedures to resolve disputes regarding the allocation of parental rights and responsibilities. Conciliation procedures may include, without limitations, the use of family counselors and service agencies, community health services, physicians, licensed psychologists, or clergy. If the magistrate orders the parties to undergo family counseling, the magistrate must name the counselor and set forth the required type of counseling, the length of time for counseling, and any other specific conditions.

Upon the resolution of a dispute, the magistrate must issue an order regarding the allocation of parental rights and responsibilities, parenting time, or companionship or visitation pursuant to existing law. Such an order may be issued only when the conciliation has concluded and been reported to the magistrate.<sup>16</sup>

## **Ashtabula County County Court**

Existing law provides that in the Ashtabula County County Court, one part-time judge is elected in 1980, and one part-time judge is elected in 1982. The most recent elections for these judges were in 2022 and 2024, respectively. The bill provides that this provision applies until December 31, 2030.<sup>17</sup>

Under the bill, notwithstanding any contrary provision of an R.C. section that requires that judges of a county court must be elected for a term of six years commencing on the first day of January following the election for the county court or on the dates specified in the law, the part-time judge of Ashtabula County County Court to be elected in 2028 (i.e., the judge initially elected in 1980) must be elected for a term of two years commencing on January 1, 2029, and ending on December 31, 2030. The bill provides that the Ashtabula County County Court part-time judgeships cease to exist on January 1, 2031. One full-time judge must be elected in 2030, for a six-year term to commence on January 1, 2031.<sup>18</sup>

Effective January 1, 2031, notwithstanding the provisions in continuing law designating the annual compensation of county court judges, the full-time judge of the Ashtabula County County Court under the bill must receive the compensation set forth in the law providing the compensation of municipal court judges.<sup>19</sup>

## **Conneaut Municipal Court**

Continuing law provides that municipal courts have jurisdiction within the corporate limits of their respective municipal corporations.<sup>20</sup> Currently the Conneaut Municipal Court has jurisdiction within the corporate limits of the municipal corporation of Conneaut. The Conneaut

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<sup>16</sup> R.C. 3109.055.

<sup>17</sup> R.C. 1907.11(A).

<sup>18</sup> R.C. 1907.11(A) and by reference to R.C. 1907.13(C), not in the bill.

<sup>19</sup> R.C. 1907.11(A) and by reference to R.C. 141.04(A)(5) and (A)(6) and 1907.16(A), not in the bill.

<sup>20</sup> R.C. 1901.02.

Municipal Court also has jurisdiction, under continuing law, within Ashtabula County northerly beyond the south shore of Lake Erie to the international boundary line between the United States and Canada.<sup>21</sup>

The bill modifies existing law by providing that beginning January 1, 2025, the Conneaut Municipal Court has jurisdiction within the municipal corporation of North Kingsville, and within Kingsville, Monroe, and Sheffield townships, in Ashtabula County.<sup>22</sup>

Under the bill, all cases arising in the municipal corporation of North Kingsville in Ashtabula County that are pending in the Eastern County Court in Ashtabula County on January 1, 2025, must be adjudicated by the Ashtabula County County Court. All cases arising in the municipal corporation of North Kingsville in Ashtabula County on or after January 1, 2025, must be brought before the Conneaut Municipal Court.<sup>23</sup>

The bill further provides that all cases arising in Kingsville, Monroe, and Sheffield townships in Ashtabula County that are pending in the Eastern County Court in Ashtabula County on January 1, 2025, must be adjudicated by the Ashtabula County County Court. All cases arising in Kingsville, Monroe, and Sheffield townships in Ashtabula County on or after January 1, 2025, must be brought before the Conneaut Municipal Court.<sup>24</sup>

## **Legal aid society funds**

The bill prohibits financial assistance received by a legal aid society from the Legal Aid Fund from being used for the provision of legal services in any criminal case or proceeding or in the provision of legal assistance in any fee generating case. Under existing law, the prohibition referred to the provision of legal services in relation to any criminal case or proceeding or in relation to the provision of legal assistance in any fee generating case.<sup>25</sup>

## **Reimbursement deadline**

Continuing law requires a county to pay the compensation of an acting/assigned county or municipal court judge, then submit quarterly reimbursement requests to the Ohio Supreme Court. The bill creates a one-year deadline for counties to submit the reimbursement requests to the state; the Ohio Supreme Court must refuse to reimburse requests sent more than one year after the county paid the judge's per diem.<sup>26</sup>

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<sup>21</sup> R.C. 1901.023, not in the bill.

<sup>22</sup> R.C. 1902.02.

<sup>23</sup> Section 4(A).

<sup>24</sup> Section 4(B)

<sup>25</sup> R.C. 120.54(B).

<sup>26</sup> R.C. 1901.123 and 1907.143.

## Ohio Criminal Sentencing Commission

### Standing juvenile committee

The bill requires the Criminal Sentencing Commission to re-establish its standing juvenile committee.<sup>27</sup> The juvenile committee requirement was eliminated as part of the sunset review process in 2021.<sup>28</sup> Under the bill, the Chief Justice of the Ohio Supreme Court or the standing juvenile committee chairperson may designate the following members to serve on the committee:<sup>29</sup>

Criminal Sentencing Commission – proposed standing juvenile subcommittee membership		
Chief Justice of the Ohio Supreme Court, or designee	Director of Youth Services, or designee	Three juvenile court judges
One court of common pleas judge, who is not a juvenile judge	One county prosecuting attorney experienced in juvenile cases involving alleged delinquent and unruly children and juvenile traffic offenders	One attorney whose practice of law primarily involves representing alleged delinquent and unruly children and juvenile traffic offenders
A former crime victim	A county commissioner	A legislator from each political party
A sheriff	A municipal corporation or township peace officer with experience investigating cases involving juveniles	Any other persons the Chief Justice or committee chairperson designates

The bill requires the Chief Justice to designate a committee member as chairperson. The committee must meet at the call of the chair or at the request of four or more committee members. The committee must select a vice-chairperson and any other necessary officers and adopt rules to govern its proceedings.<sup>30</sup> The committee must meet as necessary at the call of the chairperson or on the written request of four or more of the committee's members. A majority of the committee's members constitute a quorum and a vote of a majority of the quorum is required for the committee to act.<sup>31</sup> The bill requires both the Commission and the

<sup>27</sup> R.C. 181.21(D)(1).

<sup>28</sup> [S.B. 331](#), 133<sup>rd</sup> General Assembly (2021), available on the Ohio General Assembly website, [legislature.ohio.gov](http://legislature.ohio.gov).

<sup>29</sup> R.C. 181.21(D)(1) and (2).

<sup>30</sup> R.C. 181.21(D)(3).

<sup>31</sup> R.C. 181.21(D)(4).

standing committee to comply with the Commission's juvenile justice responsibilities, outlined below.<sup>32</sup>

### **Commission responsibilities regarding juvenile justice**

The bill restores, with changes, a number of responsibilities for the Commission related to juvenile justice policies, outlined as follows:<sup>33</sup>

- Review juvenile justice-related laws;
- Review state and local resources, including facilities and programs, for juvenile justice, including the youthful offender populations in those facilities and programs;
- Develop a statewide juvenile justice policy, designed to:
  - Assist in managing population levels and costs associated with juvenile justice facilities and programs;
  - Further the principles of providing for the care, education, and mental and physical development of children in the juvenile justice system;<sup>34</sup>
  - Provide greater certainty, proportionality, uniformity, fairness, and simplicity regarding juvenile justice services while retaining reasonable judicial discretion.

Additionally, the Commission must do all of the following:<sup>35</sup>

- Assist in the implementation of juvenile justice-related laws;
- Monitor the operation of juvenile justice related laws, periodically report to the General Assembly on the laws' operation and impact on juvenile justice-related resources, and biennially recommend necessary changes to the juvenile justice laws to the General Assembly;
- Review introduced legislation on juvenile justice matters, make recommendations to the General Assembly about the legislation, and assist the General Assembly in making legislation consistent with the juvenile justice policy adopted by the Commission.

### **Political subdivision communications**

The bill subjects chartered counties and municipal corporations to the requirements of an existing law that prohibits a political subdivision from using public funds to finance certain

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<sup>32</sup> R.C. 181.21(D)(5).

<sup>33</sup> R.C. 181.26(A).

<sup>34</sup> R.C. 2152.01, not in the bill.

<sup>35</sup> R.C. 181.26(B).

communications. Currently, the law applies to all political subdivisions other than chartered counties and municipal corporations.<sup>36</sup>

The statute, which the bill does not otherwise change, prohibits the governing body of a political subdivision from using public funds to publish, distribute, or otherwise communicate information that does any of the following (as noted below, existing law already prohibits a chartered subdivision from engaging in some of those actions):<sup>37</sup>

- Contains defamatory, libelous, or obscene matter. Currently, officials of a chartered subdivision that did so could be sued for defamation (which includes libel) or prosecuted for pandering obscenity.<sup>38</sup>
- Promotes alcohol, tobacco, or any illegal product, service, or activity.
- Promotes illegal discrimination on the basis of race, color, religion, national origin, disability, age, or ancestry. Under existing law, a chartered subdivision that did so might be vulnerable to a discrimination action by its employees.<sup>39</sup>
- Supports or opposes any labor organization (union) or any action by, on behalf of, or against any labor organization. Depending on the circumstances, a chartered subdivision that did so with respect to its employees already might run afoul of Ohio's Public Employee Collective Bargaining Law.<sup>40</sup>
- Supports or opposes the nomination or election of a candidate for public office or the investigation, prosecution, or recall of a public official. A separate provision of continuing law prohibits any person, including the governing body of a chartered subdivision, from knowingly conducting a direct or indirect transaction of public funds to the benefit of a candidate or a political entity.<sup>41</sup>
- Supports or opposes the passage of a levy or bond issue.

Additionally, the law prohibits the governing body of a political subdivision from compensating its employees for time spent on any activity to influence the outcome of an election regarding any candidate or any levy or bond issue.<sup>42</sup>

The home rule provisions of the Ohio Constitution give all municipal corporations, regardless of whether they are chartered, and all chartered counties the authority to exercise

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<sup>36</sup> R.C. 9.03(A)(1).

<sup>37</sup> R.C. 9.03(C)(1).

<sup>38</sup> R.C. 2907.32, not in the bill.

<sup>39</sup> R.C. 4112.02, not in the bill.

<sup>40</sup> R.C. 4117.11, not in the bill.

<sup>41</sup> R.C. 9.03(D).

<sup>42</sup> R.C. 9.03(C)(2).

all powers of local self-government.<sup>43</sup> Under the Constitution, a municipal corporation or a chartered county might have the right to spend its funds for certain purposes, despite a state law to the contrary. It appears that Ohio's courts have not considered whether, for example, a city may use its home rule authority to spend public funds to promote a levy or bond issue. By eliminating the exemption for chartered subdivisions, the bill might make such a case more likely to come before the courts.

### **Political subdivision soldiers' memorial**

The bill authorizes the Board of Trustees of a political subdivision soldiers' memorial to make rules and regulations for entertainment, retail, educational, sporting, social, cultural, or arts opportunities at the memorial. Under existing law, the Board may only make rules and regulations for the use, administration, and maintenance of the memorial as is necessary to carry out the purposes of the memorial.

The bill also authorizes the Board, with the approval of the Board of County Commissioners, to enter into contracts with political subdivisions or nonprofit organizations for the use of other facilities separate and apart from the memorial, and to provide other services. Such use must adhere to the rules and regulations established by the Board of Trustees to carry out the purposes of the memorial.<sup>44</sup>

### **Indigent Defense Support Fund: funding restoration**

The bill restores a provision from prior law that allocated increased amounts of the reinstatement fee associated with failure to maintain proof of financial responsibility (i.e., auto insurance) to the Indigent Defense Support Fund (IDSF). Specifically, it allocates \$50 of each \$300 reinstatement fee (for a second offense within five years), and \$100 of each \$600 reinstatement fee (for a third or subsequent offense within five years) to the IDSF.<sup>45</sup>

In H.B. 33 of the 135<sup>th</sup> General Assembly, the General Assembly attempted to lower the reinstatement fee associated with a driver's license suspension for failing to have auto insurance to \$40 for all offenses. The Governor partially vetoed the change, however, resulting in the reinstatement fees being \$40 for a first offense (instead of \$100 as under prior law), \$300 for a second offense within five years, and \$600 for a third or subsequent offense within five years.<sup>46</sup>

A corresponding change made at that time, however, was also to lower the portion of the reinstatement fee distributed to the IDSF to \$10. Prior law required a distribution of \$25 for a first offense, \$50 for a second offense within five years, and \$100 for a third or subsequent offense within five years (given the increase in the reinstatement fee). The increase in

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<sup>43</sup> Ohio Constitution, Article X, Section 3 and Article XVIII, Section 3.

<sup>44</sup> R.C. 345.13.

<sup>45</sup> R.C. 4509.101(E).

<sup>46</sup> R.C. 4509.101(A)(5)(a).

distributions to the IDSF was not included in the Governor's veto, thus, distributions to that fund became \$10 for all offenses.<sup>47</sup> The bill corrects that discrepancy and increases distributions back to \$50 for a second offense within five years and \$100 for a third or subsequent offense within five years.

## **Documentary service charges**

The bill increases the maximum documentary service charge that a dealer may impose as part of the sale or lease of a motor vehicle. Generally, sellers are prohibited from charging an additional fee for document services as part of a retail installment contract. However, continuing law allows an exception for such charges if they were customarily and presently paid in a particular business on March 9, 1949. Documentary service charges are imposed today by motor vehicle dealers and sellers of mobile and manufactured homes.

Under existing law, a motor vehicle dealer may charge the lesser of \$250, or 10% of the amount paid for the motor vehicle by the buyer or lessee (excluding tax, title, and registration fees, and any negative equity adjustment). The bill retains the 10% ceiling, but requires the Registrar of Motor Vehicles to adjust the \$250 threshold to account for increases in the Consumer Price Index (CPI), dating back to July 1, 2006. The adjustment is made by adding \$250 to the product of \$250 times the cumulative change in CPI (U.S. city average for urban wage earners and clerical workers: all items) since that date. The resulting amount is then rounded to the nearest whole dollar. For example, the cumulative change to CPI between July 2006, and April 2024, is about 54.5%. So an adjustment made in April 2024, would result in a maximum documentary service charge of \$386;  $(\$250 \times 0.545) + \$250 = \$386.31$ .

The Registrar is required to make the adjustment on the effective date of the bill, then annually thereafter on the last day of September. The first adjustment applies to motor vehicle sales and leases on the effective date of the bill until the last day of December following the second required adjustment. All subsequent adjustments apply to motor vehicle sales and leases in the calendar year following the date of the adjustment. The bill stipulates that the adjusted maximum documentary service charge cannot be less than that which applied to the preceding adjustment period. If the required calculation produces a lesser amount, the amount determined for the previous adjustment period continues to apply. The bill also allows the Registrar to use a different measure for inflation if CPI is no longer published.

The Registrar is required to publish the adjusted maximum charge and the dates to which it applies on a website maintained by the Department of Public Safety.<sup>48</sup>

## **Third-party driver's exam administrators**

Under existing law, the Director of Public Safety may authorize a third-party to administer the standard motor vehicle skills test, which is required for all first-time drivers to

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<sup>47</sup> See also page 511 of the LSC [Final Analysis for H.B. 33 \(PDF\)](#), which is available on the General Assembly's website: [legislature.ohio.gov](http://legislature.ohio.gov).

<sup>48</sup> R.C. 4517.261 and 1317.07.



obtain an Ohio driver's license. Existing law does not specify or limit who may serve as a third-party administrator. The bill does not change current practice, but clarifies that any person, any state agency, or any agency, department, or instrumentality of local government, including a clerk of the court of common pleas may serve as a third-party administrator, if approved by the Director.<sup>49</sup> Currently, those entities are also expressly eligible to be third-party administrators for the commercial driver's license skills test.<sup>50</sup>

Currently, several clerks of the court of common pleas serve as third-party administrators for the motor vehicle skills test. However, it has been unclear where the fees they collect from such tests should be deposited. The bill clarifies the issue by requiring the clerks to deposit the fees into the existing Certificate of Title Administration Fund. That fund is used to pay:

1. The clerk's costs for processing watercraft and vehicle titles; and
2. The clerk an annual \$8,000 supplement for performing the duties of a deputy registrar, if applicable.

Any excess funds are transferred to the county general fund.<sup>51</sup> The bill requires all fees collected since April 12, 2021, and the bill's effective date, by a clerk serving as a third-party administrator, to be deposited into the Certificate of Title Administration Fund.<sup>52</sup>

## Public depositories

Banks and other eligible financial institutions may become public depositories and receive public moneys of the state, political subdivisions, school districts, and other public entities. Under existing law, no eligible institution may become a public depository if the institution or any of its directors, officers, employees, or controlling shareholders is currently a party to an active final or temporary cease-and-desist order issued by the Superintendent of Financial Institutions to ensure the safety and soundness of the institution.<sup>53</sup>

The bill removes this prohibition and instead requires any financial institution, including certain eligible credit unions, that is designated by a governing board as a public depository to notify each such governing board if the institution becomes party to an active prompt corrective action directive ("directive") issued by a regulatory authority of the United States.<sup>54</sup> While party to a directive, an institution is generally ineligible to serve as a public depository. However, the bill permits a governing board to allow the public depository to continue to operate as a public depository, or to designate the institution as a public depository for

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<sup>49</sup> R.C. 4507.112(A).

<sup>50</sup> R.C. 4506.09(B), not in the bill.

<sup>51</sup> R.C. 325.33.

<sup>52</sup> Section 5.

<sup>53</sup> R.C. 135.03, 135.032, and 135.321.

<sup>54</sup> R.C. 135.032(A), (B), and (C).

subsequent designation periods, if the governing board determines that doing so is in the public interest.<sup>55</sup> If a public depository allowed to operate under a directive loses funds, the following individuals are relieved from liability for the loss: the governing board's treasurer and deputy treasurer, an executive director, director, or other person employed by the governing board, its treasurer, or its deputy treasurer, and a bondsperson and surety of any of the above.<sup>56</sup>

## **Cemeteries**

### **Repairing or replacing a mausoleum or columbarium**

The bill establishes a process cemeteries must follow to disinter and reinter remains when repairing or replacing a mausoleum or columbarium. Existing law generally allows the disinterment and reinterment of remains only in limited circumstance – to correct an error, for instance. The process under the bill begins with the cemetery filing an application (to disinter and reinter the remains) with the probate court in the county where the mausoleum or columbarium is situated. The probate court must schedule a hearing, of which the cemetery must give notice<sup>57</sup> to the surviving spouses of the affected decedents and to the persons who have been assigned or reassigned the rights of disposition for the affected remains.

After the hearing, the court is required to issue an order of disinterment if all of the following are satisfied:

- The cemetery provided the required notice;
- The affected remains will be held in a permanent or temporary structure on cemetery property that allows for access for visitation during the times that the cemetery's other grounds and facilities are open for visitation;
- The affected remains will be properly identified and held in a secure manner without any commingling of cremated remains;
- The affected remains will not be held for a period exceeding 18 months unless an extension of time is granted by the court for good cause;
- If a mausoleum or columbarium is being replaced, the replacement mausoleum or columbarium will be built on property that is owned by the cemetery and that is either the same property upon which the original mausoleum or columbarium was located or property that is contiguous thereto;

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<sup>55</sup> R.C. 135.032(D).

<sup>56</sup> R.C. 135.032(E).

<sup>57</sup> By certified mail, return receipt requested. Or, if the names or addresses are unknown and cannot with reasonable diligence be ascertained, the notice must be made by publication in a newspaper of general circulation in the county where the probate court is located. The probate court can order notice by other means as well.

- Lastly, the court must consider the following and find there are one or more compelling reasons to issue the requested disinterment:
  - The cost, feasibility, and timetable for the repairs or replacement;
  - The current condition of the structure to be repaired or replaced;
  - The location, design, features, and overall quality of the proposed replacement structure;
  - The input of the persons receiving notice.

The bill specifies that a cemetery is not liable in damages in a civil action if the cemetery changes the specific location of entombment rights or columbarium in accordance with an order issued by the probate court under this process.<sup>58</sup>

### **Miscellaneous**

The bill allows the disinterment of the cremated remains of a decedent who died of a contagious or infectious disease, without a permit issued by the local board of health. The permit is required under continuing law for other remains.<sup>59</sup>

Finally, the bill replaces references to “buried” or “burial” with the more inclusive term “interred” or “interment.”<sup>60</sup>

### **Judicial release and transitional control**

Senate Bill 288 of the 134<sup>th</sup> General Assembly modified the availability of judicial release, a form of early release available to offenders under specified circumstances. Similarly, S.B. 288 modified several processes related to transitional control, a program operated by the Department of Rehabilitation and Correction for the purpose of closely monitoring a prisoner’s adjustment to community supervision during the final 180 days of the prisoner’s confinement. This bill reiterates that those changes are effective April 4, 2023, the effective date of that act.<sup>61</sup>

### **Campaign finance**

#### **Campaign spending by foreign nationals**

##### **Foreign nationals making contributions or expenditures**

The bill prohibits a foreign national from making a contribution or expenditure to support or oppose a state or local ballot issue, either directly or through another entity. Existing Ohio and federal law prohibit a foreign national from knowingly making a contribution or expenditure in support of or opposition to a candidate, but the current prohibitions do not

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<sup>58</sup> R.C. 517.23(F).

<sup>59</sup> R.C. 517.23(B).

<sup>60</sup> R.C. 517.23.

<sup>61</sup> R.C. 2929.20(A)(3)(a) and 2967.26(A)(2).

cover ballot issues. The bill also prohibits a foreign national from soliciting another person to make a contribution or expenditure.

Additionally, the bill prohibits a foreign national from making a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, or transfer of funds to another person with a designation, instruction, or encumbrance that the foreign national knows will result in any part of the funds being used to make a contribution or expenditure. “Designation, instruction, or encumbrance” includes any designation, instruction, or encumbrance that is direct or indirect, express or implied, oral or written, or involving an intermediary or conduit. In other words, the bill prohibits a foreign national from making a donation that the foreign national knows will be used for political purposes, even if the foreign national does not say so explicitly.<sup>62</sup>

### **Accepting contributions or expenditures from foreign nationals**

Further, the bill expands the list of entities that may not solicit or accept a contribution or expenditure from a foreign national. Currently, no candidate, campaign committee, political party, legislative campaign fund, political action committee, political contributing entity, or separate segregated fund may solicit or accept such a contribution or expenditure. The bill adds a continuing association to that list. (See “**Political entities covered by the bill,**” below.)

The bill specifies that the prohibition against accepting a foreign contribution or expenditure includes knowingly transferring funds, or accepting a transfer of funds, directly or indirectly into an account from which the person makes political contributions or expenditures from an account that is controlled by the person or the person’s affiliate and that the person, at any time, knew to contain political funds received directly or indirectly from a foreign national, as described by the bill. A person is affiliated with another person if they are both established, financed, maintained, or controlled by, or if they are, the same person, including any parent, subsidiary, division, or department of that person.

For example, assume that Branch A and Branch B are branches of the same organization. Branch A, which might be located outside Ohio, accepts funds from a foreign national for political purposes, as described by the bill, and places them in its account. Later, Branch A transfers some funds from its account into Branch B’s political account and Branch B accepts the transfer, knowing that Branch A’s account has contained foreign political funds. Branch B would be in violation of the bill, even though it did not accept funds directly from a foreign national, and even though it might be difficult to trace those specific funds to a foreign national because they were commingled with other funds in Branch A’s account. However, Branch B would not be in violation of the bill if (1) the foreign funds were not political in nature,

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<sup>62</sup> R.C. 3517.13(W)(1). See also 52 United States Code (U.S.C.) 30121, prohibiting foreign nationals from making contributions “in connection with a federal, state, or local election.” In 2021, the Federal Election Commission determined that the federal statute does not apply to ballot issues. (Federal Election Commission, [Matter Under Review #7523](#) (2021), available at [fec.gov](#) under “Legal resources,” “Enforcement” via a search for closed MURs.)

such as business profits, or (2) Branch B did not actually know that foreign political funds had been in Branch A's account.<sup>63</sup>

### **Aiding or facilitating a violation**

The bill also prohibits any person from knowingly aiding or facilitating a violation of the prohibitions described above regarding foreign nationals.<sup>64</sup>

### **Culpable mental state**

The bill adds the term "knowingly" to each prohibition described above. It appears that this change does not impact existing law because the corresponding penalty provisions, which the bill does not change, state that the penalties apply to whoever "knowingly" violates the law.<sup>65</sup>

### **Definition of "foreign national"**

The bill prohibits a lawful permanent U.S. resident, also known as a green card holder, from making contributions or expenditures regarding ballot issues or candidates. Under current Ohio and federal law, "foreign national" means any of the following:<sup>66</sup>

- In the case of an individual, an individual who is not a U.S. citizen or national or a lawful permanent resident. (The bill removes Ohio's exception for lawful permanent residents, meaning that those individuals may not make contributions or expenditures.)
- A government of a foreign country or of a political subdivision of a foreign country;
- A foreign political party;
- A person, other than an individual, that is organized under the laws of a foreign country or has its principal place of business in a foreign country.

### **Certifying compliance**

Under the bill, all campaign committees and other political entities must certify on their campaign finance filings, under penalty of election falsification, that they have not knowingly accepted, and will not knowingly accept, any campaign contributions that are prohibited under the Campaign Finance Law, including the prohibitions regarding foreign nationals. This certification must be included on an entity's designation of treasurer that it files with the Secretary of State upon initially forming, as well as on its periodic statements of contributions and expenditures.<sup>67</sup>

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<sup>63</sup> R.C. 3517.13(W).

<sup>64</sup> R.C. 3517.13(W)(3).

<sup>65</sup> R.C. 3517.13(W) and 3517.992(AA).

<sup>66</sup> R.C. 3517.13(W) and 52 U.S.C. 30121.

<sup>67</sup> R.C. 3517.10.

## **Expenditures from alternate sources of funds**

The bill clarifies that the term “expenditure” means the disbursement or use of a contribution *or other funds* for the purpose of influencing the results of an election. Under continuing law, “contribution” means a donation that is made, received, or used for the purpose of influencing the results of an election. By making this change, the bill ensures that an entity that does not collect political contributions, but that uses its funds for political purposes, still is considered to be making an expenditure under the Campaign Finance Law and is subject to regulation. For example, if a foreign corporation uses its business profits to fund a campaign ad, that spending is considered a prohibited expenditure.<sup>68</sup>

## **Independent expenditures regarding ballot issues**

The bill clarifies that the term “independent expenditure” includes an expenditure to advocate support of or opposition to an identified ballot issue or to achieve the successful circulation of an initiative or referendum petition, regardless of whether the issue has yet been certified to appear on the ballot. Currently, the definition refers only to an expenditure regarding a candidate that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or agent of a candidate. However, the continuing law that requires entities to disclose their independent expenditures refers to both ballot issue and candidate related spending as independent expenditures.<sup>69</sup>

## **Ballot issue committees**

Additionally, the bill specifies that if the committee in charge of a statewide initiative or referendum petition receives a contribution or makes an expenditure for the purpose of achieving the successful circulation of the petition, the committee is considered a political action committee (PAC) for that purpose and must file periodic disclosures in the same manner as any other PAC.

Although the existing law generally would appear to include any petition committee as a PAC, the section of law specifically governing statewide petition committees does not refer to them in that manner and lays out separate reporting requirements. Under that law, a statewide petition committee that receives contributions or makes expenditures must file a report of its contributions and expenditures within 30 days after filing the petition with the Secretary of State. If the signature drive is not successful, and the committee never files the petition with the Secretary, the statute would appear not to require the committee to file any report.

Instead, under the bill, a statewide petition committee that accepts any contributions or makes any expenditures must file disclosures as a PAC according to the general campaign finance reporting schedule. If the committee never accepts a contribution or makes an

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<sup>68</sup> R.C. 3517.01(C)(5) and (6).

<sup>69</sup> R.C. 3517.01(C)(17). See also R.C. 3517.105, not in the bill.

expenditure, it must file a statement to that effect within 30 days after it files the completed petition with the election officials.<sup>70</sup>

### **Enforcement of the Campaign Finance Law**

Under continuing law, before any prosecution or court proceeding may begin for a violation of the Campaign Finance Law, a complaint must be filed with the Ohio Elections Commission (OEC). If the OEC determines that a violation has occurred, the OEC has discretion to refer the matter to the appropriate prosecutor for potential court proceedings or instead to impose an administrative fine in any amount, up to the maximum court fine.

The bill changes the definition of “appropriate prosecutor” to require the Attorney General to prosecute most cases that currently would go to the Franklin County Prosecutor. And, the bill provides a procedure for choosing a different prosecutor if the “appropriate prosecutor” is a victim or witness or otherwise involved in the case.

Under existing law, if the OEC refers a violation involving a political entity that files its campaign finance reports with the Secretary of State (such as a statewide candidate, a political party, or a PAC that spends on statewide campaigns), the appropriate prosecutor is the Franklin County Prosecutor. The bill changes the appropriate prosecutor in that situation to the Attorney General. However, if the Attorney General is a victim or witness or otherwise involved in the matter, the appropriate prosecutor is a county prosecutor whom the OEC deems appropriate to prosecute the matter.

For a violation involving a political entity that files its campaign finance reports with a board of elections (such as a General Assembly candidate, a local candidate, or a local PAC), the OEC currently may choose between the Franklin County Prosecutor and the prosecutor of the county in which the candidate or ballot issue is on the ballot. If the candidate or issue is on the ballot in more than one county, the OEC may refer the case to the prosecutor of the most populous of those counties. Under the bill, the OEC may choose between the Attorney General and that county prosecutor. But, the OEC may not refer a case to a prosecutor who is a victim or witness or otherwise involved in the matter.

The bill specifies that when the Attorney General prosecutes a campaign finance violation, the Attorney General may do so with all the rights, privileges, and powers conferred by law on county prosecutors, including the power to appear before grand juries and to interrogate witnesses before grand juries. These powers are in addition to any other applicable powers of the Attorney General.<sup>71</sup>

### **Violations involving foreign nationals**

The continuing penalty for violating the law regarding contributions and expenditures by foreign nationals is a fine of three times the amount involved or \$10,000, whichever is greater.

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<sup>70</sup> R.C. 3517.12. See also R.C. 3517.01(C)(8).

<sup>71</sup> R.C. 3517.155(A). See also R.C. 3517.11(A), not in the bill.

Current law also allows the Secretary of State to direct a person that accepts a contribution or expenditure from a foreign national to return it to the foreign national. Under the bill, the violator *must* return the contribution, in addition to paying the fine.<sup>72</sup>

The bill also requires that, if the OEC finds a violation of the prohibitions against foreign national campaign spending, it must either (1) impose the maximum fine and, if applicable, order the violator to return the funds, or (2) refer the matter for prosecution. That is, if the OEC determines that a violation has occurred, the bill removes the OEC's option to impose a lesser fine, or no fine at all, and to refrain from referring the case for prosecution.

If the OEC refers a violation of those prohibitions involving local political entities to a county prosecutor, the bill gives the Attorney General the authority to assume responsibility for prosecuting the case upon the request of the county prosecutor or upon the Attorney General's own initiative. However, the Attorney General may not do so if the Attorney General is a victim or witness or otherwise involved in the matter.<sup>73</sup>

## **Political entities covered by the bill**

### **Background on continuing associations and corporations**

The bulk of Ohio's campaign finance requirements apply only to a specific set of regulated political entities:

- Candidates and their campaign committees;
- Political parties and their state candidate funds;
- Legislative campaign funds (LCFs), which are operated by the majority and minority caucuses in the General Assembly;
- Political action committees (PACs), sometimes called separate segregated funds under federal law. A PAC is an organization whose primary purpose is to influence election results through express advocacy and that is not one of the entities listed above.
- Political contributing entities (PCEs), which are entities that may lawfully make contributions and expenditures and that are not one of the entities listed above. A PCE may include an organization whose primary purpose is not politics, but that engages in political spending on a limited basis.

Under continuing law, only these entities are required to file regular reports of contributions and expenditures and to disclose the source of their donations.

That list excludes certain other entities that lawfully make contributions or expenditures, either as authorized under the Revised Code or as permitted under court decisions:

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<sup>72</sup> R.C. 3517.13(W) and 3517.992(AA).

<sup>73</sup> R.C. 3517.155 and 3517.993. See also R.C. 3517.153, not in the bill.



- Continuing associations, which are permanent, year-round associations that have a primary purpose other than influencing election results. The definitions of PAC and PCE specifically exempt continuing associations. This category includes 501(c)(3), 501(c)(4), and 501(c)(6) nonprofit corporations, but does not include labor organizations.
- Corporations, including for-profit corporations, incorporated labor organizations, and any nonprofit corporation that is not considered a continuing association. The definition of a PCE appears to exclude corporations because under the Revised Code, they may not lawfully “make contributions and expenditures.” The Secretary of State advises corporations that they are not PCEs.

Continuing associations and corporations are allowed to make independent expenditures concerning candidates and ballot issues, but they are not regulated like PACs or PCEs. They must report their independent expenditures and identify themselves in their advertising, but they are not required to disclose the sources of their funding.<sup>74</sup>

### **Accepting contributions from foreign nationals**

Existing law only prohibits a candidate, campaign committee, political party, LCF, PAC, or PCE from soliciting or accepting a contribution or expenditure from a foreign national. The prohibition does not apply to a continuing association, corporation, or labor organization. The bill partially closes that gap by adding language to prohibit a continuing association from soliciting or accepting foreign contributions or expenditures.<sup>75</sup>

However, because a continuing association is not required to disclose its finances, it probably would be difficult for the state to detect any violation. For example, a continuing association that accepted foreign funds and used them to run a political ad would only be required to report the amount it spent on the ad. On the other hand, a PAC that did so would be required to report its total cash on hand, the source and amount of every donation, and the nature and amount of every expenditure from those funds, as well as making its bank records available. Even if the PAC attempted to conceal the foreign funding, the violation might be detected through forensic accounting.

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<sup>74</sup> R.C. 3517.01 and 3517.10. See also R.C. 3517.105 and 3599.03, not in the bill, and Ohio Secretary of State, [Campaign Finance Handbook \(PDF\)](#), ch. 8, p. 1 (2022), available at [ohiosos.gov](https://ohiosos.gov) under “Campaign Finance.”

<sup>75</sup> R.C. 3517.13(W).

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## HISTORY

Action	Date
Introduced	10-18-23
Reported, H. Civil Justice	11-29-23
Passed House (89-0)	12-13-23
Reported, S. Judiciary	---

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