



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2402

Introduced 2/15/2013, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

10 ILCS 5/9-1.15	
10 ILCS 5/9-7.6 new	
10 ILCS 5/9-10	from Ch. 46, par. 9-10
10 ILCS 5/9-11	from Ch. 46, par. 9-11

Amends the Disclosure and Regulation of Campaign Contributions and Expenditures Article of the Election Code. Provides that there is a rebuttable presumption that specified expenditures do not qualify as independent expenditures. Requires a nonprofit organization, except for a labor union, that accepts contributions, makes contributions, or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of or in opposition to public officials, candidates for public office, or a question of public policy or for electioneering communications to register with the State Board of Elections in accordance with the Board's rules and file contribution and expenditure reports and imposes certain requirements regarding the reports. Changes requirements for reports filed by a political committee that makes independent expenditures and provides that the Board shall impose a civil penalty for failure to file a report. Provides that quarterly report of campaign contributions, expenditures, and independent expenditures shall disclose the beneficial owner of any entity that contributes more than \$10,000 to a ballot initiative committee or an independent expenditure committee during any election period. Effective immediately.

LRB098 10734 HLH 41078 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing
5 Sections 9-1.15, 9-10, and 9-11 and by adding Section 9-7.6 as
6 follows:

7 (10 ILCS 5/9-1.15)

8 Sec. 9-1.15. Independent expenditure. "Independent
9 expenditure" means any payment, gift, donation, or expenditure
10 of funds (i) by a natural person or political committee for the
11 purpose of making electioneering communications or of
12 expressly advocating for or against the nomination for
13 election, election, retention, or defeat of a clearly
14 identifiable public official or candidate or for or against any
15 question of public policy to be submitted to the voters and
16 (ii) that is not made in connection, consultation, or concert
17 with or at the request or suggestion of the public official or
18 candidate, the public official's or candidate's designated
19 political committee or campaign, or the agent or agents of the
20 public official, candidate, or political committee or
21 campaign. There shall be a rebuttable presumption that the
22 following expenditures do not qualify as independent
23 expenditures:

1 (1) an expenditure made by a person in cooperation,
2 consultation, or concert with, at the request, suggestion
3 or direction of, or pursuant to a general or particular
4 understanding with (A) a candidate, candidate political
5 committee, political action committee, or political party
6 committee, or (B) a consultant or other agent acting on
7 behalf of a candidate, candidate political committee,
8 political action committee, or political party committee;

9 (2) an expenditure made by a person for the production,
10 dissemination, distribution, or publication, in whole or
11 in substantial part, of any broadcast or any written,
12 graphic, or other form of political advertising or campaign
13 communication prepared by (A) a candidate, candidate
14 political committee, political action committee, or
15 political party committee, or (B) a consultant or other
16 agent acting on behalf of a candidate, candidate political
17 committee, political action committee, or political party
18 committee;

19 (3) an expenditure made by a person based on
20 information about a candidate's, political action
21 committee's, or political party committee's plans,
22 projects, or needs, provided by (A) a candidate, candidate
23 political committee, political action committee, or
24 political party committee, or (B) a consultant or other
25 agent acting on behalf of a candidate, candidate political
26 committee, political action committee, or political party

1 committee, with the intent that such expenditure be made;

2 (4) an expenditure made by an individual who, in the
3 same election cycle, is serving or has served as the
4 chairman or treasurer of a candidate, candidate political
5 committee, political action committee, or political party
6 committee, benefiting from such expenditure, or in any
7 other executive or policymaking position, including as a
8 member, employee, fundraiser, consultant, or other agent
9 of a candidate, candidate political committee, political
10 action committee, or political party committee;

11 (5) an expenditure made by a person whose officer,
12 director, member, employee, fundraiser, consultant, or
13 other agent who serves the person in an executive or
14 policymaking position also serves as or has served in the
15 same election cycle as the candidate or the chairman or
16 treasurer of a candidate political committee, political
17 action committee, or political party committee, benefiting
18 from such expenditure, or in any other executive or
19 policymaking position of a candidate political committee,
20 political action committee, or political party committee;

21 (6) an expenditure made by a person for fundraising
22 activities (A) with or for a candidate, candidate political
23 committee, political action committee, or political party
24 committee, or a consultant or other agent acting on behalf
25 of a candidate, candidate political committee, political
26 action committee, or political party committee, or (B) for

1 the solicitation or receipt of contributions on behalf of a
2 candidate, candidate political committee, political action
3 committee, or political party committee, or a consultant or
4 other agent acting on behalf of a candidate, candidate
5 political committee, political action committee, or
6 political party committee;

7 (7) an expenditure made by a person based on
8 information about a candidate's campaign plans, projects,
9 or needs that is directly or indirectly provided by a
10 candidate, the candidate's candidate political committee,
11 political action committee, or political party committee,
12 or a consultant or other agent acting on behalf of such
13 candidate, candidate political committee, political action
14 committee, or political party committee, to the person
15 making the expenditure or such person's agent, with an
16 express or tacit understanding that such person is
17 considering making the expenditure;

18 (8) an expenditure made by a person for a communication
19 that clearly identifies a candidate during an election
20 campaign, if the person making the expenditure, or such
21 person's agent, has informed the candidate who benefits
22 from the expenditure, that candidate's candidate political
23 committee, political action committee, or political party
24 committee, or a consultant or other agent acting on behalf
25 of the benefiting candidate, candidate political
26 committee, political action committee, or political party

1 committee, concerning the communication's contents, or of
2 the intended audience, timing, location, or mode or
3 frequency of dissemination;

4 (9) an expenditure made by a person or an entity for
5 consultant or creative services, including, but not
6 limited to, services related to communications strategy or
7 design or campaign strategy, to be used to promote or
8 oppose a candidate's election to office if the provider of
9 such services is also providing consultant or creative
10 services to such candidate, such candidate's candidate
11 political committee, or to any opposing candidate in the
12 same primary or election, or to such opposing candidate's
13 candidate political committee. For purposes of this
14 subdivision, communications strategy or design does not
15 include the costs of printing or costs for the use of a
16 medium for the purpose of communications;

17 (10) an expenditure made by a person or an entity on or
18 after January 1 in the year of an election in which a
19 candidate is seeking office that benefits such candidate
20 when such person or entity has hired an individual as an
21 employee or consultant and such individual was an employee
22 of or consultant to such candidate during any part of the
23 18-month period preceding such expenditure; and

24 (11) an expenditure made by a person or an entity on or
25 after January 1 in the year of an election in which a
26 candidate is seeking office that benefits such candidate

1 when such person or entity making the expenditure has hired
2 a campaign-related vendor that has been hired by such
3 candidate during the same election cycle. For purposes of
4 this subdivision, "campaign-related vendor" includes, but
5 is not limited to, vendors that provide the following
6 services: polling, mail design, mail strategy, political
7 strategy, general campaign advice, or telephone banking.

8 (Source: P.A. 96-832, eff. 7-1-10; 97-766, eff. 7-6-12.)

9 (10 ILCS 5/9-7.6 new)

10 Sec. 9-7.6. Nonprofit organization registration and
11 disclosure.

12 (a) Each nonprofit organization, except for a labor union,
13 that accepts contributions, makes contributions, or makes
14 expenditures during any 12-month period in an aggregate amount
15 exceeding \$5,000 (i) on behalf of or in opposition to public
16 officials, candidates for public office, or a question of
17 public policy or (ii) for electioneering communications shall
18 register with the State Board of Elections. The Board by rule
19 shall prescribe the registration procedure and form. The
20 registration form shall require the following information:

21 (1) The registrant's name, address, and purpose.

22 (2) The name, address, and position of each custodian
23 of the registrant's financial books, accounts, and
24 records.

25 (3) The name, address, and position of each of the

1 registrant's principal officers.

2 (b) Each nonprofit organization required to register under
3 subsection (a) shall file contribution and expenditure reports
4 with the Board. The Board by rule shall prescribe the form,
5 which shall require the following information:

6 (1) The organization's name, address, and purpose.

7 (2) The amount of funds on hand at the beginning of the
8 reporting period.

9 (3) The full name and address of each person who has
10 made one or more contributions to or for the organization
11 within the reporting period in an aggregate amount or value
12 in excess of \$150, together with the amount and date of the
13 contributions, and if a contributor is an individual who
14 contributed more than \$500, the occupation and employer of
15 the contributor or, if the occupation and employer of the
16 contributor are unknown, a statement that the organization
17 has made a good faith effort to ascertain this information.

18 (4) The total sum of individual contributions made to
19 or for the organization during the reporting period and not
20 reported in item (3).

21 (5) The name and address of each organization and
22 political committee from which the reporting organization
23 received, or to which that organization made, any transfer
24 of funds in an aggregate amount or value in excess of \$150,
25 together with the amounts and dates of the transfers.

26 (6) The total sum of transfers made to or from the

1 organization during the reporting period and not reported
2 in item (5).

3 (7) Each loan to or from any person within the
4 reporting period by or to the organization in an aggregate
5 amount or value in excess of \$150, together with the full
6 names and mailing addresses of the lender and endorsers, if
7 any, and the date and amount of the loans, and if a lender
8 or endorser is an individual who loaned or endorsed a loan
9 of more than \$500, the occupation and employer of the
10 individual or, if the occupation and employer of the
11 individual are unknown, a statement that the organization
12 has made a good faith effort to ascertain this information.

13 (8) The total amount of proceeds received by the
14 organization from (i) the sale of tickets for each dinner,
15 luncheon, cocktail party, rally, and other fundraising
16 event, (ii) mass collections made at those events, and
17 (iii) sales of items such as buttons, badges, flags,
18 emblems, hats, banners, literature, and similar materials.

19 (9) Each contribution, rebate, refund, or other
20 receipt in excess of \$150 received by the organization not
21 otherwise listed under items (3) through (8), and if a
22 contributor is an individual who contributed more than
23 \$500, the occupation and employer of the contributor or, if
24 the occupation and employer of the contributor are unknown,
25 a statement that the organization has made a good faith
26 effort to ascertain this information.

1 (10) The total sum of all receipts by or for the
2 organization during the reporting period.

3 (11) The full name and mailing address of each person
4 to whom expenditures have been made by the organization
5 within the reporting period in an aggregate amount or value
6 in excess of \$150, the amount, date, and purpose of each
7 expenditure, and the question of public policy on behalf of
8 which the expenditure was made.

9 (12) The full name and mailing address of each person
10 to whom an expenditure for personal services, salaries, and
11 reimbursed expenses in excess of \$150 has been made and
12 which is not otherwise reported, including the amount,
13 date, and purpose of the expenditure.

14 (13) The total sum of expenditures made by the
15 organization during the reporting period.

16 (14) The full name and mailing address of each person
17 to whom the organization owes debts or obligations in
18 excess of \$150 and the amount of the debts or obligations.

19 The State Board by rule shall define a "good faith effort".

20 (c) The reports required under subsection (b) shall be
21 filed at the same times and for the same reporting periods as
22 reports of campaign contributions and semi-annual reports of
23 campaign contributions and expenditures required by this
24 Article of political committees. The reports required under
25 subsection (b) shall be available for public inspection and
26 copying in the same manner as reports filed by political

1 committees. The Board may charge a fee that covers the costs of
2 copying and distribution, if any.

3 (d) An organization required to file reports under
4 subsection (b) shall include a statement on all literature and
5 advertisements soliciting funds stating the following:

6 "A copy of our report filed with the State Board of
7 Elections is (or will be) available for purchase from the State
8 Board of Elections, Springfield, Illinois".

9 (10 ILCS 5/9-10) (from Ch. 46, par. 9-10)

10 Sec. 9-10. Disclosure of contributions and expenditures.

11 (a) The treasurer of every political committee shall file
12 with the Board reports of campaign contributions and
13 expenditures as required by this Section on forms to be
14 prescribed or approved by the Board.

15 (b) Every political committee shall file quarterly reports
16 of campaign contributions, expenditures, and independent
17 expenditures. The reports shall cover the period January 1
18 through March 31, April 1 through June 30, July 1 through
19 September 30, and October 1 through December 31 of each year. A
20 political committee shall file quarterly reports no later than
21 the 15th day of the month following each period. Reports of
22 contributions and expenditures must be filed to cover the
23 prescribed time periods even though no contributions or
24 expenditures may have been received or made during the period.
25 The Board shall assess a civil penalty not to exceed \$5,000 for

1 failure to file a report required by this subsection. The fine,
2 however, shall not exceed \$1,000 for a first violation if the
3 committee files less than 10 days after the deadline. There
4 shall be no fine if the report is mailed and postmarked at
5 least 72 hours prior to the filing deadline. When considering
6 the amount of the fine to be imposed, the Board shall consider
7 whether the violation was committed inadvertently,
8 negligently, knowingly, or intentionally and any past
9 violations of this Section.

10 (c) A political committee shall file a report of any
11 contribution of \$1,000 or more electronically with the Board
12 within 5 business days after receipt of the contribution,
13 except that the report shall be filed within 2 business days
14 after receipt if (i) the contribution is received 30 or fewer
15 days before the date of an election and (ii) the political
16 committee supports or opposes a candidate or public question on
17 the ballot at that election or makes expenditures in excess of
18 \$500 on behalf of or in opposition to a candidate, candidates,
19 a public question, or public questions on the ballot at that
20 election. The State Board shall allow filings of reports of
21 contributions of \$1,000 or more by political committees that
22 are not required to file electronically to be made by facsimile
23 transmission. The Board shall assess a civil penalty for
24 failure to file a report required by this subsection. Failure
25 to report each contribution is a separate violation of this
26 subsection. The Board shall impose fines for willful or wanton

1 violations of this subsection (c) not to exceed 150% of the
2 total amount of the contributions that were untimely reported,
3 but in no case shall it be less than 10% of the total amount of
4 the contributions that were untimely reported. When
5 considering the amount of the fine to be imposed for willful or
6 wanton violations, the Board shall consider the number of days
7 the contribution was reported late and past violations of this
8 Section and Section 9-3. The Board may impose a fine for
9 negligent or inadvertent violations of this subsection not to
10 exceed 50% of the total amount of the contributions that were
11 untimely reported, or the Board may waive the fine. When
12 considering whether to impose a fine and the amount of the
13 fine, the Board shall consider the following factors: (1)
14 whether the political committee made an attempt to disclose the
15 contribution and any attempts made to correct the violation,
16 (2) whether the violation is attributed to a clerical or
17 computer error, (3) the amount of the contribution, (4) whether
18 the violation arose from a discrepancy between the date the
19 contribution was reported transferred by a political committee
20 and the date the contribution was received by a political
21 committee, (5) the number of days the contribution was reported
22 late, and (6) past violations of this Section and Section 9-3
23 by the political committee.

24 (d) For the purpose of this Section, a contribution is
25 considered received on the date (i) a monetary contribution was
26 deposited in a bank, financial institution, or other repository

1 of funds for the committee, (ii) the date a committee receives
2 notice a monetary contribution was deposited by an entity used
3 to process financial transactions by credit card or other
4 entity used for processing a monetary contribution that was
5 deposited in a bank, financial institution, or other repository
6 of funds for the committee, or (iii) the public official,
7 candidate, or political committee receives the notification of
8 contribution of goods or services as required under subsection
9 (b) of Section 9-6.

10 (e) A political committee that makes independent
11 expenditures at any time of \$1,000 or more for goods to be
12 delivered or services to be performed during (i) a quarterly
13 disclosure ~~the period that contains 30 days or fewer before~~ an
14 election or (ii) during the first quarter of the calendar year,
15 if made in relation to a candidate seeking election in the
16 consolidated election in that same year, shall electronically
17 file a report with the Board within 5 business days after
18 making the independent expenditure. The report shall contain
19 the information required in Section 9-11(c) of this Article.
20 The Board shall assess a civil penalty for failure to file a
21 report required by this subsection. Failure to report each
22 expenditure is a separate violation of this subsection. The
23 Board shall impose fines for willful or wanton violations of
24 this subsection (e) not to exceed 150% of the total amount of
25 the expenditures that were untimely reported, but in no case
26 shall it be less than 10% of the total amount of the

1 expenditures that were untimely reported. When considering the
2 amount of the fine to be imposed for willful or wanton
3 violations, the Board shall consider the number of days the
4 expenditure was reported late and past violations of this
5 Section and Section 9-3. The Board may impose a fine for
6 negligent or inadvertent violations of this subsection not to
7 exceed 50% of the total amount of the expenditures that were
8 untimely reported, or the Board may waive the fine. When
9 considering whether to impose a fine and the amount of the
10 fine, the Board shall consider the following factors: (1)
11 whether the political committee made an attempt to disclose the
12 expenditure and any attempts made to correct the violation, (2)
13 whether the violation is attributed to a clerical or computer
14 error, (3) the amount of the expenditure, (4) the number of
15 days the expenditure was reported late, and (5) past violations
16 of this Section and Section 9-3 by the political committee.

17 (e-5) An independent expenditure committee that makes an
18 independent expenditure supporting or opposing a public
19 official or candidate that, alone or in combination with any
20 other independent expenditure made by that independent
21 expenditure committee supporting or opposing that public
22 official or candidate during the election cycle, equals an
23 aggregate value of more than (i) \$250,000 for statewide office
24 or (ii) \$100,000 for all other elective offices must file a
25 written disclosure with the State Board of Elections within 2
26 business days after making any expenditure that results in the

1 independent expenditure committee exceeding the applicable
2 threshold. The Board shall assess a civil penalty against an
3 independent expenditure committee for failure to file the
4 disclosure required by this subsection equal to 5% of the
5 unreported expenditure for each day the report is filed late,
6 but not to exceed 150% of the unreported expenditure ~~not to~~
7 ~~exceed (i) \$500 for an initial failure to file the required~~
8 ~~disclosure and (ii) \$1,000 for each subsequent failure to file~~
9 ~~the required disclosure.~~

10 (f) A copy of each report or statement filed under this
11 Article shall be preserved by the person filing it for a period
12 of two years from the date of filing.

13 (Source: P.A. 96-832, eff. 1-1-11; 97-766, eff. 7-6-12.)

14 (10 ILCS 5/9-11) (from Ch. 46, par. 9-11)

15 Sec. 9-11. Financial reports.

16 (a) Each quarterly report of campaign contributions,
17 expenditures, and independent expenditures under Section 9-10
18 shall disclose the following:

19 (1) the name and address of the political committee;

20 (2) the name and address of the person submitting the
21 report on behalf of the committee, if other than the
22 chairman or treasurer;

23 (3) the amount of funds on hand at the beginning of the
24 reporting period;

25 (4) the full name and mailing address of each person

1 who has made one or more contributions to or for the
2 committee within the reporting period in an aggregate
3 amount or value in excess of \$150, together with the
4 amounts and dates of those contributions, and, if the
5 contributor is an individual who contributed more than
6 \$500, the occupation and employer of the contributor or, if
7 the occupation and employer of the contributor are unknown,
8 a statement that the committee has made a good faith effort
9 to ascertain this information;

10 (5) the total sum of individual contributions made to
11 or for the committee during the reporting period and not
12 reported under item (4);

13 (6) the name and address of each political committee
14 from which the reporting committee received, or to which
15 that committee made, any transfer of funds in the aggregate
16 amount or value in excess of \$150, together with the
17 amounts and dates of all transfers;

18 (7) the total sum of transfers made to or from the
19 committee during the reporting period and not reported
20 under item (6);

21 (8) each loan to or from any person, political
22 committee, or financial institution within the reporting
23 period by or to the committee in an aggregate amount or
24 value in excess of \$150, together with the full names and
25 mailing addresses of the lender and endorsers, if any; the
26 dates and amounts of the loans; and, if a lender or

1 endorser is an individual who loaned or endorsed a loan of
2 more than \$500, the occupation and employer of that
3 individual or, if the occupation and employer of the
4 individual are unknown, a statement that the committee has
5 made a good faith effort to ascertain this information;

6 (9) the total amount of proceeds received by the
7 committee from (i) the sale of tickets for each dinner,
8 luncheon, cocktail party, rally, and other fund-raising
9 events; (ii) mass collections made at those events; and
10 (iii) sales of items such as political campaign pins,
11 buttons, badges, flags, emblems, hats, banners,
12 literature, and similar materials;

13 (10) each contribution, rebate, refund, income from
14 investments, or other receipt in excess of \$150 received by
15 the committee not otherwise listed under items (4) through
16 (9) and, if the contributor is an individual who
17 contributed more than \$500, the occupation and employer of
18 the contributor or, if the occupation and employer of the
19 contributor are unknown, a statement that the committee has
20 made a good faith effort to ascertain this information;

21 (11) the total sum of all receipts by or for the
22 committee or candidate during the reporting period;

23 (12) the full name and mailing address of each person
24 to whom expenditures have been made by the committee or
25 candidate within the reporting period in an aggregate
26 amount or value in excess of \$150; the amount, date, and

1 purpose of each of those expenditures; and the question of
2 public policy or the name and address of, and the office
3 sought by, each candidate on whose behalf that expenditure
4 was made;

5 (13) the full name and mailing address of each person
6 to whom an expenditure for personal services, salaries, and
7 reimbursed expenses in excess of \$150 has been made and
8 that is not otherwise reported, including the amount, date,
9 and purpose of the expenditure;

10 (14) the value of each asset held as an investment, as
11 of the final day of the reporting period;

12 (15) the total sum of expenditures made by the
13 committee during the reporting period; ~~and~~

14 (16) the full name and mailing address of each person
15 to whom the committee owes debts or obligations in excess
16 of \$150 and the amount of those debts or obligations; and ~~-~~

17 (17) the beneficial owner of any entity, other than a
18 political committee or a natural person, that contributes
19 more than \$10,000 to a ballot initiative committee or an
20 independent expenditure committee during any election
21 period; if the entity does not have a beneficial owner, the
22 recipient shall so declare.

23 For purposes of reporting campaign receipts and expenses,
24 income from investments shall be included as receipts during
25 the reporting period they are actually received. The gross
26 purchase price of each investment shall be reported as an

1 expenditure at time of purchase. Net proceeds from the sale of
2 an investment shall be reported as a receipt. During the period
3 investments are held they shall be identified by name and
4 quantity of security or instrument on each semi-annual report
5 during the period.

6 (b) Each report of a campaign contribution of \$1,000 or
7 more required under subsection (c) of Section 9-10 shall
8 disclose the following:

9 (1) the name and address of the political committee;

10 (2) the name and address of the person submitting the
11 report on behalf of the committee, if other than the
12 chairman or treasurer; and

13 (3) the full name and mailing address of each person
14 who has made a contribution of \$1,000 or more.

15 (c) Each quarterly report shall include the following
16 information regarding any independent expenditures made during
17 the reporting period: (1) the full name and mailing address of
18 each person to whom an expenditure in excess of \$150 has been
19 made in connection with an independent expenditure; (2) the
20 amount, date, and purpose of such expenditure; (3) a statement
21 whether the independent expenditure was in support of or in
22 opposition to a particular candidate; (4) the name of the
23 candidate; (5) the office and, when applicable, district,
24 sought by the candidate; and (6) a certification, under penalty
25 of perjury, that such expenditure was not made in cooperation,
26 consultation, or concert with, or at the request or suggestion

1 of, any candidate or any authorized committee or agent of such
2 committee. The report shall also include (I) the total of all
3 independent expenditures of \$150 or less made during the
4 reporting period and (II) the total amount of all independent
5 expenditures made during the reporting period.

6 (d) The Board shall by rule define a "good faith effort".

7 The reports of campaign contributions filed under this
8 Article shall be cumulative during the reporting period to
9 which they relate.

10 (e) Each report shall be verified, dated, and signed by
11 either the treasurer of the political committee or the
12 candidate on whose behalf the report is filed and shall contain
13 the following verification:

14 "I declare that this report (including any accompanying
15 schedules and statements) has been examined by me and, to the
16 best of my knowledge and belief, is a true, correct, and
17 complete report as required by Article 9 of the Election Code.
18 I understand that willfully filing a false or incomplete
19 statement is subject to a civil penalty of up to \$5,000."

20 (f) A political committee may amend a report filed under
21 subsection (a) or (b). The Board may reduce or waive a fine if
22 the amendment is due to a technical or inadvertent error and
23 the political committee files the amended report, except that a
24 report filed under subsection (b) must be amended within 5
25 business days. The State Board shall ensure that a description
26 of the amended information is available to the public. The

1 Board may promulgate rules to enforce this subsection.

2 (Source: P.A. 96-832, eff. 1-1-11.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.