

As Introduced

131st General Assembly

Regular Session

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S. B. No. 186

**Senators LaRose, Seitz
Cosponsors: Senators Beagle, Eklund**

A BILL

To amend sections 9.03, 3315.07, 3517.153, 1
3517.154, 3517.155, 3517.156, 3517.993, and 2
3599.40 of the Revised Code to authorize the 3
Ohio Elections Commission to hear complaints 4
regarding violations of the laws prohibiting use 5
of public funds for political campaign purposes, 6
impose civil penalties for violations of those 7
laws, and establish additional enforcement 8
measures for violations of those laws. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.03, 3315.07, 3517.153, 10
3517.154, 3517.155, 3517.156, 3517.993, and 3599.40 of the 11
Revised Code be amended to read as follows: 12

Sec. 9.03. (A) As used in this section: 13

(1) "Political subdivision" means any body corporate and 14
politic, except a municipal corporation that has adopted a 15
charter under Section 7 of Article XVIII, Ohio Constitution, and 16
except a county that has adopted a charter under Sections 3 and 17
4 of Article X, Ohio Constitution, to which both of the 18

following apply:	19
(a) It is responsible for governmental activities only in a geographic area smaller than the state.	20 21
(b) It is subject to the sovereign immunity of the state.	22
(2) "Cigarettes" and "tobacco product" have the same meanings as in section 5743.01 of the Revised Code.	23 24
(3) "Transaction" has the same meaning as in section 1315.51 of the Revised Code.	25 26
(4) "Campaign committee," "campaign fund," "candidate," "legislative campaign fund," "political action committee," "political committee," "political party," and "separate segregated fund" have the same meanings as in section 3517.01 of the Revised Code.	27 28 29 30 31
(B) Except as otherwise provided in division (C) of this section, the governing body of a political subdivision may use public funds to publish and distribute newsletters, or to use any other means, to communicate information about the plans, policies, and operations of the political subdivision to members of the public within the political subdivision and to other persons who may be affected by the political subdivision.	32 33 34 35 36 37 38
(C) Except as otherwise provided in division (A) (7) of section 340.03 of the Revised Code, no governing body of a political subdivision shall use public funds to do any of the following:	39 40 41 42
(1) Publish, distribute, or otherwise communicate information that does any of the following:	43 44
(a) Contains defamatory, libelous, or obscene matter;	45

(b) Promotes alcoholic beverages, cigarettes or other tobacco products, or any illegal product, service, or activity;	46 47
(c) Promotes illegal discrimination on the basis of race, color, religion, national origin, handicap, age, or ancestry;	48 49
(d) Supports or opposes any labor organization or any action by, on behalf of, or against any labor organization;	50 51
(e) Supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue.	52 53 54 55
(2) Compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described in division (C) (1) (e) of this section. Division (C) (2) of this section does not prohibit the use of public funds to compensate an employee of a political subdivision for attending a public meeting to present information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue, even though the election, levy, or bond issue is discussed or debated at the meeting.	56 57 58 59 60 61 62 63 64 65 66
(D) Except as otherwise provided in division (A) (7) of section 340.03 of the Revised Code or in division (E) of this section, no person shall knowingly conduct a direct or indirect transaction of public funds to the benefit of any of the following:	67 68 69 70 71
(1) A campaign committee;	72
(2) A political action committee;	73

(3) A legislative campaign fund;	74
(4) A political party;	75
(5) A campaign fund;	76
(6) A political committee;	77
(7) A separate segregated fund;	78
(8) A candidate.	79
(E) Division (D) of this section does not prohibit the	80
utilization of any person's own time to speak in support of or	81
in opposition to any candidate, recall, referendum, levy, or	82
bond issue unless prohibited by any other section of the Revised	83
Code.	84
(F) Nothing in this section prohibits or restricts any	85
political subdivision from sponsoring, participating in, or	86
doing any of the following:	87
(1) Charitable or public service advertising that is not	88
commercial in nature;	89
(2) Advertising of exhibitions, performances, programs,	90
products, or services that are provided by employees of a	91
political subdivision or are provided at or through premises	92
owned or operated by a political subdivision;	93
(3) Licensing an interest in a name or mark that is owned	94
or controlled by the political subdivision.	95
(G) <u>(1) Whoever violates division (C) (1) (e) or (C) (2) of</u>	96
<u>this section may be subject to the filing of a complaint with</u>	97
<u>the Ohio elections commission under section 3517.153 of the</u>	98
<u>Revised Code and may be subject to an administrative fine and an</u>	99
<u>order to pay restitution under section 3517.993 of the Revised</u>	100

<u>Code.</u>	101
<u>(2) Whoever violates division (D) of this section may be</u>	102
<u>subject to the filing of a complaint with the Ohio elections</u>	103
<u>commission under section 3517.153 of the Revised Code and shall</u>	104
<u>be punished as provided in section 3599.40 of the Revised Code.</u>	105
Sec. 3315.07. (A) The board of education of each school	106
district may provide an instructional program for the employees	107
of the district. The board may provide the necessary bulletins	108
and instructional material in connection with the program and	109
pay the cost of meetings held for the purpose of carrying out	110
the program.	111
(B) The board of any district or educational service	112
center may provide bulletins or other materials necessary for	113
the effective administration of the schools of the district or	114
programs of the educational service center and may compile, make	115
available, or publish any of the following materials not	116
inconsistent with division (C) of this section: student	117
handbooks, dress codes, curriculum guides, school policy	118
bulletins, newsletters, board meeting summaries or minutes,	119
financial reports, annual reports, and other reports concerning	120
the operation of the schools of the district or programs of the	121
service center. Such materials shall be published for the	122
purpose of furthering public awareness of all aspects of the	123
board's educational program and operation including:	124
(1) Board policies and actions, procedures, administration	125
and finance, and state and federal requirements;	126
(2) The board's programs, activities, and plans;	127
(3) Student achievements and information concerning	128
employees;	129

(4) Any other information the board considers helpful in keeping students, parents, employees, and residents aware of the operation of the school district. The board may assign to employees the duty of producing the information authorized by this division as a part or all of their jobs.

(C) (1) Except as otherwise provided in division (C) (2) of this section, no board of education shall use public funds to support or oppose the passage of a school levy or bond issue or to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy or bond issue election.

(2) A board of education may permit any of its employees to attend a public meeting during the employee's regular working hours for the purpose of presenting information about school finances and activities and board actions, even if the purpose of the meeting is to discuss or debate the passage of a school levy or bond issue.

(D) The board of education of a school district that has entered into an agreement under section 3313.843 or 3313.845 of the Revised Code to receive any services from an educational service center may authorize the service center to purchase or to accept upon donation supplies and equipment for such school district and to pay the transportation, handling, and storage charges involved in securing such supplies and equipment. Upon such authorization, the governing board may make such purchases or accept such donations and pay from the service center fund the cost of such supplies and equipment and the transportation, handling, and storage charges involved. The district board shall reimburse in full the service center governing board for all such expenditures on its behalf.

(E) Whoever violates division (C) (1) of this section may 160
be subject to the filing of a complaint with the Ohio elections 161
commission under section 3517.153 of the Revised Code and may be 162
subject to an administrative fine and an order to pay 163
restitution under section 3517.993 of the Revised Code. 164

Sec. 3517.153. (A) (1) Upon the filing of a complaint with 165
the Ohio elections commission, which shall be made by affidavit 166
of any person, on personal knowledge, and subject to the 167
penalties for perjury, or upon the filing of a complaint made by 168
the secretary of state or an official at the board of elections, 169
setting forth a failure to comply with or a violation of any 170
provision in division (C) (1) (e), (C) (2), or (D) of section 9.03, 171
division (C) (1) of section 3315.07, or sections 3517.08 to 172
3517.13, 3517.17, 3517.18, 3517.20 to 3517.22, 3599.03, or 173
3599.031 of the Revised Code, the commission shall proceed in 174
accordance with sections 3517.154 to 3517.157 of the Revised 175
Code. 176

(2) Upon the filing of a complaint with the commission 177
setting forth a violation of division (D) of section 9.03 of the 178
Revised Code, the commission shall send a copy of the complaint 179
to the appropriate prosecutor. As used in this division, 180
"appropriate prosecutor" has the same meaning as in division (A) 181
(2) of section 3517.155 of the Revised Code. 182

(B) The commission shall prescribe the form for complaints 183
made under division (A) of this section. The secretary of state 184
and boards of elections shall furnish the information that the 185
commission requests. The commission or a member of the 186
commission may administer oaths, and the commission may issue 187
subpoenas to any person in the state compelling the attendance 188
of witnesses and the production of relevant papers, books, 189

accounts, and reports. Section 101.42 of the Revised Code 190
governs the issuance of subpoenas insofar as applicable. Upon 191
the refusal of any person to obey a subpoena or to be sworn or 192
to answer as a witness, the commission may apply to the court of 193
common pleas of Franklin county under section 2705.03 of the 194
Revised Code. The court shall hold proceedings in accordance 195
with Chapter 2705. of the Revised Code. 196

(C) (1) No prosecution shall commence for a violation of a 197
provision in sections 3517.08 to 3517.13, 3517.17, 3517.18, 198
3517.20 to 3517.22, 3599.03, or 3599.031 of the Revised Code 199
unless a complaint has been filed with the commission under this 200
section and all proceedings of the commission or a panel of the 201
commission, as appropriate, under sections 3517.154 to 3517.157 202
of the Revised Code are completed. 203

(2) A prosecution may commence for a violation of division 204
(D) of section 9.03 of the Revised Code before, during, or after 205
the filing of a complaint with the commission and the 206
commission's proceedings concerning that complaint. 207

(D) The commission may recommend legislation and render 208
advisory opinions concerning sections 3517.08, 3517.082, 209
3517.092, 3517.102, 3517.105, 3517.1014, 3517.13, 3517.18, 210
3517.20 to 3517.22, 3599.03, and 3599.031 of the Revised Code 211
for persons over whose acts it has or may have jurisdiction. 212
When the commission renders an advisory opinion relating to a 213
specific set of circumstances involving any of those sections 214
stating that there is no violation of a provision in those 215
sections, the person to whom the opinion is directed or a person 216
who is similarly situated may reasonably rely on the opinion and 217
is immune from criminal prosecution and a civil action, 218
including, without limitation, a civil action for removal from 219

public office or employment, based on facts and circumstances 220
covered by the opinion. 221

(E) The commission shall establish a web site on which it 222
shall post, at a minimum, all decisions and advisory opinions 223
issued by the commission and copies of each election law as it 224
is amended by the general assembly. The commission shall update 225
the web site regularly to reflect any changes to those decisions 226
and advisory opinions and any new decisions and advisory 227
opinions. 228

Sec. 3517.154. (A) (1) The full-time attorney for the Ohio 229
elections commission shall review each complaint filed with the 230
commission under section 3517.153 of the Revised Code, shall 231
determine the nature of the complaint, and, unless division (A) 232
(2) (a) of this section requires that the complaint receive an 233
automatic expedited hearing, shall make a recommendation to the 234
commission for its disposition, in accordance with this section. 235
The attorney shall make the determination and the 236
recommendation, if required, not later than one business day 237
after the complaint is filed. 238

(2) (a) If the attorney determines that the complaint sets 239
forth a violation of division (C) (1) (e), (C) (2), or (D) of 240
section 9.03, division (C) (1) of section 3315.07, division (B) 241
of section 3517.21, or division (B) of section 3517.22 of the 242
Revised Code and that the complaint is filed during one of the 243
periods of time specified in division (B) (1) of section 3517.156 244
of the Revised Code, the complaint shall receive an automatic 245
expedited hearing under section 3517.156 of the Revised Code. 246

(b) If the attorney determines that the complaint sets 247
forth a failure to comply with or a violation of division (G), 248
(I), (J), (O), (P), or (Q) of section 3517.13, division (A) of 249

section 3517.21, or division (A) of section 3517.22 of the Revised Code and that the complaint is filed during one of the periods of time specified in division (B) (1) of section 3517.156 of the Revised Code, the attorney shall recommend to the commission that the complaint receive an expedited hearing under section 3517.156 of the Revised Code, and the complaint shall receive such a hearing.

(c) If the attorney determines that the complaint sets forth a failure to comply with or a violation of a section of the Revised Code over which the commission has jurisdiction to hear complaints other than the sections described in divisions (A) (2) (a) and (b) of this section, and unless the attorney makes a determination as provided for in division (A) (3) of this section, the attorney shall recommend to the commission that the complaint be submitted to the commission under section 3517.155 of the Revised Code. After the attorney makes that recommendation, the attorney shall notify all parties to the complaint of the attorney's recommendation.

(3) (a) If a complaint sets forth a failure to comply with or a violation of a section of the Revised Code over which the commission has jurisdiction to hear complaints other than the sections described in divisions (A) (2) (a) and (b) of this section and if the complaint is filed during one of the periods of time specified in division (B) (1) of section 3517.156 of the Revised Code, the attorney may determine that the complaint should receive an expedited hearing under that section. The attorney shall make that determination by considering one or more of the following:

(i) The number of prior failures to comply with or violations of Title XXXV of the Revised Code that the person or

entity against whom the complaint has been brought has committed 280
and any prior penalties the commission has imposed on the person 281
or entity; 282

(ii) If the complaint involves a statement required to be 283
filed under section 3517.10, division (E) of section 3517.102, 284
or section 3517.105, 3517.107, 3517.108, 3517.109, 3517.1011, 285
3517.1012, or 3517.1014 of the Revised Code or an addendum 286
required to be filed under section 3517.11 of the Revised Code 287
that is filed late, how late the filing is and how much time has 288
elapsed between the deadline for filing the statement or 289
addendum and the filing of the complaint; 290

(iii) If the complaint involves contributions and 291
expenditures, contributions and disbursements, deposits and 292
disbursements, gifts and disbursements, or donations and 293
disbursements required to be reported under section 3517.10, 294
division (E) of section 3517.102, or section 3517.105, 3517.107, 295
3517.108, 3517.109, 3517.1011, 3517.1012, 3517.1013, or 296
3517.1014 of the Revised Code that are either not reported or 297
reported late, the number of contributions and expenditures, 298
contributions and disbursements, deposits and disbursements, 299
gifts and disbursements, or donations and disbursements not 300
reported or how late they were reported; 301

(iv) If the complaint involves contributions required to 302
be reported by a campaign committee under section 3517.10, 303
division (E) of section 3517.102, or section 3517.105, 3517.107, 304
3517.108, or 3517.109 of the Revised Code that are not reported, 305
whether any of the contributors of the contributions not 306
reported have a personal or professional relationship with the 307
campaign committee's candidate; 308

(v) If the complaint involves a statement required to be 309

filed under section 3517.10, division (E) of section 3517.102, 310
or section 3517.105, 3517.107, 3517.108, 3517.109, 3517.1011, 311
3517.1012, 3517.1013, or 3517.1014 of the Revised Code that is 312
incomplete, the degree to which it is incomplete; 313

(vi) If the complaint involves the receipt of 314
contributions in violation of section 3599.03 of the Revised 315
Code, the dollar amount and number of contributions received in 316
violation of that section; 317

(vii) If the complaint involves a failure to make the 318
identification or a misstatement of the identification required 319
under section 3517.105 or 3517.20 of the Revised Code, whether 320
the failure or misstatement was purposely made; 321

(viii) If the complaint sets forth a failure to comply 322
with or a violation of a section of the Revised Code described 323
in division (A) (2) (c) of this section, whether the person or 324
entity against whom the complaint has been made has committed 325
more than one such failure or violation within a reasonable 326
amount of time, or whether the cumulative nature of the failures 327
or violations indicates a systematic disregard for the law. 328

(b) Prior to making a determination under division (A) (3) 329
(a) of this section that the complaint should receive an 330
expedited hearing under section 3517.156 of the Revised Code, 331
the attorney shall take into consideration the number of panels 332
of the commission that have cases pending before them and the 333
number of cases pending before the panels and shall not make a 334
determination that will place an undue burden on a panel of the 335
commission. 336

(c) If the attorney determines that the complaint should 337
receive an expedited hearing under section 3517.156 of the 338

Revised Code, the attorney shall recommend to the commission 339
that the complaint receive an expedited hearing, and, if a 340
majority of the members of the commission agrees with the 341
recommendation, the complaint shall receive an expedited hearing 342
under that section. 343

(4) The attorney may join two or more complaints if the 344
attorney determines that the allegations in each complaint are 345
of the same or similar character, are based on the same act or 346
failure to act, or are based on two or more acts or failures to 347
act constituting parts of a common scheme or plan. If one 348
complaint contains two or more allegations, the attorney may 349
separate the allegations if they are not of the same or similar 350
character, if they are not based on the same act or failure to 351
act, or if they are not based on two or more acts or failures to 352
act constituting parts of a common scheme or plan. If the 353
attorney separates the allegations in a complaint, the attorney 354
may make separate recommendations under division (A) (2) or (3) 355
of this section for each allegation. 356

(B) Whenever a person or other entity files a complaint 357
with the commission setting forth a failure to comply with or a 358
violation of a section of the Revised Code as described in 359
division (A) (2) (c) of this section and the complaint is filed 360
during one of the periods of time specified in division (B) (1) 361
of section 3517.156 of the Revised Code, the person or entity 362
may request an expedited hearing under that section at the time 363
the complaint is filed. The attorney for the commission shall 364
inform the members of the commission of that request at the time 365
the attorney makes a recommendation under division (A) of this 366
section. The commission may grant the request for an expedited 367
hearing under this division if it determines that an expedited 368
hearing is practicable. 369

Sec. 3517.155. (A) (1) Except as otherwise provided in 370
division (B) of this section, the Ohio elections commission 371
shall hold its first hearing on a complaint filed with it, other 372
than a complaint that receives an expedited hearing under 373
section 3517.156 of the Revised Code, not later than ninety 374
business days after the complaint is filed unless the commission 375
has good cause to hold the hearing after that time, in which 376
case it shall hold the hearing not later than one hundred eighty 377
business days after the complaint is filed. At the hearing, the 378
commission shall determine whether or not the failure to act or 379
the violation alleged in the complaint has occurred and shall do 380
only one of the following, except as otherwise provided in 381
division (B) of this section or in division (B) of section 382
3517.151 of the Revised Code: 383

(a) Enter a finding that good cause has been shown not to 384
impose a fine or not to refer the matter to the appropriate 385
prosecutor; 386

(b) Impose a fine under section 3517.993 of the Revised 387
Code; 388

(c) Refer the matter to the appropriate prosecutor. 389

(2) As used in division (A) of this section, "appropriate 390
prosecutor" means a prosecutor as defined in section 2935.01 of 391
the Revised Code and either of the following: 392

(a) In the case of a failure to comply with or a violation 393
of law involving a campaign committee or the committee's 394
candidate, a political party, a legislative campaign fund, a 395
political action committee, or a political contributing entity, 396
that is required to file a statement of contributions and 397
expenditures with the secretary of state under division (A) of 398

section 3517.11 of the Revised Code, the prosecutor of Franklin county; 399
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(b) In the case of a failure to comply with or a violation of law involving any other campaign committee or committee's candidate, or any other political party, political action committee, or political contributing entity either of the following as determined by the commission: 401
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(i) The prosecutor of Franklin county; 406

(ii) The prosecutor of the county in which the candidacy or ballot question or issue is submitted to the electors or, if it is submitted in more than one county, the most populous of those counties. 407
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(B) (1) If the commission decides that the evidence is insufficient for it to determine whether or not the failure to act or the violation alleged in the complaint has occurred, the commission, by the affirmative vote of five members, may request that an investigatory attorney investigate the complaint. Upon that request, an investigatory attorney shall make an investigation in order to produce sufficient evidence for the commission to decide the matter. If the commission requests an investigation under this division, for good cause shown by the investigatory attorney, the commission may extend by sixty days the deadline for holding its first hearing on the complaint as required in division (A) of this section. 411
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(2) In the case of a complaint concerning a violation of division (C) (1) (e) or (C) (2) of section 9.03 or division (C) (1) of section 3315.07 of the Revised Code, the commission shall do only one of the following: 423
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(a) Enter a finding that good cause has been shown not to 427

impose a fine and not to order restitution; 428

(b) Impose a fine under section 3517.993 of the Revised Code, order the violator to pay restitution to the state or political subdivision in the amount of the public funds involved in the violation, or both. 429
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(3) In the case of a complaint concerning a violation of division (D) of section 9.03 of the Revised Code, the commission shall do only one of the following: 433
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(a) Enter a finding that good cause has been shown not to impose a fine and not to order restitution. If the commission enters such a finding, the commission shall notify the appropriate prosecutor of its finding. 436
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(b) Do either or both of the following: 440

(i) Impose a fine under section 3517.993 of the Revised Code, order the violator to pay restitution to the state or political subdivision in the amount of the public funds involved in the violation, or both. If the commission does so, it shall notify the appropriate prosecutor of that fact. 441
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(ii) Refer the matter to the appropriate prosecutor, unless a prosecution for the violation has already commenced. 446
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(C) The commission shall take one of the actions required under division (A) or (B)(2) or (3) of this section not later than thirty days after the close of all the evidence presented. 448
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(D)(1) The commission shall make any finding of a failure to comply with or a violation of law in regard to a complaint that alleges a violation of division (A) or (B) of section 3517.21, or division (A) or (B) of section 3517.22 of the Revised Code by clear and convincing evidence. The commission 451
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shall make any finding of a failure to comply with or a violation of law in regard to any other complaint by a preponderance of the evidence.

(2) If the commission finds a violation of division (B) of section 3517.21 or division (B) of section 3517.22 of the Revised Code, it shall refer the matter to the appropriate prosecutor under division (A) (1) (c) of this section and shall not impose a fine under division (A) (1) (b) of this section or section 3517.993 of the Revised Code.

(E) In an action before the commission or a panel of the commission, if the allegations of the complainant are not proved, and the commission takes the action described in division (A) (1) (a), (B) (2) (a), or (B) (3) (a) of this section or a panel of the commission takes the action described in division (C) (1) of section 3517.156 of the Revised Code, the commission or a panel of the commission may find that the complaint is frivolous, and, if the commission or panel so finds, the commission shall order the complainant to pay reasonable attorney's fees and to pay the costs of the commission or panel as determined by a majority of the members of the commission. The costs paid to the commission or panel under this division shall be deposited into the Ohio elections commission fund.

Sec. 3517.156. (A) If a complaint filed with the Ohio elections commission is to receive an expedited hearing pursuant to section 3517.154 of the Revised Code, a panel of at least three members of the commission shall hold a hearing on the complaint to determine whether there is probable cause to refer the matter to the full commission for a hearing under section 3517.155 of the Revised Code. Not more than one-half of the members of a panel shall be affiliated with the same political

party. The chairperson of the commission shall call for the 486
selection of a panel, as needed, and shall select the members of 487
the panel by lot. 488

(B) (1) Except as otherwise provided in section 3517.154 of 489
the Revised Code and divisions (B) (2) and (3) of this section, 490
the panel shall hold one expedited hearing on a complaint 491
forwarded to it by the commission for an expedited hearing in 492
accordance with this division. If a complaint is filed on or 493
after the sixtieth day prior to a primary or special election or 494
on or after the ninetieth day prior to the general election, but 495
not later than the day of the primary, special, or general 496
election to which the complaint relates, the hearing shall be 497
held not later than two business days after the determination 498
required to be made under division (A) of section 3517.154 of 499
the Revised Code is made, unless the panel has good cause to 500
hold the hearing after that time, in which case it shall hold 501
the hearing not later than seven business days after that 502
determination is made. All members of the panel shall be present 503
before any official action may be taken, and a majority vote of 504
the panel is required for any official action. 505

(2) The commission shall hold a hearing on a complaint 506
that is filed prior to the periods of time specified in division 507
(B) (1) of this section, or filed after the date of the election 508
to which the complaint relates, at the times specified for 509
hearing complaints in section 3517.155 of the Revised Code. 510

(3) The deadlines provided for in division (B) (1) of this 511
section may be extended by agreement of all parties to the 512
complaint but shall not be extended beyond the deadlines 513
provided for in division (A) of section 3517.155 of the Revised 514
Code. 515

(C) At the expedited hearing held under division (B) (1) of 516
this section, the panel shall make only one of the following 517
determinations: 518

(1) There is no probable cause to believe that the failure 519
to comply with or the violation of a law alleged in the 520
complaint has occurred. If the panel so determines, it shall 521
dismiss the complaint. 522

(2) There is probable cause to believe that the failure to 523
comply with or the violation of a law alleged in the complaint 524
has occurred. If the panel so determines, it shall refer the 525
complaint to the full commission, and the commission shall hold 526
a hearing on the complaint under section 3517.155 of the Revised 527
Code not later than ten days after the complaint is referred to 528
it by the panel. 529

(3) The evidence is insufficient for the panel to make a 530
determination under division (C) (1) or (2) of this section and 531
further investigation of the complaint is necessary. If the 532
panel so determines, it immediately shall request that an 533
investigatory attorney investigate the complaint, and an 534
investigatory attorney shall make an investigation in order to 535
produce sufficient evidence upon which to decide the matter. If 536
the panel requests that an investigatory attorney make an 537
investigation, the complaint shall be referred to the full 538
commission, and the commission shall hold a hearing on the 539
complaint under section 3517.155 of the Revised Code. 540

(D) No panel of the commission shall impose a fine or 541
order restitution. 542

(E) If the panel dismisses the complaint under division 543
(C) (1) of this section, the person who made the complaint may 544

petition the full commission to reconsider the dismissal at a 545
hearing under section 3517.155 of the Revised Code. A petition 546
for reconsideration shall be filed not later than two business 547
days after the dismissal of the complaint. The commission shall 548
render its decision on the petition not later than three 549
business days after receiving the petition. If the petition for 550
reconsideration is granted, the commission shall hold a hearing 551
on the complaint under section 3517.155 of the Revised Code not 552
later than five business days after granting the petition. 553

If the petition for reconsideration is not granted, the 554
commission shall order the person who filed the complaint to pay 555
reasonable attorney's fees and to pay the costs of the panel 556
that dismissed the complaint as determined by a majority of the 557
members of the commission. The costs paid to the commission 558
under this division shall be deposited into the Ohio elections 559
commission fund. 560

(F) As used in this section, "expedited hearing" includes 561
an automatic expedited hearing as prescribed in section 3517.154 562
of the Revised Code. 563

Sec. 3517.993. This section authorizes the establishment 564
of fines that may be imposed only with respect to acts or 565
failures to act that occur on and after August 24, 1995. 566

(A) (1) Except as otherwise provided in division (D) (2) of 567
section 3517.155 of the Revised Code and in division (A) (2) of 568
this section, the Ohio elections commission may impose 569
administrative fines under division (A) (1) (b) of section 570
3517.155 of the Revised Code in accordance with the amounts set 571
forth under sections 3517.992, 3599.03, and 3599.031 of the 572
Revised Code. 573

(2) In the case of a violation of division (C) (1) (e), (C) (2), or (D) of section 9.03 or division (C) (1) of section 3315.07 of the Revised Code, the commission may impose an administrative fine under division (B) (2) (b) of section 3517.155 of the Revised Code of not more than one thousand dollars.

(B) The commission may suspend all or part of a fine it imposes under this section upon whatever terms and conditions the commission considers just.

(C) (1) The commission shall consider any of the following circumstances in determining whether to impose a maximum fine under this section:

(a) Whether the violator has been found guilty of any other violation of Title XXXV of the Revised Code;

(b) Whether the violation was made knowingly or purposely;

(c) Whether any relevant statements, addenda, or affidavits required to be filed have not been filed;

(d) Whether the violator has any outstanding fines imposed for a violation of Title XXXV of the Revised Code;

(e) Whether the violation occurred during the course of a campaign.

(2) The commission shall consider any of the following circumstances in determining whether to impose a minimal fine or no fine under this section:

(a) Whether the violator previously has not been found guilty of any other violation of Title XXXV of the Revised Code;

(b) Whether the violator has promptly corrected the violator's violation;

(c) Whether the nature and circumstances of the violation merit a minimum fine;

(d) Whether there are substantial grounds tending to excuse or justify the violation, although failing to establish a defense to the violation;

(e) Whether the violation was not purposely committed.

(3) The circumstances set forth in divisions (C) (1) and (2) of this section shall be considered by, but shall not control the decision of, the commission in imposing a fine.

(D) Fines imposed by the commission under this section shall be paid into the Ohio elections commission fund.

Sec. 3599.40. (A) Except as otherwise provided in section 3599.39 of the Revised Code, whoever violates any provision of Title XXXV of the Revised Code, unless otherwise provided in such title, and whoever is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (D) of section 9.03 of the Revised Code, is guilty of a misdemeanor of the first degree and also may be subject to an administrative fine and an order to pay restitution under section 3517.993 of the Revised Code.

Section 2. That existing sections 9.03, 3315.07, 3517.153, 3517.154, 3517.155, 3517.156, 3517.993, and 3599.40 of the Revised Code are hereby repealed.