

Senate Study Bill 3197 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act making changes to the campaign finance laws and making
2 penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 68A.201, subsection 1, Code 2014, is
2 amended to read as follows:

3 1. a. Every committee, as defined in this chapter, shall
4 file a statement of organization within ten days from the date
5 of its organization. Unless formal organization has previously
6 occurred, a committee is deemed to have organized as of the
7 date that committee transactions exceed the financial activity
8 threshold established in section 68A.102, subsection 5 or
9 18. If committee transactions exceed the financial activity
10 threshold prior to the due date for filing a disclosure report
11 as established under section 68A.402, the committee shall file
12 a disclosure report whether or not a statement of organization
13 has been filed by the committee.

14 b. A person who makes one or more independent expenditures
15 or electioneering communications, as defined in section
16 68A.404, and files all statements required by section 68A.404
17 shall not be required to organize a committee or file the
18 statement of organization required under this section.

19 Sec. 2. Section 68A.404, subsection 1, Code 2014, is amended
20 to read as follows:

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

28 b. (1) As used in this section, "*electioneering*
29 communication" means one or more expenditures in excess of seven
30 hundred fifty dollars in the aggregate for a communication
31 that clearly identifies a candidate for elective office, but
32 does not expressly advocate the nomination, election, or
33 defeat of the candidate, and that is disseminated, broadcast,
34 or otherwise published within sixty days of the election for
35 the office sought by that candidate, that is made without the

1 prior approval or coordination with a candidate, candidate's
2 committee, or a ballot issue committee, and that meets the
3 following conditions:

4 (a) Is for broadcast, cable, or satellite communications
5 and is intended to be received by fifteen thousand or more
6 individuals in total for statewide office or three thousand or
7 more individuals in total for other offices.

8 (b) Is for mass mailing, print, or telephonic communication
9 and is intended to be received by two thousand five hundred or
10 more households in total for statewide office five hundred or
11 more households in total for other offices.

12 (2) "Electioneering communication" does not include:

13 (a) A communication appearing in a news story, commentary,
14 or editorial distributed through the facilities of any
15 broadcasting station, unless such facilities are owned or
16 controlled by a political party, committee, or candidate.

17 (b) A candidate debate or forum conducted pursuant to
18 regulations adopted by the board, or any communication the sole
19 purpose of which is to promote such a debate or forum and the
20 communication is made by or on behalf of the person sponsoring
21 the debate or forum.

22 (c) A communication on the internet or through electronic
23 mail that is not a paid advertisement on another internet site
24 or through an internet communications service.

25 (d) Any communication that the board determines does not
26 constitute an electioneering communication under rules adopted
27 by the board as consistent with this chapter.

28 c. A political subdivision of this state may by resolution
29 reduce the thresholds for electioneering communications in
30 paragraph "b", subparagraph (1) for elections for offices for
31 that political subdivision.

32 Sec. 3. Section 68A.404, subsection 2, paragraphs a and b,
33 Code 2014, are amended to read as follows:

34 a. ~~An entity~~ A person, other than an individual or
35 individuals, shall not make an independent expenditure or

1 electioneering communication or disburse funds from its
2 treasury to pay for, in whole or in part, an independent
3 expenditure or electioneering communication that can reasonably
4 be expected to be made by another person, as defined in
5 section 68A.102, without the authorization of a majority
6 of the entity's contributing person's board of directors,
7 executive council, or similar organizational leadership body
8 of the use of treasury funds for an independent expenditure
9 or electioneering communication involving a candidate or
10 ballot issue committee. Such authorization must occur in the
11 same calendar year in which the independent expenditure or
12 electioneering communication is incurred.

13 *b.* Such authorization shall expressly provide whether
14 the board of directors, executive council, or similar
15 organizational leadership body authorizes one or more
16 independent expenditures ~~that expressly advocate the nomination~~
17 ~~or election of a candidate or passage of a ballot issue~~
18 ~~or authorizes one or more independent expenditures that~~
19 ~~expressly advocate the defeat of a candidate or ballot issue~~ or
20 electioneering communications.

21 Sec. 4. Section 68A.404, subsection 2, Code 2014, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. *d.* For purposes of the donor information
24 required in subsection 5, a person, as defined in section
25 68A.102, may reasonably expect that a contribution or transfer
26 of funds to a person subject to the authorization requirements
27 of paragraph "a" will be used for independent expenditures
28 or electioneering communications if the recipient of such
29 a contribution or transfer could reasonably be expected to
30 make such expenditures or communications or has made such
31 expenditures or communications in the last five years, unless
32 any of the following apply:

- 33 (1) The contribution or transfer of funds is made in the
34 ordinary course of business.
35 (2) The person making the contribution or transfer and

1 recipient agree in writing that the funds will not be used for
2 independent expenditures or electioneering communications.

3 Sec. 5. Section 68A.404, subsection 3, Code 2014, is amended
4 by striking the subsection and inserting in lieu thereof the
5 following:

6 3. a. A person, other than a committee registered under
7 this chapter, who makes one or more independent expenditures
8 or electioneering communications shall file an independent
9 expenditure or electioneering communication statement whichever
10 is appropriate. All statements required by this section shall
11 be filed in an electronic format as prescribed by rule.

12 b. A statement filed in accordance with paragraph "a" shall
13 not require identification of individual stockholders of a
14 business corporation or individual members who pay dues to a
15 labor union as part of a collective bargaining agreement.

16 Sec. 6. Section 68A.404, subsection 4, Code 2014, is amended
17 to read as follows:

18 4. a. An independent expenditure or electioneering
19 communication statement shall be filed within forty-eight hours
20 of the making of an independent expenditure or electioneering
21 communication in excess of seven hundred fifty dollars in the
22 aggregate, or within forty-eight hours of disseminating the
23 communication to its intended audience, whichever is earlier.
24 For purposes of this section, an independent expenditure or
25 electioneering communication is made when the independent
26 expenditure communication or electioneering communication
27 is purchased or ordered regardless of whether or not the
28 person making the independent expenditure or electioneering
29 communication has been billed for the cost of the independent
30 expenditure or electioneering communication.

31 b. An independent expenditure or electioneering
32 communication statement shall be filed with the board and the
33 board shall immediately make the independent expenditure or
34 electioneering communication statement available for public
35 viewing.

1 *c.* For purposes of this section, an independent expenditure
2 or electioneering communication is made at the time that the
3 cost is incurred.

4 Sec. 7. Section 68A.404, subsection 5, unnumbered paragraph
5 1, Code 2014, is amended to read as follows:

6 The independent expenditure or electioneering communication
7 statement shall contain all of the following information:

8 Sec. 8. Section 68A.404, subsection 5, paragraphs *c* and *g*,
9 Code 2014, are amended to read as follows:

10 *c.* Identification of the candidate or ballot issue benefited
11 by the independent expenditure or electioneering communication.

12 *g.* A certification by an officer of the corporation
13 that the board of directors, executive council, or similar
14 organizational leadership body expressly authorized the
15 independent expenditure or electioneering communication or
16 use of treasury funds for the independent expenditure or
17 electioneering communication by resolution or other affirmative
18 action within the calendar year when the independent
19 expenditure or electioneering communication was incurred.

20 Sec. 9. Section 68A.404, subsection 5, Code 2014, is amended
21 by adding the following new paragraphs:

22 NEW PARAGRAPH. *h.* Except as provided in paragraph “*i*”, the
23 name and address of every donor or other source of funding in
24 excess of twenty-five dollars, and the amount of contribution
25 from each such donor or other source of funding, contributed or
26 transferred to the person making the independent expenditures
27 or electioneering communications within the past twelve months
28 unless any of the following apply:

29 (1) The contribution or transfer of funds is made in the
30 ordinary course of business.

31 (2) The person making the contribution or transfer and the
32 recipient agree in writing that the funds will not be used for
33 independent expenditures or electioneering communications.

34 NEW PARAGRAPH. *i.* If the person making the independent
35 expenditure or electioneering communication finances the

1 expenditure exclusively from funds in a segregated account,
2 the name and address of every donor or other source of funding
3 in excess of twenty-five dollars, and the amount of each
4 contribution from each such donor, or other source of funding
5 contributed or transferred to that segregated account, within
6 the past twelve months, but not those of donors or sources of
7 funds outside of that segregated account.

8 NEW PARAGRAPH. *j.* If the person making the independent
9 expenditure or electioneering communication received a
10 contribution or transfer of funds in excess of seven hundred
11 fifty dollars from another person, other than an individual,
12 the person making the expenditure or communication must
13 disclose the identity of the contributing person, the amount
14 received from the contributing person, and the name, address,
15 and dollar amount of donations of the five donors, if any,
16 who have contributed the largest amounts of money to the
17 person making the independent expenditure or electioneering
18 communication in the twelve months prior to the expenditure or
19 communication being made, unless any of the following apply for
20 any of such five donors:

21 (1) The contribution or transfer of funds is made in the
22 ordinary course of business.

23 (2) The person making the contribution or transfer and the
24 recipient agree in writing that the funds will not be used for
25 independent expenditures or electioneering communications.

26 Sec. 10. Section 68A.404, subsections 6, 7, and 8, Code
27 2014, are amended to read as follows:

28 6. Any person making an independent expenditure or
29 electioneering communication shall comply with the attribution
30 requirements of section 68A.405.

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

1 benefited by the independent expenditure or electioneering
2 communication.

3 8. *a.* The board shall develop, prescribe, furnish,
4 and distribute forms for the independent expenditure and
5 electioneering communication statements required by this
6 section.

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

9 Sec. 11. Section 68A.404, Code 2014, is amended by adding
10 the following new subsections:

11 NEW SUBSECTION. 7A. A person, other than an individual, who
12 makes one or more independent expenditures or electioneering
13 communications and files all statements required by this
14 section shall not be required to organize a committee or file
15 the statement of organization required under section 68A.201.

16 NEW SUBSECTION. 7B. *a.* This section does not apply to a
17 candidate, committee, state statutory political committee, or
18 county statutory political committee.

19 *b.* This section does not apply to a federal committee or an
20 out-of-state committee that makes an independent expenditure or
21 electioneering communication.

22 Sec. 12. Section 68A.405, subsection 1, paragraph h, Code
23 2014, is amended to read as follows:

24 *h.* If the published material is the result of an independent
25 expenditure or electioneering communication subject to section
26 68A.404, the published material shall include a statement that
27 the published material was not authorized by any candidate,
28 ~~candidate's~~ committee, state statutory political committee,
29 county statutory political committee, or ballot issue
30 committee.

31 Sec. 13. NEW SECTION. **68A.507 Concealment and**
32 **misrepresentation.**

33 1. A person shall not make a contribution or transfer
34 through an agent or intermediary for the purposes of
35 misrepresenting the source of such contribution or transfer.

1 2. A person shall not solicit another person to make a
2 contribution or transfer on behalf of the soliciting person for
3 the purposes of misrepresenting the source of such contribution
4 or transfer.

5 Sec. 14. NEW SECTION. **68A.801 Severability.**

6 If any provision of this chapter, or the application of this
7 chapter to any person or circumstance, is held invalid, such
8 holding shall not affect the provisions or applications of this
9 chapter which can be given effect without the invalid provision
10 or application, and to that end the provisions of this chapter
11 are severable.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to campaign finance laws under Code
16 chapter 68A.

17 Current Code section 68A.404 regulates independent
18 expenditures, which are defined as one or more expenditures
19 in excess of \$750 in the aggregate for a communication that
20 expressly advocates the nomination, election, or defeat of
21 a clearly identified candidate or the passage or defeat of
22 a ballot issue that is made without the prior approval or
23 coordination with a candidate, candidate's committee, or a
24 ballot issue committee. Code section 68A.404 provides that an
25 entity, other than an individual, may not make an independent
26 expenditure without prior authorization of its board of
27 directors or similar organizational leadership body and
28 requires that a person making an independent expenditure file a
29 statement in electronic format with the board within 48 hours
30 of making the expenditure or disseminating a communication,
31 whichever is earlier disclosing information specified in
32 statute. The board is required to immediately make the
33 statement available for public viewing. A person making an
34 independent expenditure is also required to file disclosure
35 reports required for certain organized committees engaging in

1 political activity.

2 The bill changes "entity" to the defined term "person" for
3 purposes of Code section 68A.404.

4 The bill provides that electioneering communications shall
5 be regulated by the Iowa ethics and campaign finance disclosure
6 board in the same manner as independent expenditures.

7 The bill defines "electioneering communication" as one
8 or more expenditures in excess of \$750 in the aggregate
9 for a communication that clearly identifies a candidate
10 for elective office, but does not expressly advocate the
11 nomination, election or defeat of the candidate that is
12 disseminated, broadcast, or otherwise published within 60 days
13 of the election, that is made without the prior approval or
14 coordination with a candidate, candidate's committee, or a
15 ballot issue committee, and is intended to be received by a
16 certain size audience, as specified in the bill.

17 The bill provides that a person who makes independent
18 expenditures or electioneering communications and files all
19 required statements is not required to organize a committee or
20 file a statement of organization.

21 The bill provides that, for purposes of expenditure
22 or communication disclosure statements, a person or an
23 entity can reasonably expect that certain contributions or
24 transfers of funds will be used for independent expenditures
25 or electioneering communications, unless certain conditions
26 specified in the bill apply.

27 The bill strikes current Code language requiring the filing
28 of committee disclosure reports by persons making independent
29 expenditures and requires only the filing of independent
30 expenditure statements or electioneering communications
31 statements required by Code section 68A.404.

32 The bill amends the disclosure statement requirements in
33 Code section 68A.404 to require disclosure of the name and
34 address and amount given of every donor or other source of
35 funding in excess of \$25 received by the person making the

1 independent expenditure or electioneering communication. If
2 the person making the independent expenditure or electioneering
3 communication uses funds exclusively allocated from a
4 segregated account, the person need only disclose donors to
5 that segregated bank account. The statute currently only
6 requires disclosure of donors if the donations were given for
7 the purpose of furthering the independent expenditure.

8 The bill requires that if a person making an independent
9 expenditure or electioneering communication receives a
10 contribution in excess of \$750 from another person, the person
11 making the expenditure or communication must disclose on the
12 statement the name, address, and the dollar amount of donations
13 of the five donors, if any, who have contributed the largest
14 amounts of money in the 12 months prior to the expenditure or
15 communication being made.

16 The bill enacts new Code section 68A.507, which prohibits
17 a person from making a contribution or transfer through an
18 agent or intermediary for the purposes of misrepresenting
19 the source of such contribution or transfer. The bill also
20 prohibits a person from soliciting another person to make such
21 contributions or transfers.

22 The bill further establishes a severability clause for Code
23 chapter 68A, providing that if any provision or application of
24 Code chapter 68A is held invalid, that such holding shall not
25 affect the provisions or applications that can be given effect
26 without the invalid provision or application.

27 Under current law, a violation of a provision of Code chapter
28 68A is considered a serious misdemeanor. A serious misdemeanor
29 is punishable by confinement for no more than one year and a
30 fine of at least \$315 but not more than \$1,875.