



Shays-Meehan Campaign Finance Provisions

The Shays-Meehan campaign finance bill, H.R. 2356, passed the House of Representatives last week. It is now headed for consideration in the Senate. Below is a summary of the major provisions of the bill and a brief explanation of how these provisions apply to individuals, PACs, corporations, and non-profits.*

Hard Money Contribution Limits

A. PACs

- ◆ No change to the amount individuals may contribute to a PAC or that a PAC may contribute to candidates.

* Citations are to sections in H.R. 2356, known as the Shays-Meehan campaign finance reform bill, as passed by the House of Representatives on February 14, 2002.

B. Individuals

- ◆ The limit for contributions to candidates increases from \$1,000 per election to \$2,000 per election. (Sec. 307(a)).
- ◆ An individual may contribute \$25,000 per year to a national political party committee (e.g., RNC, DNC, NRSC, DSCC, NRCC, DCCC), an increase from the current \$20,000 per year. (Sec. 307(a)).
- ◆ An individual may contribute up to \$10,000 per year to state party committees, an increase from the current \$5,000 per year. (Sec. 102).

continued on page 2

How the Shays-Meehan Bill Affects You

What's New for Individuals:

- i. Higher contribution limits to candidates and parties.
- ii. Higher aggregate contribution limits.
- iii. Ban on contributions by minors.
- iv. Ban on "soft money" contributions to national political party committees.
- v. "Electioneering communications" can trigger FEC reports.

What's New for Corporations:

- i. Ban on "soft money" contributions to national political party committees.
- ii. Partial ban on the uses of "soft money" contributions to state, district, and local political party committees.
- iii. Higher individual contributions limits for officers and directors.
- iv. Ban on using corporate funds for certain issue ads, or "electioneering communications."

What's New for PACs:

- i. Altered "coordination" requirements.
- ii. No indexing of contributions to/from PACs.
- iii. Reporting requirements for certain issue advertising or "electioneering communications."
- iv. Longer statute of limitations.

What's New for Non-profit Organizations:

- i. Ban on contributions or solicitations by parties, their officers and agents if organization involved in "federal election activity."
- ii. Limits on fund-raising by federal candidates and officeholders for "federal election activity."
- iii. Ban on "electioneering communications" by organizations receiving corporate or union funds.
- iv. Reporting requirements for groups who pay for "electioneering communications."

Shays-Meehan Campaign Finance Provisions

continued from page 1

- ◆ Aggregate limits for individuals (currently \$25,000 per year) are increased as follows:
 - i. There is an overall individual aggregate contribution limit of \$95,000 per two-year election cycle.
 - ii. Of this \$95,000, a maximum of \$37,500 may be contributed to candidates.
 - iii. Of this \$95,000, a maximum of \$57,500 may be contributed to all other political committees.
 - iv. Of the \$57,500 allowed to be contributed to political committees, a maximum of \$37,500 may be contributed to PACs, state party committees and other political committees that are not national party committees.
- ◆ The two-year election cycle starts on January 1 of odd-numbered years and extends to December 31 of even-numbered years. (Sec. 307(b)).
- ◆ Contributions by minors 17 years old or younger are prohibited. (Sec. 318).

C. Indexing of Contributions

- ◆ The limits on individual contributions to candidates and party committees and individual aggregate contribution limits are indexed for inflation starting in 2003. (Sec. 307(d)).
- ◆ PAC contribution limits are not indexed.

Non-profit Organizations

- ◆ All party committees, their agents, and their officers are banned from contributing to or soliciting contributions for IRS § 527 political organizations and non-profit groups that make contributions or expenditures in connection with “federal election activity” or participate in “federal election activity.” (Sec. 101).
- ◆ “Federal election activity” includes the following: (i) voter registration activity within 120 days of an election; (ii) voter identification, get-out-the-vote activity, or generic campaign activity; and (iii) advertisements (“public communications”) that refer to a clearly identified candidate for federal office and promote, support, attack, or oppose a candidate for that office. (Sec. 101).
- ◆ Federal candidates and officeholders may solicit \$20,000 per calendar year per individual for use in voter registration drives conducted within 120 days of an election, voter identification, and get-out-the-vote activities performed by a 501(c) non-profit organization. (Sec. 101).

- ◆ Candidates may raise unlimited funds for 501(c) non-profit organizations that do not engage in political activity and for the non-political activity of other non-profit organizations. (Sec. 101).

continued on page 3

IRS Filings Due Soon

1120-POL: Annual Tax Return

Forms 1120-POL are required to be filed on March 15, 2002 by all political organizations that account on a calendar-year basis and have \$25,000 or more in gross receipts for the taxable year or in excess of \$100 in taxable income (e.g., income from a trade or business such as interest). We recommend filing these forms timely, but a political organization may file Form 7004 to request a six-month extension of the time to file Form 1120-POL. However, tax that is owed must still be paid by March 15 or be subject to interest and penalties. Except for payments by large organizations that must be submitted electronically, all tax payments must be sent to a bank and accompanied by a preprinted deposit coupon (Form 8109). A political organization should have received a book of these coupons from the IRS shortly after receiving its Employer Identification Number (“EIN”). If an organization does not have a preprinted coupon, it must instead use Form 8109-B which can **only** be obtained by calling the IRS (1-800-829-1040) or visiting a local IRS service center.

Form 990: Annual Informational Return

Calendar-year political organizations with gross receipts of \$25,000 or more are required to file Form 990 with the IRS by May 15, 2002 for the first time this year. The IRS is working on questions and answers to assist political organizations complete these forms. We recommend waiting for guidance from the IRS before completing these forms. Filers may request an automatic three-month extension by filing Form 8868. Additional, non-automatic extensions may be requested by using the same form.

State Taxes

Every state and the District of Columbia has its own rules regarding the payment of taxes by PACs. You should consult with your tax advisor regarding your state’s tax laws.

(See the [January 2002 edition of *Election Law News*](#) for other filing dates)

Shays-Meehan Campaign Finance Provisions

continued from page 2

Advertising

- ◆ Corporations and unions, as well as organizations that receive funds from corporations and unions, are prohibited from running “electioneering communications,” which are certain issue advertisements. A corporation’s or union’s PAC may run such ads with hard money. A 501(c)(4) organization may, under certain conditions, make an “electioneering communication.” (Sec. 203).
- ◆ “Electioneering communications” are broadcast, cable, or satellite ads that refer to clearly identified candidates within 60 days of a general, special, or runoff election or within 30 days of a primary election or convention and are received by 50,000 or more persons in the congressional district or state where the election is being held. This prohibition does not apply to newspaper ads, billboards, direct mail, or other types of communications. (Sec. 201).
- ◆ This ban applies to “targeted” ads by 501(c)(4) social welfare organizations and 527 political organizations even if the ads are paid for with contributions from individuals. (Sec. 204).
- ◆ Any non-corporate or non-union person or group of persons who pays for “electioneering communications” must (1) file with the Federal Election Commission within 24 hours of disbursing more than \$10,000 on such ads, (2) identify the person making or controlling the disbursements and the custodian of the records, (3) identify those who have contributed \$1,000 or more, and (4) identify those to whom disbursements of more than \$200 have been made. (Sec. 201).

Coordination

- ◆ Funds that are spent in coordination with candidates are treated as contributions under current law. The Shays-Meehan bill expands the definition of coordination to include coordination with political parties and party committees. In addition, the legislation repeals current FEC regulations on coordination and mandates that the FEC issue new regulations, which must address the following: (A) the republication of campaign materials; (B) the use of a common vendor; (C) communications directed or made by persons who previously served as an employee of a candidate or a political party; and (D) communications made by a person after substantial discussion about the communication with a candidate or a political party. (Sec. 214).

- ◆ If “electioneering communications” are coordinated with a political party, candidate, or officer or agent of either, then the communication would be a contribution and subject to contribution limits and prohibitions (e.g., corporate prohibition). (Sec. 202).

Soft Money

- ◆ A national committee of a political party may not accept corporate or union contributions or contributions from individuals in excess of the contribution limits. (Sec. 101).
- ◆ State, district, and local committees of a political party are prohibited from spending soft money on “federal election activities” except as noted below.
- ◆ State, district, and local committees of a political party may raise \$10,000 in soft money per source per year (plus hard money) earmarked for voter registration activity within 120 days of an election, voter identification activities, and get-out-the-vote activities, if the funds are spent in a prescribed fashion and are raised in accordance with state law. This is so-called “Levin money.” (Sec. 101).
- ◆ The state, district, and local committees may spend any other soft money under state law on voter registration more than 120 days before an election.
- ◆ State, district, and local committees of a political party may not spend any of the “Levin money” on any broadcast, cable, or satellite communication unless the communication solely refers to a state or local candidate. (Sec. 101). This ban includes generic party advertisements.
- ◆ Federal candidates, officeholders, their agents, and entities controlled, established, or financed by them may not raise, solicit, or spend soft money. They may, however, attend, speak, or be the featured guest at events sponsored by state, district, or local committees of a political party. (Sec. 101). They may also raise funds for state or local elections as long as the contributions comply with federal contribution limits and prohibitions. (Sec. 101).

Millionaires Exceptions

- ◆ In Senate elections, if candidate A spends a certain amount of his or her own funds in a campaign (subtracting out the amount of personal funds spent by candidate B), then the individual contribution limit for candidate B increases to as much as six times the applicable limit (\$12,000) and the spending limit on political parties is lifted. (Sec. 304).

continued on page 4

Shays-Meehan Campaign Finance Provisions

continued from page 3

◆ In House elections, if candidate A spends a certain threshold amount of his or her own funds in the campaign (subtracting out the amount of personal funds spent by candidate B and the accrued contributions of both candidates), then the individual contribution limit for candidate B increases to as much as three times the applicable limit (\$6,000) and the spending limit on political parties is lifted. (Sec. 319).

Increased Criminal and Civil Penalties, Longer Statute of Limitations, Effective Date

- ◆ Several general civil penalties, criminal fines, and prison terms are increased. (Sec. 312.)
- ◆ The civil penalty for violations of the conduit contribution ban is increased to no less than 300% of the amount involved and no more than \$50,000 or 1000% of the amount involved. (Sec. 315). The criminal penalties are also increased to fines of the same amount and/or a prison term of not more than 2 years.

FEC Internet Rulemaking

The Federal Election Commission has announced that it will hold a public hearing on its Notice of Proposed Rulemaking addressing the use of the Internet in federal elections. The hearing will be held at 10 am on Wednesday, March 20, 2002 at the FEC, which is located at 999 E Street, NW in Washington, DC.

- ◆ The United States Sentencing Commission is ordered to create sentencing guidelines for criminal violations of the campaign finance law. (Sec. 314).
- ◆ The criminal statute of limitations for violation of the campaign finance law is extended from the current three years to five years. (Sec. 313).
- ◆ The campaign finance reform legislation shall go into effect on November 6, 2002, the day after the 2002 general election, if it is approved by the Senate and signed by the President. (Sec. 402).

Michigan "Bundling" Laws

On March 22, 2002, new laws in Michigan regulating "bundling" will take effect. "Bundling" is the practice of an intermediary soliciting and collecting individual candidate contributions and delivering them to the candidate. Generally speaking, "bundled" contributions do not count against the intermediary's candidate contribution limit, but only against the limit of the original contributor. However, Michigan has amended its laws so that bundled contributions to statewide candidates will be counted against the candidate contribution limit of both the original contributor and a political committee that acts as an intermediary. In addition, the new laws require political committees to report bundled contributions to both the Secretary of State and the recipient candidate committees.

Election Law Practice Group

| | | |
|---------------------------|--------------------|--|
| Jan Witold Baran | 202.719.7330 | jbaran@wrf.com |
| Carol A. Laham | 202.719.7301 | claham@wrf.com |
| Thomas W. Kirby | 202.719.7062 | tkirby@wrf.com |
| Andrew G. McBride | 202.719.7135 | amcbride@wrf.com |
| Barbara Van Gelder..... | 202.719.7032 | bvangeld@wrf.com |
| Jason P. Cronic..... | 202.719.7175 | jcronic@wrf.com |
| Caleb P. Burns | 202.719.7451 | cburns@wrf.com |
| Matthew S. Petersen | 202.719.7490 | mpeterse@wrf.com |
| D. Mark Renaud..... | 202.719.7405 | mrenaud@wrf.com |
| Thomas W. Antonucci | 202.719.7558 | tantonuc@wrf.com |

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