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## **OHIO ELECTIONS COMMISSION**

### **Elimination of the Commission**

- Abolishes the Ohio Elections Commission (ELC) on January 1, 2026, and divides its powers between the Secretary of State (SOS) and the boards of elections based on the nature of a given complaint alleging a violation of the Campaign Finance Law.
- Requires the ELC to continue to operate under the current law between the bill's effective date and January 1 for the purpose of hearing and issuing decisions on complaints filed with the ELC before the bill takes effect.
- Requires any new complaints filed after the bill takes effect to be filed with the SOS or a board of elections instead of the ELC.
- Transfers any complaint that is still pending before the ELC on January 1 to the SOS or a board of elections, as applicable.

### **Advisory opinions on campaign finance**

- Transfers the authority to render advisory opinions about the Campaign Finance Law to the SOS and makes the ELC's existing advisory opinions into SOS opinions, unless and until the SOS amends or rescinds them.

### **Jurisdiction over campaign finance violations**

- Divides the ELC's current jurisdiction over the Campaign Finance Law between the SOS and the boards of elections, based on who is the subject of the complaint.
- Gives the SOS jurisdiction generally over state-level matters and gives the boards of elections jurisdiction generally over matters that are confined to the applicable county.
- Refers to the SOS or the board of elections, as applicable, as the "appropriate enforcement authority" in a given circumstance.
- Clarifies that for enforcement purposes, the Campaign Finance Law includes the laws governing campaign practices by candidates for the governing boards of Ohio's five public employee retirement systems.

### **Filing complaints**

- Retains the current requirements for filing a complaint, with changes to refer to the SOS or a board of elections.

### **Hearing procedures**

- Requires an attorney appointed by the SOS or the board of elections to review each complaint filed with the authority and make a recommendation for its disposition.
- Allows the SOS or the board either to dismiss the complaint or hear it.
- Requires any complaint filed with the SOS that receives a hearing to be heard and decided by a hearing officer appointed by the SOS, who must be an attorney.

- Prescribes procedures to follow if SOS has a conflict of interest regarding a complaint, requiring the Attorney General to appoint an independent attorney to review the complaint and an independent hearing officer to hear it.
- Requires a board of elections to make any decision to hear or dismiss a complaint, and any final decision after hearing a complaint, by the affirmative vote of at least three of its four members, with no tie vote cast by the SOS.
- Requires the appropriate enforcement authority to dispose of any complaint within 180 calendar days after it is filed with the authority.
- Requires a complaint to receive an expedited hearing if it is filed during the 90 days before an election and involves a candidate for nomination or election at that election or involves a ballot issue or question that appears on the ballot at that election.
- Requires a complaint that receives an expedited hearing to be disposed of before Election Day, if practicable.
- Allows the SOS and the boards of elections to administer oaths, subpoena witnesses and documents, and hire investigatory attorneys in fulfilling their duties under the bill.
- Requires all hearings to be conducted according to rules adopted by the SOS and, to the extent they are consistent with the SOS's rules, with the Administrative Procedure Act and the Ohio Rules of Civil Procedure.
- Specifies that the Ohio Rules of Evidence apply to all hearings conducted under the bill.
- Requires a board of elections to appoint an attorney to advise the board regarding the applicable procedures while it hears and adjudicates a complaint.
- Retains the current standards of proof that must be met for a person to be penalized for a campaign finance violation.

### **Penalties for campaign finance violations**

- Allows the SOS's hearing officer or a board of elections, after hearing a complaint, to impose the same penalties as the ELC currently may impose.
- Clarifies that the penalty for any violation is the penalty that was in effect at the time the violation occurred.

### **Appeal of decision**

- Requires any appeal to be filed with the court of common pleas of the appealing party's home county, eliminating the party's current option to file it instead with the Franklin County Court of Common Pleas, unless the party is not domiciled in Ohio, in which case the appeal must be filed in Franklin County.

## **Appropriate prosecutor for campaign finance violations**

- Changes the “appropriate prosecutor” to whom the SOS or a board of elections may refer a matter, directing many cases to the county prosecutor of the violator’s home county instead of the Franklin County Prosecutor.

## **Records of proceedings**

- Requires the SOS to post all advisory opinions and decisions, including decisions by the boards of elections, on the SOS’s website.

## **Funding; filing fee reduction**

- Abolishes the Ohio Elections Commission Fund and eliminates or redirects its funding sources.
- Allows the SOS and the boards of elections to keep any fines they collect.
- Eliminates the ELC’s portion of the candidate and ballot issue petition filing fees, thereby lowering the overall filing fees.

## **Other transitional provisions**

- Specifies that the ELC’s employees cease to hold their positions of employment on January 1, 2026, or as soon as possible thereafter.
- Makes the SOS the ELC’s successor for most other purposes.

## **Technical changes to the Campaign Finance Law**

- Makes several technical changes to sections of the Campaign Finance Law that are amended for other purposes.

## **Elimination of the Ohio Elections Commission**

(R.C. 3501.05, 3501.11, 3513.10, 3517.01, 3517.102, 3517.109, 3517.1012, 3517.153 (3517.14), 3517.15, 3517.16, 3517.155 (3517.17), 3517.993 (3517.18), 3517.992 (3517.99), and 3517.991 (reenacted); Section 525.50; repeal of R.C. 3517.14, 3517.151, 3517.152, 3517.154, 3517.156, 3517.157, 3517.99, and 3517.991; and conforming changes in R.C. 109.02, 145.055, 145.99, 742.044, 742.99, 3307.074, 3307.99, 3309.074, 3309.99, 3513.04, 3513.05, 3513.261, 3517.08, 3517.081, 3517.11, 3517.121, 3517.20, 3517.21, 3517.22, 3517.23, 5505.046, and 5505.99)

The bill abolishes the Ohio Elections Commission (ELC) on January 1, 2026, and divides its powers between the Secretary of State (SOS) and the boards of elections based on the nature of a given complaint alleging a violation of the Campaign Finance Law.

Between the bill’s standard 90-day effective date and January 1, the ELC must continue to operate under the current law for the purpose of hearing and issuing decisions on complaints filed with the ELC before the bill takes effect. However, during that period, no new complaints may be filed with the ELC, and the ELC no longer has the power to render advisory opinions or recommend legislation. Any new complaint must be filed with the SOS or a board of elections, as

applicable. And, any complaint that is still pending before the ELC on January 1 is transferred to the SOS or a board of elections, along with all ELC records regarding the complaint.

## **Background on the ELC**

### **Generally**

The ELC is responsible for enforcing Ohio's Campaign Finance Law with respect to state and local elections. In almost all cases involving a violation of that law, the ELC must hear an administrative complaint before a criminal case can be brought in court. For example, these complaints might include an alleged failure to file a complete, accurate, or timely statement of political contributions and expenditures; failure to disclose the source of political advertising; or failure to comply with dollar limits on contributions. If the ELC determines that a violation has occurred, it can impose a civil fine or refer the matter for criminal prosecution. The ELC also issues advisory opinions that interpret the Campaign Finance Law and may recommend legislation.

The ELC consists of seven members, with six members appointed by the Governor with the advice and consent of the Senate (three Republicans and three Democrats), and the seventh member, an independent, appointed by the partisan members of the ELC. The ELC also has three alternate members – one Republican, one Democrat, and one independent – who are appointed in the same manner as the regular members. When a regular member of the ELC is recused from hearing a complaint or is otherwise unavailable, the alternate of the appropriate affiliation takes the member's place.

Members of the ELC, including alternates, must be registered electors of good moral character. In making appointments to the ELC, the Governor is required to take into consideration the various geographic areas of Ohio so that those areas are represented on the ELC in a balanced manner, to the extent feasible. ELC members and alternates must not do or be any of the following:

- Hold, or be a candidate for, a public office;
- Serve on a committee supporting or opposing a candidate or ballot question or issue;
- Be an officer of a state or local political party;
- Be a legislative or executive agency lobbyist;
- Make a campaign contribution;
- Solicit, or be involved in soliciting, campaign contributions;
- Be in the unclassified service of the state or local government, such as an appointed department head or a legislative employee;<sup>64</sup>

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<sup>64</sup> R.C. 124.11, not in the bill.

- Be a public officer or employee who is excluded from being considered a public employee for collective bargaining purposes, such as a supervisor, manager, or judicial employee.<sup>65</sup>

ELC members are not required to be attorneys, but the ELC must employ a full-time attorney to advise the ELC on legal matters, in addition to performing other functions.

Members of the ELC are paid \$25,000 per year, while alternates receive \$125 per day served. Both members and alternates are also reimbursed for their actual and necessary expenses incurred in performing their official duties. The ELC's operations are funded in part by fines it imposes and by a dedicated portion of candidate and ballot issue filing fees.

### **False campaign statements**

Until 2016, many of the complaints the ELC heard were for violations of Ohio's law that prohibits making false campaign statements about a candidate or ballot issue. That year, however, in *Susan B. Anthony List v. Driehaus*, a federal appeals court overturned the law under the First Amendment, partly based on flaws the court identified in the ELC's process for enforcing the law, and partly based on other aspects of the law that the bill does not change. Because the bill retains the existing law against false campaign statements while replacing the ELC process, it is not clear under the bill whether the SOS or a board of elections might resume enforcing the law. If the SOS or a board did so, a reviewing court might consider whether the bill's new procedures sufficiently address the problems identified in *Susan B. Anthony List*, such that Ohio can enforce the law again.<sup>66</sup>

### **Advisory opinions on campaign finance**

The bill transfers the authority to render advisory opinions about the Campaign Finance Law to the SOS. Any ELC advisory opinion in effect as of the bill's effective date is considered an advisory opinion of the SOS, unless and until the SOS amends or rescinds it. Under continuing law, when an advisory opinion determines that a particular action or set of circumstances would not violate the Campaign Finance Law, any person in that situation may reasonably rely on the opinion and is immune from criminal prosecution or any civil action, including removal from office, based on facts and circumstances covered by the opinion.

### **Jurisdiction over campaign finance violations**

The bill divides the ELC's current jurisdiction over the Campaign Finance Law between the SOS and the boards of elections, based on who is the subject of the complaint. For purposes of the Campaign Finance Law, the bill defines the term "appropriate enforcement authority" to mean the SOS or the applicable board of elections, depending on the circumstances. Under continuing law, the Attorney General (AG) has exclusive jurisdiction to investigate and prosecute any violation of the law against campaign spending by foreign nationals. Other violations of the Election Law, such as offenses involving voter registration or voting, are referred directly to a prosecutor instead of to the ELC.

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<sup>65</sup> R.C. 4117.01, not in the bill.

<sup>66</sup> *Susan B. Anthony List v. Driehaus*, 814 F.3d 466, 473 (6<sup>th</sup> Cir. 2016).

The bill also clarifies in several provisions of law that for enforcement purposes, the Campaign Finance Law includes the laws governing campaign practices by candidates for the governing boards of Ohio's five public employee retirement systems. Those laws are not located in R.C. Chapter 3517, but they do currently fall within the ELC's purview.

Under the bill, the subject of a complaint – the person who is alleged to have violated the law – is the factor that determines whether the complaint must be filed with the SOS or the board of elections of the applicable county:

<b>Jurisdiction over complaints alleging Campaign Finance Law violations, based on who is alleged to have committed the violation</b>	
<b>SOS</b>	<b>Board of elections of the applicable county</b>
<ul style="list-style-type: none"> <li>▪ A candidate for a statewide office – Governor, Lieutenant Governor, AG, SOS, Auditor of State, Treasurer of State, or justice or chief justice of the Supreme Court.</li> <li>▪ A candidate for member of the General Assembly.</li> <li>▪ A candidate for judge of a court of appeals.</li> <li>▪ A candidate for an office of a district or political subdivision that has territory in more than one county.</li> <li>▪ A candidate for the office of member of the Public Employees Retirement Board, the Board of Trustees of the Ohio Police and Fire Pension Fund, the State Teachers Retirement Board, the School Employees Retirement Board, or the State Highway Patrol Retirement Board.</li> <li>▪ A political party – national, state, or county.</li> <li>▪ A legislative campaign fund (campaign fund associated with a legislative caucus).</li> </ul> <p>A political action committee (PAC) or political contributing entity (PCE) that is required to file its statements of contributions and expenditures with the SOS, meaning a PAC or PCE that does any of the following:</p> <ul style="list-style-type: none"> <li>▪ Makes contributions to candidates for statewide office or the General Assembly;</li> </ul>	<ul style="list-style-type: none"> <li>▪ A candidate for an office of a political subdivision that has territory in only one county – county offices, township offices, and most municipal and school district offices.</li> </ul> <p>A PAC or PCE that is required to file its statements of contributions and expenditures with the board, meaning a PAC or PCE that does only the following:</p> <ul style="list-style-type: none"> <li>▪ Contributes to candidates who are to be on the ballot only within a county, subdivision, or district, other than General Assembly candidates. If the subdivision or district has territory in more than one county, the</li> </ul>

Jurisdiction over complaints alleging Campaign Finance Law violations, based on who is alleged to have committed the violation	
SOS	Board of elections of the applicable county
<ul style="list-style-type: none"> <li>▪ Makes contributions to political parties or legislative campaign funds;</li> <li>▪ Receives contributions or makes expenditures in connection with a statewide ballot issue; or</li> <li>▪ Makes contributions to other PACs or PCEs.</li> </ul> <p>Any person, other than a person listed above, that is not domiciled in Ohio (for example, an out-of-state campaign donor).</p>	<p>applicable board is the board of the most populous county in the district.</p> <ul style="list-style-type: none"> <li>▪ Receives contributions or makes expenditures in connection with ballot questions or issues that are to be on the ballot only within a county, subdivision, or district. If the subdivision or district has territory in more than one county, the applicable board is the board of the most populous county in the district.</li> </ul> <p>Any person, other than a person listed above, that is domiciled in the county (for example, a campaign donor who resides in the county).</p>

## Filing complaints

The bill generally retains the current requirements for filing a complaint. Under continuing law, no prosecution may commence for a violation of the Campaign Finance Law unless an administrative complaint has been filed and all administrative proceedings are completed. A person must have personal knowledge of a failure to comply with the Campaign Finance Law in order to file a complaint with the appropriate enforcement authority, except when the SOS or a member of the board of elections (current law specifies “an official at” the board) files the complaint. The complaint must be on a form prescribed by the SOS and signed under penalty of perjury.

Continuing law requires a complaint to be filed within two years after the occurrence of the violation, except that if the violation involves fraud, concealment, or misrepresentation and was not discovered during that two-year period, a complaint may be filed within one year after the violation is discovered. A person who files a complaint may withdraw it at any time, except that if the complaint receives an expedited hearing and the hearing has already begun, the appropriate enforcement authority must grant permission to withdraw the complaint.

## Hearing procedures

### Overview

#### *Complaints filed with the SOS*

Similar to current law, the bill requires the SOS to appoint an attorney licensed in Ohio to review each complaint filed with the SOS and make a recommendation for its disposition. Current law requires the ELC’s attorney to do so within one business day after the complaint is filed. The

bill does not impose such a deadline for initial review, but the bill generally shortens the timeline for hearing and disposing of complaints, as explained below under “**Timeline.**”

Under continuing law, the attorney reviewing a complaint may join two or more complaints that are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. The attorney also may separate a complaint into multiple complaints if the allegations are not of the same or similar character, are not based on the same act or failure to act, or are not based on two or more acts or failures to act constituting parts of a common scheme or plan.

After receiving the attorney’s recommendation, the bill allows the SOS either to dismiss the complaint or refer it for a hearing conducted by a hearing officer appointed by the SOS, who also must be a licensed attorney. If at any point, the SOS or the SOS’s hearing officer determines that the complaint is frivolous, the SOS may order the filer to pay reasonable attorney’s fees and the SOS’s costs.

Currently, the ELC or a panel of the ELC has the authority to dismiss a complaint, but it appears that any complaint that meets the formal requirements is guaranteed at least one hearing, at which the ELC or a panel may dismiss it. If the ELC or the panel determines that the complaint is frivolous, it may order the filer to pay reasonable attorney’s fees and the ELC’s costs.<sup>67</sup>

However, the bill includes a different procedure to follow if any of the following apply to the complaint:

- The SOS is a party to the complaint.
- A candidate for an office for which the SOS is also a candidate (in other words, the SOS’s opponent) is a party to the complaint or is otherwise involved in the complaint.
- The complaint involves a contribution, expenditure, or independent expenditure made to advocate the election or defeat of the SOS or a candidate for an office for which the SOS is also a candidate.
- The SOS determines that the SOS otherwise has a conflict of interest with respect to the complaint or that the SOS should follow the conflict-of-interest procedure to avoid any appearance of impropriety.

In that situation, the SOS must request the AG to appoint an independent attorney to review the complaint instead of having the SOS’s own attorney review it. The independent attorney must either dismiss the complaint or refer it to an independent hearing officer, also an attorney, who is appointed by the AG.

With respect to any complaint filed with the SOS under the bill, the hearing officer’s decision is binding, in that the SOS does not have the power to approve or disapprove it.

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<sup>67</sup> See O.A.C. 3517-1-02 and *Susan B. Anthony List v. Driehaus*, 814 F.3d 466, 474 (6<sup>th</sup> Cir. 2016), stating that the ELC has no method of screening out frivolous complaints before they receive a hearing.



## ***Complaints filed with a board of elections***

When a complaint is filed with a board of elections, the same initial review procedure applies under the bill. The board must appoint a licensed attorney to review each complaint and make a recommendation. Then, the board must determine whether to hear or dismiss the complaint. If the board determines that the complaint is frivolous, the board may order the filer to pay reasonable attorney's fees and the board's costs.

In deciding whether to hear or dismiss a complaint, and in making its final decision on a complaint after a hearing, the bill requires the board to decide by the affirmative vote of at least three of its four members. (Under continuing law, a board of elections consists of two Republicans and two Democrats appointed by the SOS based on the county parties' recommendations.) Unlike with most board votes, the bill prohibits the SOS from casting a vote to break any tie vote regarding a complaint.<sup>68</sup>

### **Timeline**

#### ***Regular***

The bill requires complaints to be resolved more quickly than under current law. The appropriate enforcement authority must dispose of any complaint within 180 calendar days after it is filed with the authority, unless the expedited hearing procedure applies.

Under existing law, unless the expedited hearing procedure applies, the ELC must hold the first hearing within 180 business days after the complaint is filed, or within 240 business days if the ELC asks an investigative attorney to find additional evidence for the ELC to consider. After the close of all the evidence presented, the ELC must render a decision within 30 days. However, there is no apparent limit on how long a case may be pending before the ELC after its first hearing but before all the evidence has been presented.

#### ***Eligibility for expedited hearing***

Under the bill, an expedited hearing requirement applies to any complaint that is filed during the 90 days before an election, if the complaint involves a candidate for nomination or election at that election or involves a ballot issue or question that appears on the ballot at that election.

Currently, the following complaints are subject to the ELC's expedited hearing procedure:

- Complaints filed during the 60 days before a primary or special election or during the 90 days before a general election, alleging a violation of the laws against any of the following:
  - Making false campaign statements (see "**False campaign statements**," above);
  - Infiltrating a campaign;
  - Concealing or misrepresenting contributions;
  - Awarding an unbid government contract to a campaign donor;

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<sup>68</sup> R.C. 3501.06 and 3501.07, not in the bill; R.C. 3501.11(X).

- Misusing campaign funds.
- Other complaints filed during the 60 days before a primary or special election or during the 90 days before a general election, if the ELC's attorney recommends an expedited hearing based on the following factors:
  - The number of prior violations of the Election Law the subject of the complaint has committed and any prior penalties the ELC has imposed on the person;
  - The time between alleged violations and whether the cumulative nature of the alleged violations indicates a systematic disregard for the law;
  - If the complaint involves a late filing, how late the filing is and how long after the filing deadline the complaint was filed;
  - If the complaint involves unreported or late-reported contributions or expenditures, the number of those contributions or expenditures and, if applicable, how late they were reported;
  - If the complaint involves unreported contributions to a candidate, whether any of the donors have a personal or professional relationship with the candidate;
  - If the complaint involves an incomplete statement, the degree to which it is incomplete;
  - If the complaint involves the receipt of unlawful corporate contributions, the dollar amount and number of the contributions;
  - If the complaint involves a failure to disclose the source of political advertising or a misstatement of the source, whether the failure or misstatement was on purpose;
  - The current number of pending expedited hearings. The attorney must not refer a case for an expedited hearing if it would place an undue burden on a panel of the ELC.
- Any other complaint, upon the request of the person filing the complaint, if the ELC determines that an expedited hearing is practicable and decides to grant the request.

### ***Expedited hearing timeline***

Under the bill, when the expedited hearing procedure applies to a complaint, the first hearing must be held within two business days after the SOS refers the complaint to the hearing officer or within two business days after the complaint is filed with the board of elections, as applicable. For good cause, the appropriate enforcement authority may delay the first hearing by up to an additional five business days. Then, if practicable, the authority must dispose of the complaint before the day of the election. If not, the authority must dispose of the complaint within 180 calendar days after it was filed.

According to current ELC procedures, expedited hearings begin with a hearing held by a panel of at least three members of the ELC, which must determine whether there is probable cause to believe that a violation has occurred. The panel generally must hold a probable cause hearing within seven business days after the attorney refers the complaint to the panel. But, the parties may agree to delay the hearing until up to 180 business days after the complaint was filed.

The law does not guarantee that a complaint will receive a probable cause determination before the election.

If the panel determines that probable cause exists, the full ELC must hold a hearing on the complaint within ten days after the panel makes its decision. After the close of all the evidence presented, the ELC must render a decision within 30 days. Again, however, there is no apparent limit on how long a case that receives an expedited probable cause hearing may be pending before the full ELC makes a final determination.

### **Investigative powers**

Currently, the ELC, the SOS, and the boards of elections all have the same basic investigative powers to assist them in carrying out their duties. They may administer oaths (that is, take sworn testimony from witnesses), and they may subpoena witnesses and documents within Ohio. The bill specifies that the SOS and the boards of elections may use those powers in fulfilling their new duties under the bill.

Similar to the ELC process, the bill allows for an investigatory attorney to assist an SOS hearing officer or a board of elections by producing sufficient evidence to decide the matter. At the hearing officer's request, the SOS must appoint an investigatory attorney. A board of elections itself also may appoint an investigatory attorney for that purpose.

### **Applicable laws and rules**

The bill requires the SOS to adopt rules under the rulemaking provisions of the Administrative Procedure Act (APA) to prescribe the procedures to be used in hearing complaints filed with the SOS or a board of elections. The APA's adjudicatory procedures for executive agencies also apply to proceedings held under the bill, except where they are inconsistent with the bill itself or with the rules the SOS adopts under the bill. Under continuing law, the APA sets out general requirements on such topics as notifying the parties of a hearing, keeping records of the proceedings, and the right to be represented by an attorney.<sup>69</sup> To the extent they are consistent with APA procedures and SOS rules, the Ohio Rules of Civil Procedure also apply to all hearings held under the bill.<sup>70</sup> These provisions are essentially the same as current law with respect to the ELC.

Additionally, under the bill, the Ohio Rules of Evidence apply to all proceedings before an SOS hearing officer or a board of elections.<sup>71</sup> For example, the Rules of Evidence limit the extent to which hearsay may be considered as evidence, or what evidence might be considered inadmissible because it is irrelevant or overly prejudicial. The bill does not allow the SOS to adopt

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<sup>69</sup> R.C. 119.05 through 119.13, not in the bill.

<sup>70</sup> Ohio Supreme Court, [Ohio Rules of Civil Procedure \(PDF\)](#), available at [supremecourt.ohio.gov](http://supremecourt.ohio.gov) under "Rules of Court."

<sup>71</sup> Ohio Supreme Court, [Ohio Rules of Evidence \(PDF\)](#), available at [supremecourt.ohio.gov](http://supremecourt.ohio.gov) under "Rules of Court."

rules that conflict with the Rules of Evidence. Currently, the ELC's rules provide that the Ohio Rules of Evidence apply only to the extent they are not in conflict with the ELC's rules.<sup>72</sup>

As the members of a board of elections are not necessarily attorneys, the bill requires a board to appoint an attorney to advise the board regarding the applicable procedures while it hears and adjudicates a complaint. Under current law, the ELC may delegate to its attorney the power to rule on the admissibility of evidence and to advise on other procedural matters.

### **Standard of proof**

The bill retains the current standards of proof that must be met for a person to be penalized for a campaign finance violation. Under continuing law, if the authority hearing a complaint finds that a violation has occurred, it must make that finding by a preponderance of the evidence. This is the standard of proof that applies in most civil cases. However, any finding of a violation of the law prohibiting false campaign statements or infiltrating a campaign must be made by clear and convincing evidence, which is a higher standard (see "**False campaign statements**," above). By contrast, to convict a person of a criminal violation of any campaign finance law, a judge or jury must find the person guilty beyond a reasonable doubt, the highest standard used in Ohio's legal system.

### **Penalties for campaign finance violations**

The bill gives an SOS hearing officer or a board of elections the same options as are currently available to the ELC, if the authority finds that a violation of the Campaign Finance Law has occurred:

- Enter a finding that good cause has been shown not to impose a fine or refer the matter for prosecution;
- Impose an administrative fine;
- Refer the matter to the appropriate prosecutor (see "**Appropriate prosecutor**," below).

But, if the authority finds a violation of the law prohibiting false campaign statements (see "**False campaign statements**," above) or infiltrating a campaign, the authority must refer the matter for prosecution instead of imposing an administrative penalty.

The bill does not make any substantive changes to the civil or criminal penalties for violating the Campaign Finance Law. But, the bill clarifies that the penalty for any violation is the penalty that was in effect at the time the violation occurred, which is generally true for any criminal law. In other words, an old violation must be punished under the old law. The bill repeals existing sections of law that refer to violations that occurred before August 23, 1995, when the legislature made a number of changes to the ELC and the Campaign Finance Law, but those older laws still would apply in the case of any violation committed before that date, even though the bill removes them from the Revised Code.

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<sup>72</sup> O.A.C. 3517-1-01.

Under continuing law, for any campaign finance violation occurring on or after August 24, 1995, the maximum administrative fine is the maximum fine a court could impose for that violation as a criminal fine. For a violation occurring between April 4, 1985, and August 23, 1995, the administrative fine must be the fine set by the ELC's fine schedule at the time of the violation. (In 1995, the General Assembly eliminated the ELC fine schedule and instead required the ELC to follow the criminal fine amounts.)

Continuing law allows the appropriate enforcement authority to suspend all or part of a fine upon whatever terms and conditions it considers just. In determining whether to impose a maximum fine, the authority must consider all of the following:

- Whether the violator has been found guilty of any other violation of the Election Law or has any outstanding fines for such a violation (the bill adds violations related to retirement system board elections as violations to be considered);
- Whether the violation was made knowingly or purposely;
- Whether any relevant statements, addenda, or affidavits required to be filed have not been filed;
- Whether the violation occurred during the course of a campaign.

In determining whether to impose a minimal fine or no fine, the authority must consider all of the following:

- Whether the violator previously has not been found guilty of any other violation of the Election Law (the bill adds violations related to retirement system board elections as violations to be considered);
- Whether the violator has promptly corrected the violator's violation;
- Whether the nature and circumstances of the violation merit a minimum fine;
- Whether there are substantial grounds tending to excuse or justify the violation, although failing to establish a defense to the violation;
- Whether the violation was not purposely committed.

### **Appeal of decision**

Under the bill, any appeal of a decision of an SOS hearing officer or a board of elections must be filed with the court of common pleas of the county in which the appealing party is domiciled. Existing law allows such a party to choose between the court of common pleas of the party's home county and the Franklin County Court of Common Pleas.

Under continuing law, if the appealing party is not domiciled in Ohio, the appeal must be filed with the Franklin County Court of Common Pleas.<sup>73</sup>

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<sup>73</sup> R.C. 119.12, not in the boll.

## **Appropriate prosecutor for campaign finance violations**

The bill changes the “appropriate prosecutor” to whom the SOS or a board of elections may refer a matter, directing many cases to the county prosecutor of the violator’s home county instead of the Franklin County Prosecutor. Under the bill, if the violator is domiciled in Ohio, the appropriate prosecutor is the county prosecutor of the violator’s county. If the violator is not domiciled in Ohio, the appropriate prosecutor is the Franklin County Prosecutor. However, if the enforcement authority determines that the applicable prosecutor has a conflict of interest with respect to the matter, the authority must ask the AG to appoint a special prosecutor.

Existing law specifies that in a case involving any of the following, the “appropriate prosecutor” to whom the ELC should refer a case is the Franklin County Prosecutor:

- A candidate for Governor, Lieutenant Governor, AG, SOS, Auditor of State, Treasurer of State, justice or chief justice of the Supreme Court, or member of the State Board of Education (under other provisions of the bill, members of the State Board of Education are no longer elected);
- A state or county political party;
- A legislative campaign fund;
- A PAC or PCE that is required to file its statements of contributions and expenditures with the SOS, meaning a PAC or PCE that does any of the following:
  - Makes contributions to candidates for statewide office or the General Assembly;
  - Makes contributions to political parties or legislative campaign funds;
  - Receives contributions or makes expenditures in connection with a statewide ballot issue; or
  - Makes contributions to other PACs or PCEs.

In any other case, existing law allows the ELC to refer the matter either to the Franklin County Prosecutor or to the prosecutor of the most populous county in which the candidacy or ballot question or issue appears on the ballot.

## **Records of proceedings**

The bill requires the SOS to post all of the following on the SOS’s official website and update it regularly:

- All decisions and advisory opinions issued by the SOS;
- All decisions issued by a board of elections. Upon rendering a decision, the board promptly must certify a copy to the SOS.
- All decisions and advisory opinions issued by the ELC before it is abolished;
- Copies of the Election Law.

Existing law requires the ELC to post all of its decisions and advisory opinions online, along with copies of the Election Law, and to keep them updated.

Under continuing law, complaints regarding campaign finance violations generally are considered public records, but they are not required to be posted online.

### **Funding; filing fee reduction**

The bill abolishes the Ohio Elections Commission Fund and eliminates or redirects its funding sources. Between the bill's effective date and January 1, 2026, the ELC must continue operating for the purpose of resolving pending complaints, but no new revenue is to be deposited in the ELC's fund during that time. The ELC Fund currently consists of the following:

- Administrative fines imposed by the ELC. The bill redirects those fines to SOS or the board of elections, as applicable. Any fines imposed by the SOS must be deposited in the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund, which is the SOS's main operating fund. Any fines imposed by a board of elections must be deposited in the county's general fund.
- A portion of candidate and petition filing fees. The bill eliminates the ELC's portion of those fees and thereby lowers the overall filing fees, as shown in the table below.
- Excess funds donated by a campaign committee or legislative campaign fund that chooses to dispose of its excess funds in that manner. The bill eliminates this option, requiring a campaign committee or legislative campaign fund either to give refunds to its donors or to donate the excess funds to a nonprofit corporation.
- Excess funds confiscated by a court from a campaign committee or legislative campaign fund that fails to dispose of excess funds as required under the law. The bill redirects those funds to the GRF.
- Funds appropriated by the General Assembly.

The table below shows the reduction in total filing fees as a result of eliminating the ELC's share. Under continuing law, the remainder of the fee goes to the GRF in the case of filings with the SOS, or to the county's general fund in the case of filings with a board of elections.

<b>Candidate and ballot issue filing fees</b>		
<b>Type of filing</b>	<b>Current ELC fee, eliminated</b>	<b>Continuing state or county fee</b>
Candidate for statewide office, including joint candidates for Governor and Lieutenant Governor	\$50	\$100
Candidate for district office	\$35	\$50
Candidate for judge of a court of appeals, court of common pleas, county court, or municipal court	\$30	\$50
Candidate for county office	\$30	\$50

Candidate and ballot issue filing fees		
Type of filing	Current ELC fee, eliminated	Continuing state or county fee
Candidate for city office	\$25	\$20
Candidate for village, township, or school district office	\$20	\$10
Petition for statewide ballot issue	\$25	\$0
Petition for county ballot issue or multicounty district ballot issue	\$15	\$0
Petition for city ballot issue	\$12.50	\$0
Petition for a village, township, or other district ballot issue	\$10	\$0

### Other transitional provisions

The ELC's employees cease to hold their positions of employment on January 1, 2026, or as soon as possible thereafter. The bill makes the SOS the ELC's successor for most other purposes. When the ELC is abolished, the SOS must do all of the following:

- Receive all of the ELC's records, assets, and liabilities, other than records of pending complaints that are transferred to a board of elections;
- Complete any unfinished ELC business, except for pending complaints that are transferred to a board of elections. The bill specifies that no validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer.
- Prosecute or defend any pending action or proceeding in place of the ELC, except for pending complaints that are transferred to a board of elections;
- Assume and pay off any outstanding obligations of the ELC. On January 1, 2026, or as soon as possible thereafter, the OBM Director must transfer the cash balance of the ELC Fund to the SOS's Corporate and Uniform Commercial Code Filing Fund. Upon completion of the transfer, the ELC Fund is abolished. The OBM Director must cancel any existing encumbrances against the ELC's appropriation item and reestablish them against an appropriation item under the SOS. The bill appropriates the reestablished encumbrance amounts.

Any remaining reference to the ELC or its Executive Director in any law, contract, or other document must be deemed to refer to the SOS.

### Technical changes to the Campaign Finance Law

The bill makes several technical changes to sections of the Campaign Finance Law that are amended for other purposes. First, the bill removes an incorrect cross-reference in



R.C. 3517.1012 and corrects the section to restore the meaning it had before the error arose. R.C. 3517.1012 lists the purposes for which a state or county political party may use its restricted fund, which may receive certain corporate and labor union contributions. Until 2019, the law allowed the party to use that fund for the same purposes as those for which the party could use the funds it received from the Ohio Political Party Fund under an income tax return checkoff program. But, when the tax checkoff and the Ohio Political Party Fund were eliminated in 2019, the cross-reference remained in R.C. 3517.1012.

The bill clarifies that a state or county party may use its restricted fund for any of the following purposes, as allowed before 2019:

- The defraying of operating and maintenance costs associated with political party headquarters, including rental or leasing costs, staff salaries, office equipment and supplies, postage, and the purchase, lease, or maintenance of computer hardware and software;
- The organization of voter registration programs and get-out-the-vote campaigns and the costs associated with voter registration and get-out-the-vote activities, including, but not limited to, rental costs for booth spaces at fairs, festivals, or similar events if voter registration forms are available at those booths, printing costs for registration forms, mailing costs for communications soliciting voter registration, and payments for the services of persons conducting voter registration and get-out-the-vote activities;
- The administration of party fundraising drives;
- Direct mail campaigns or other communications with the registered voters of a party that are not related to any particular candidate or election;
- The preparation of reports required by law.

The bill also corrects an incorrect reference in R.C. 3517.20 to refer to a “political contributing entity,” which is a defined term under the continuing law, instead of to a “political contributing committee,” which is not.

Finally, in R.C. 3517.992 (renumbered as 3517.99), the bill eliminates a reference to an obsolete provision of law related to declarations of no limits on campaign contributions, which are no longer used.