
SECRETARY OF STATE

Gifts to political entities for office facilities

- Expands the permitted recipients and uses of a gift, which is exempt from the limits on campaign contributions and expenditures, that any person may give to a political entity for the purpose of funding an office facility.
- Clarifies the definition of a "person" who may give such a gift.
- Allows a legislative campaign fund to receive such a gift, in addition to a state or county political party, as under continuing law.
- Exempts a gift made by a corporation for these purposes from the general prohibition against a corporation using its money in support of or opposition to a candidate.
- Permits such a gift to be used for the lease of an office facility; for real property taxes; for furniture, fixtures, equipment, and supplies to be used in an office facility; and for the operating costs, maintenance, and repair of an office facility, other than personnel costs, in addition to the construction, renovation, or purchase of an office facility, as under continuing law.
- Eliminates a prohibition against a corporation giving a monetary gift that exceeds 10% of the costs incurred for the office facility, and instead prohibits any person from giving a monetary gift that exceeds \$10,000 per calendar year, as adjusted for inflation.
- Applies all of the continuing administrative requirements for office facility gifts to legislative campaign funds.
- Modifies those administrative requirements to include references to the expanded permitted uses of an office facility gift.

Source of political publication

- Eliminates the requirement that a candidate or legislative campaign fund include the residence or business address of the candidate or of the chairperson, treasurer, or secretary of the legislative campaign fund in its disclaimer on a political publication.
- Requires the disclaimer for a candidate, legislative campaign fund, or campaign committee only to include the words "paid for by" followed by the name of the entity.



Miscellaneous Federal Grants Fund

- Creates the Miscellaneous Federal Grants Fund to be credited with grants the Secretary of State receives from federal sources for which continuing law does not designate a fund.
- Requires the Secretary of State to use the moneys credited to the fund for the purposes and activities required by the federal grant agreements.
- Specifies that all investment earnings of the fund are to be credited to the fund.

Corporation Law

- Allows a corporation that is filing for voluntary dissolution, in order to meet the state tax responsibility portion of the filing, to provide evidence from the Department of Taxation showing that the Department has received an adequate guarantee for the payment of taxes due from the corporation.
- Eliminates the prior law ability of a voluntarily dissolving corporation, in order to meet the state tax responsibility portion of the filing, to provide an affidavit stating that the corporation does not have any outstanding tax liability.
- Requires an unlicensed foreign corporation to file a certificate from the Tax Commissioner that the corporation has paid all state taxes, rather than only franchise taxes and penalties as under prior law.
- Requires the Tax Commissioner to certify to the Secretary of State the failure of a for-profit corporation or a for-profit foreign corporation to file any required reports or returns or to pay any tax or fee within 90 days after the time prescribed by law for filing.
- Requires the Secretary of State to cancel the articles of incorporation or the certificate of authority of a corporation or foreign corporation upon receiving that certification and requires the Secretary of State to immediately notify that corporation or foreign corporation of the cancellation.
- Requires the Secretary of State to forward a certificate of the cancellation action to the county recorder of the county that is the principal place of the corporation's business within Ohio.
- Prohibits a person from exercising or attempting to exercise any powers, privileges, or franchises under the articles of incorporation or certificate of authority after the articles or certificate have been canceled and establishes a penalty for each day a person exercises powers, privileges, or franchises that are prohibited.



- Requires the Secretary of State to reinstate a corporation's articles of incorporation or license certificate if the corporation pays any additional required fees and penalties, files a certificate from the Tax Commissioner affirming compliance with tax law, pays a fee of \$25, and changes its name in certain circumstances.
- Permits a certificate of reinstatement to be filed in the recorder's office of any county in the state and requires the recorder to charge and collect a base fee of \$3 and a Low- and Moderate-Income Housing Trust Fund fee of \$3.
- Allows any officer, shareholder, creditor, or receiver of any reinstated corporation to take all steps required to effect reinstatement.
- Prohibits invalidation of an officer's, agent's, or employee's exercise or attempted exercise of any right, privilege, or franchise on behalf of a corporation whose articles of incorporation were canceled from between the time of cancellation and reinstatement if certain conditions are met.

Other provisions

- Eliminates the forms for financing statements and financing statement amendments prescribed in former law and instead requires a filing office to accept forms promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws.
- Eliminates provisions of the Campaign Finance Law that were permanently enjoined due to their unconstitutionality, which govern the expenditure of personal funds by candidates and permit the opponents of personal funds candidates to accept contributions in excess of the contribution limits.

Gifts to political entities for office facilities

(R.C. 3517.01, 3517.101, 3517.104, 3517.992, and 3599.03)

General provisions

The act allows a legislative campaign fund (LCF) to accept a gift for an office facility from any person other than a public utility. (An LCF is a fund that is established as an auxiliary of a state political party and is associated with one of the houses of the General Assembly.) Under continuing law, state or county political parties also can accept such a gift. Under continuing law, office facility gifts are exempt from the limits on campaign contributions and expenditures, but they must be used for a facility that is



not used solely for the purpose of directly influencing the election of any individual candidate in any particular election for any office.

The act clarifies that any person, including an individual, partnership, unincorporated business organization or association, political action committee, political contributing entity, separate segregated fund, association, labor organization, corporation, or other organization or group of persons, other than a public utility as defined in the Public Utilities Commission Law, may give such a gift. And, the act clarifies that a corporation's office facility gift is exempt from the general prohibition against a corporation using its money in support of or opposition to a candidate. The previous statute allowed any person, including a corporation but not a public utility, to give such a gift.

Further, the act permits an eligible entity to use office facility gift for any of the following purposes:

- Leasing an office facility;
- Paying the real property taxes associated with an office facility;
- Furniture and fixtures to be installed in an office facility;
- Equipment and supplies to be used in an office facility, including telecommunications and computer hardware and software;
- The operating costs, maintenance, and repair of an office facility, other than personnel costs.

Under continuing law, such a gift may be used for the construction, renovation, or purchase of an office facility. The gift must be specifically designated and used to defray the permitted costs.

Finally, the act eliminates a prohibition against a corporation engaged in business in Ohio giving a monetary gift that exceeds 10% of the costs incurred for office facility purposes. Instead, under the act, no person may give a monetary gift for an office facility that exceeds \$10,000 per calendar year, as adjusted for inflation. The Secretary of State must adjust that limit for inflation in every odd-numbered year, in the same manner as campaign contribution limits are adjusted under continuing law.

Administrative requirements

The act modifies the administrative requirements concerning office facility gifts to include references to the expanded permitted uses of such a gift. The act also specifies that all of those requirements apply to LCFs.



Under continuing law, an entity that receives an office facility gift must file an annual statement containing certain details with the Secretary of State. The entity must appoint a treasurer for that purpose.

An entity that receives monetary gifts for an office facility also must deposit those funds in a separate account. When an entity sells an office facility or its furniture, fixtures, equipment, or supplies, the entity must deposit in the account an amount that is the same percentage of the proceeds of the sale as the monetary gifts were of the total cost of those goods or services. The money in the account may be used only for permitted office facility purposes.

The act applies the continuing law penalties to an LCF that commits certain violations concerning an office facility gift. An entity that fails to file a required statement concerning an office facility gift must be fined not more than \$100 for each day of violation. And, an entity that knowingly fails to report, or knowingly misrepresents, an office facility gift must be fined not more than \$10,000. Finally, an entity that expends an office facility gift for a purpose other than the permitted purposes listed above must be fined not more than twice the amount of the improper expenditure.

Identification of source of political publication

(R.C. 3517.20)

The act eliminates some of the information that a candidate or a legislative campaign fund must include in its disclaimer on a political publication. Under the act, such an entity must include only the words "paid for by" followed by the name of the entity. Prior law required a candidate also to include the candidate's residence or business address and required a legislative campaign fund also to include the residence or business address of the fund's chairperson, treasurer, or secretary.

The act also clarifies that a campaign committee's disclaimer must include only the words "paid for by" followed by the name of the committee. Under continuing law, a campaign committee must include only the committee's name in its political publications.

Miscellaneous Federal Grants Fund

(R.C. 111.28)

The act creates the Miscellaneous Federal Grants Fund in the state treasury. The fund is to be credited with grants the Secretary of State receives from federal sources that are not otherwise designated for crediting to a particular fund. Continuing law



designates specific funds to receive moneys from the U.S. Election Assistance Commission and the U.S. Department of Health and Human Services.

The act requires the Secretary of State to use the moneys credited to the fund for the purposes and activities required by the applicable federal grant agreements. All investment earnings of the fund are to be credited to the fund.

Corporation law

(R.C. 317.36, 1701.86, 1701.922, 1703.29, 5703.91, 5703.92, and 5703.93)

Foreign corporation licensure

The act requires an unlicensed foreign corporation that should have obtained a license and that has not previously been licensed to do business in Ohio, or whose license has been surrendered, to file a certificate from the Tax Commissioner that the corporation has paid all state taxes and penalties before the Secretary of State issues the corporation a license certificate. Former law required such a certificate to only address franchise taxes and penalties. Continuing law requires such a foreign corporation to also file an application for a license certificate and pay a filing fee to the Secretary of State in order to receive licensure.

Canceled charters

Evidence required for dissolution

Continuing law requires certain receipts, certificates, or other specified evidence to accompany a corporation's certificate of dissolution that is filed with the Secretary of State, or in lieu of the receipts, certificates, or other evidence, an affidavit of one or more persons executing the certificate or an officer of the corporation containing a statement of the date upon which the particular department, agency, or authority was advised in writing of the scheduled effective date of the dissolution and acknowledgement by the corporation of the applicability of provisions of the liability for unlawful loans, dividends, and distribution of assets laws.

Under law retained in part under the act, in addition to submitting other evidence required under continuing law, a voluntarily dissolving corporation must submit one of the following with its certificate of dissolution:

(1) A certificate or other evidence from the Department of Taxation showing that the corporation had paid all taxes administered and required to be paid to the Tax Commissioner that are or will be due on the date of the dissolution;



(2) An affidavit made by one or more of the persons executing the certificate of dissolution or of an officer of the corporation stating that the corporation did not have any outstanding tax liability for which evidence of payment was not provided.

The act eliminates (2) above as a means for satisfying this requirement and expands (1) above to allow the certificate or evidence from the Department to state the information described in (1) above or state that the Department has received an adequate guarantee for the payment of all such taxes. The act also eliminates the ability to substitute an affidavit notifying the appropriate agency and acknowledging liability, as outlined above, instead of submitting the certificate or other evidence from the Department.

Cancellation of articles of incorporation or certificate of authority of for-profit foreign corporations

The act requires the Tax Commissioner to certify with the Secretary of State any corporation organized as a for-profit under Ohio law, or organized as a foreign corporation for-profit doing business in Ohio or owning or issuing a part or all of its capital or property in Ohio, wherever organized, that fails to file a required report or return or to pay any required tax or fee for 90 days after the time prescribed for filing or payment.

The act requires the Secretary of State, after receiving certification of the corporation's failure to file the report or return or to pay the tax or fee, to either (1) cancel, by appropriate entry, the articles of incorporation of the corporation upon the margin of the relevant record or (2) if the corporation is a foreign corporation, cancel, by proper entry, the certificate of authority to do business in Ohio of the foreign corporation. Subject to continuing law regarding the winding up or obtaining reinstatement of a corporation, upon cancellation of the articles or certificate of a corporation, all the powers, privileges, and franchises conferred on the corporation cease.

The act prohibits a person from exercising or attempting to exercise any powers, privileges, or franchises under canceled articles of incorporation or a certificate of authority for failure to file the report or return or to pay the tax or fee. The act establishes a penalty of \$100 for each day a violation occurs, up to a maximum of \$5,000.

According to the act, the Secretary of State, upon canceling a corporation's articles of incorporation or certificate of authority, must immediately notify the affected corporation of the cancellation action and must forward for filing a certificate of the action to the county recorder of the county in which the corporation's principal place of business in Ohio is located. The recorder is prohibited from charging a filing fee for the certificate.



Reinstatement of canceled articles of incorporation or license certificate of for-profit or foreign corporations

A corporation whose articles of incorporation or license certificate to do or transact business in Ohio was canceled by the Secretary of State as described above is to be reinstated and entitled to exercise its rights, privileges, and franchises in Ohio, and the Secretary of State is to cancel the entry of cancellation to exercise the corporation's rights, privileges, and franchises, upon the corporation's compliance with the following: (1) payment to the Secretary of State of any additional required fees and penalties, (2) filing with the Secretary of State a certificate from the Tax Commissioner affirming that the corporation has complied with all the requirements of the tax laws as to all the taxes administered by the Tax Commissioner and has paid all taxes, fees, or penalties due for every year of delinquency, (3) payment to the Secretary of State an additional fee of \$25, and (4) in certain cases, changing its name (see below). Any officer, shareholder, creditor, or receiver of the corporation may at any time take all steps required by the reinstatement provisions to effect such reinstatement.

As a condition prerequisite to reinstatement of canceled articles or certificates, the Secretary of State must require an applicant for reinstatement to change its name if (1) the reinstatement is not made within one year from the date of the cancellation of its articles or license to do business and (2) it appears that the applicant's name is not distinguishable upon the record from the name of another corporation in the Secretary's record.

The act provides that a certificate of reinstatement may be filed in the recorder's office of any Ohio county. The recorder must charge and collect a base fee of \$3 for services and a Low- and Moderate-Income Housing Trust Fund fee of \$3.

Upon reinstatement of a corporation's articles of incorporation as described above, the rights, privileges, and franchises, including all real or personal property rights and credits and all contract and other rights, of the corporation existing at the time its articles of incorporation were canceled become fully vested in the corporation as if the articles had not been canceled and the corporation is again entitled to exercise those rights, privileges, and franchises authorized by the articles.

Also upon reinstatement (and notwithstanding the act's prohibition against a person exercising or attempting to exercise any power, privileges, or franchises under the articles of incorporation or certificate of authority of a corporation after the articles or certificate have been canceled), both of the following apply to the exercise or attempt to exercise any rights, privileges, or franchises on behalf of the corporation by an officer, agent, or employee of the corporation, after cancellation and prior to reinstatement of the articles of incorporation:



(1) The exercise or attempt to exercise any rights, privileges, or franchises on behalf of the corporation has the same force and effect that the exercise would have had if the corporation's articles had not been canceled;

(2) The corporation is liable exclusively for franchises on behalf of the corporation or association by an officer, agent, or employee of the corporation or association.

However, both (1) and (2) above are subject to the following conditions: (a) the exercise or attempt to exercise the right, privilege, or franchise was within the scope of the corporation's articles of incorporation that existed prior to cancellation and (b) the officer, agent, or employee had no knowledge that the corporation's articles had been canceled.

Additionally, the act specifies that the provisions of the act stating that all the powers, privileges, and franchises conferred on the corporation by its articles of incorporation or a certificate of authority cease upon cancellation of the articles or certificate cannot invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to reinstatement of its articles or certificate and such an exercise or attempted exercise does not constitute a failure to comply with continuing law prohibitions against the exercise of expired corporate powers if both (a) and (b) above are met.

Forms for UCC filing statements and amendments

(R.C. 1309.521)

Under continuing law, to claim an interest in collateral for a loan under the Uniform Commercial Code (UCC), generally a person must file a financing statement with the Secretary of State's office or the appropriate county recorder's office (referred to as the filing office). The act eliminates the forms for financing statements and amendments to financing statements prescribed in former law that a filing office cannot refuse to accept unless an exception applies. Instead, under the act, a filing office cannot refuse to accept a written record in the form and format set forth in the official text of the 2010 amendments to Article 9 of the UCC promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws for financing statements or, for amendments, as set forth as form UCC3 and form UCC3Ad in the final official text of the 2010 amendments to Article 9 of the UCC promulgated by those entities. The most significant difference between these forms and the forms prescribed under former law is that the UCC forms have a place to indicate the filer's electronic mail address. The forms also are organized slightly differently.



Repeal of permanently enjoined provisions governing personal funds in campaigns

(R.C. 3517.10, 3517.102, 3517.103, 3517.153, 3517.154, 3517.155, and 3517.992; R.C. 3517.1010 (repealed))

The act eliminates provisions of the Campaign Finance Law that (1) regulated the ability of candidates and their family members to expend their personal funds for campaign purposes and (2) allowed the opponents of personal funds candidates to accept contributions in excess of the contribution limits. These laws are not enforced because they have been ruled unconstitutional.²¹³

Under the prior statute, when a candidate for statewide office or for the office of member of the General Assembly had received or expended, or expected to expend, more than a specified amount of personal funds during a primary or general election period, the candidate was required to file a personal funds notice. "Personal funds" included contributions by certain members of the candidate's family. When a candidate had filed a personal funds notice, the candidate's opponent could file a declaration of no limits, and the contribution limits no longer applied to the opponent.

Previous law also detailed procedures for an opponent to dispose of excess funds after the election period had ended and for a personal funds candidate to dispose of excess personal funds in order to avoid being classified as a personal funds candidate in future election periods.

The act repeals these provisions, all of which were unenforceable as they were the subject of a permanent injunction. Under continuing law, a candidate who spends personal funds for campaign purposes generally must deposit the funds in the candidate's campaign fund before expending them. And, while the act removes family contributions from the definition of "personal funds," the standard limits and reporting requirements continue to apply to contributions by a candidate's family.

²¹³ *Buckley v. Valeo*, 424 U.S. 1 (1976); *Davis v. Federal Election Commission*, 554 U.S. 724 (2008); and *O'Brien v. Brunner*, Case No. 2:09-CV-733 (S.D. Ohio 2009).

