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CORPORATE LAW UPDATE

New Ohio Rules Concerning Independent Campaign Expenditures

A few weeks before leaving office, former Ohio Secretary of State Jennifer Brunner promulgated rules regarding expenditures by corporations, nonprofit organizations and labor groups that advocate the election or defeat of a specific candidate for public office. The rules were issued in the wake of the U.S. Supreme Court decision in *Citizens United v. FEC*, in which the Court found a federal ban on corporate independent expenditures that advocate for the election or defeat of candidates unconstitutional. Since it is clear that Ohio's similar prohibition is unenforceable, the secretary of state sought to fill the void left by the absence of that prohibition and promulgated rules requiring these entities to file a statement that:

- Discloses the amounts they pay and to whom for independent campaign ads for or against a candidate or committee;
- Includes the name and address of an officer of the corporation or labor organization and the website address used in their ads so voters can learn more about them; and
- Confirms that a candidate or committee has not authorized their independent campaign ads.

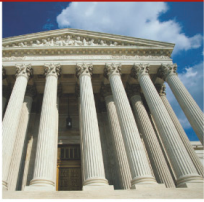
The new rules contain new prohibitions as well:

- Independent campaign expenditures by corporations and businesses owned 20 percent or more by foreign citizens are prohibited; and
- If groups are awarded state or federal money through Ohio, they are forbidden from independent expenditures within a year of the award of the funds.

Under these rules, the secretary of state is allowed to pursue violations through subpoenas, investigations and referrals to the Ohio Elections Commission. These rules also parallel some of the legislative proposals of Democratic members of Congress.

Because the previous law was unconstitutional and provided for a complete ban on independent corporate expenditures, it is questionable whether the secretary of state had authority to promulgate these rules since they add new prohibitions.

In addition, while these rules have the effect of law, newly elected Secretary of State Jon Husted may rescind the rules or issue new rules. At the same time, the Ohio General Assembly may also make changes in the law.



However, until successfully challenged or rescinded, corporations, nonprofit organizations and labor groups should be aware of these new rules leading up to the 2012 election cycle and act accordingly.

FOR MORE INFORMATION

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