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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 609
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Hillyer and Holmes

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SUMMARY

- Prohibits a foreign national from making a contribution or expenditure with respect to a statewide initiative or referendum, either directly or through another entity.
- Prohibits the committee in charge of a statewide initiative or referendum petition, along with any other type of regulated political entity, from soliciting or accepting a contribution or expenditure from a foreign national.
- Adds the term “knowingly” to each prohibition regarding foreign national campaign spending.
- Declares an emergency.

DETAILED ANALYSIS

Foreign national campaign spending

Prohibited contributions and expenditures

The bill prohibits a foreign national from making a contribution or expenditure with respect to a statewide initiative or referendum concerning which a petition committee exists, either directly or through another entity. The bill also explicitly prohibits the committee in charge of a statewide initiative or referendum petition, along with any other type of regulated political entity, from soliciting or accepting a contribution or expenditure from a foreign national.

Under continuing law, a foreign national is prohibited from making a contribution or expenditure regarding a candidate, and a political entity is prohibited from soliciting or accepting a contribution from a foreign national.¹

The bill does not prohibit a foreign national from making a contribution or expenditure regarding any other type of state or local ballot issue, such as a constitutional amendment proposed by the General Assembly or a local tax levy. However, in 2021, the Ohio Elections Commission (OEC) issued an opinion that the existing statute prevents a foreign national from participating in any ballot issue campaign in Ohio by prohibiting a political entity from soliciting or accepting a contribution from a foreign national, apparently regardless of the purpose.²

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.³

Definition of “foreign national” – continuing law

Under continuing law, unchanged by the bill, “foreign national” means any of the following:⁴

- In the case of an individual, an individual who is not a U.S. citizen or national or a lawful permanent resident (green card holder);
- 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.

This law mirrors the definition in the federal law that prohibits a foreign national from making a contribution or expenditure regarding a federal, state, or local candidate, but not regarding a ballot issue.⁵

¹ R.C. 3517.13(W).

² Ohio Elections Commission, [Advisory Opinion 2021ELC-05 \(PDF\)](#) (December 16, 2021), available at elc.ohio.gov under “Advisory Opinions,” “Advisory Opinions by Year.”

³ R.C. 3517.13(W). See also R.C. 3517.992(AA), not in the bill.

⁴ R.C. 3517.13(W).

⁵ 52 United States Code 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.)

Penalty – continuing law

The continuing penalty for a foreign national who knowingly makes a prohibited contribution or expenditure, or for a person that knowingly accepts a prohibited contribution or expenditure from a foreign national, is a fine of three times the amount involved or \$10,000, whichever is greater. Continuing law also allows the Secretary of State to direct a person that knowingly accepts a prohibited contribution or expenditure from a foreign national to return it to the foreign national.⁶

However, under continuing law, the mandatory fine applies only if a case is resolved in court. Before any prosecution or court proceeding may begin for a violation of the Campaign Finance Law, a complaint must be filed with the OEC. If the OEC determines that a violation has occurred, the OEC has discretion to refer the matter to a prosecutor for potential court proceedings or instead to impose an administrative fine in any amount, up to the maximum court fine.⁷

Emergency clause

The bill declares an emergency, meaning that it takes effect immediately and is not subject to the referendum.

HISTORY

Action	Date
Introduced	05-20-24

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⁶ R.C. 3517.13(W). See also R.C. 3517.992(AA), not in the bill.

⁷ R.C. 3517.153, 3517.155(C), and 3517.993, not in the bill.