

68A.404 Independent expenditures.

1. As used in this section, “*independent expenditure*” means one or more expenditures in excess of seven hundred fifty dollars in the aggregate for a communication that expressly advocates the nomination, election, or defeat of a clearly identified candidate or the passage or defeat of a ballot issue that is made without the prior approval or coordination with a candidate, candidate’s committee, or a ballot issue committee.

2. *a.* An entity, other than an individual or individuals, shall not make an independent expenditure or disburse funds from its treasury to pay for, in whole or in part, an independent expenditure made by another person without the authorization of a majority of the entity’s board of directors, executive council, or similar organizational leadership body of the use of treasury funds for an independent expenditure involving a candidate or ballot issue committee. Such authorization must occur in the same calendar year in which the independent expenditure is incurred.

b. Such authorization shall expressly provide whether the board of directors, executive council, or similar organizational leadership body authorizes one or more independent expenditures that expressly advocate the nomination or election of a candidate or passage of a ballot issue or authorizes one or more independent expenditures that expressly advocate the defeat of a candidate or ballot issue.

c. A foreign national shall not make an independent expenditure, directly or indirectly, that advocates the nomination, election, or defeat of any candidate or the passage or defeat of any ballot issue. As used in this section, “*foreign national*” means a person who is not a citizen of the United States and who is not lawfully admitted for permanent residence. “*Foreign national*” includes a foreign principal, such as a government of a foreign country or a foreign political party, partnership, association, corporation, organization, or other combination of persons that has its primary place of business in or is organized under the laws of a foreign country. “*Foreign national*” does not include a person who is a citizen of the United States or who is a national of the United States.

3. A person, other than a committee registered under this chapter, that makes one or more independent expenditures shall file an independent expenditure statement. All statements and reports required by this section shall be filed in an electronic format as prescribed by rule.

a. Subject to paragraph “*b*”, the person filing the independent expenditure statement shall file reports under sections 68A.402 and 68A.402A. An initial report shall be filed at the same time as the independent expenditure statement. Subsequent reports shall be filed according to the same schedule as the office or election to which the independent expenditure was directed.

(1) A supplemental report shall be filed on the same dates as in section 68A.402, subsection 2, paragraph “*b*”, if the person making the independent expenditure either raises or expends more than one thousand dollars.

(2) A report filed as a result of this paragraph “*a*” shall not require the identification of individual members who pay dues to a labor union, organization, or association, or individual stockholders of a business corporation. A report filed as a result of this paragraph “*a*” shall not require the disclosure of any donor or other source of funding to the person making the independent expenditure except when the donation or source of funding, or a portion of the donation or source of funding, was provided for the purpose of furthering the independent expenditure.

b. This section does not apply to a candidate, candidate’s committee, state statutory political committee, county statutory political committee, or a political committee. This section does not apply to a federal committee or an out-of-state committee that makes an independent expenditure.

4. *a.* An independent expenditure statement shall be filed within forty-eight hours of the making of an independent expenditure in excess of seven hundred fifty dollars in the aggregate, or within forty-eight hours of disseminating the communication to its intended audience, whichever is earlier. For purposes of this section, an independent expenditure is made when the independent expenditure communication is purchased or ordered regardless

of whether or not the person making the independent expenditure has been billed for the cost of the independent expenditure.

b. An independent expenditure statement shall be filed with the board and the board shall immediately make the independent expenditure statement available for public viewing.

c. For purposes of this section, an independent expenditure is made at the time that the cost is incurred.

5. The independent expenditure statement shall contain all of the following information:

a. Identification of the individuals or persons filing the statement.

b. Description of the position advocated by the individuals or persons with regard to the clearly identified candidate or ballot issue.

c. Identification of the candidate or ballot issue benefited by the independent expenditure.

d. The dates on which the expenditure or expenditures took place or will take place.

e. Description of the nature of the action taken that resulted in the expenditure or expenditures.

f. The fair market value of the expenditure or expenditures.

g. A certification by an officer of the corporation that the board of directors, executive council, or similar organizational leadership body expressly authorized the independent expenditure or use of treasury funds for the independent expenditure by resolution or other affirmative action within the calendar year when the independent expenditure was incurred.

6. Any person making an independent expenditure shall comply with the attribution requirements of section 68A.405.

7. A person making an independent expenditure shall not engage or retain an advertising firm or consultant that has also been engaged or retained within the prior six months by the candidate, candidate's committee, or ballot issue committee that is benefited by the independent expenditure.

8. a. The board shall develop, prescribe, furnish, and distribute forms for the independent expenditure statements required by this section.

b. The board shall adopt rules pursuant to chapter 17A for the implementation of this section.

[C75, 77, 79, 81, §56.13; 81 Acts, ch 35, §11]

86 Acts, ch 1023, §10; 93 Acts, ch 163, §33; 94 Acts, ch 1180, §36; 95 Acts, ch 198, §12; 99 Acts, ch 136, §8, 17; 2002 Acts, ch 1073, §9, 11; 2003 Acts, ch 40, §4, 9

CS2003, §68A.404

2005 Acts, ch 72, §13 – 15; 2006 Acts, ch 1010, §41; 2008 Acts, ch 1191, §116, 117; 2009 Acts, ch 42, §5; 2010 Acts, ch 1119, §3, 7

Section amended