



July 2, 2018

Hon. Shantel Krebs
Secretary of State
500 E. Capitol Avenue
Pierre, SD 57501

RECEIVED
JUL 02 2018
S.D. SEC. OF STATE

Dear Secretary Krebs,

This office received an initiated measure prohibiting contributions to ballot question committees by non-resident, out-of-state political committees, and entities that are not filed with the Secretary of State. The only likely fiscal impact from this Initiated Measure will be if it is challenged on constitutional grounds. The methodology for calculating that impact is based on previous court cases handled by the state. The initiated measure requires a fiscal note because it was determined that it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions.

Enclosed is a copy of the initiated measure, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated measure.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Hancock". The signature is stylized and cursive.

Jason Hancock
Director

Enclosures

CC: Mark Mickelson

SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

FISCAL NOTE

INITIATED MEASURE

AN INITIATED MEASURE PROHIBITING CONTRIBUTIONS TO BALLOT QUESTION COMMITTEES BY NON-RESIDENT, OUT-OF-STATE POLITICAL COMMITTEES, AND ENTITIES THAT ARE NOT FILED WITH THE SECRETARY OF STATE.

The only likely fiscal impact related to this Initiated Measure will be if the measure is challenged on constitutional grounds. Based on previous court cases handled by the state, a median case costs approximately \$78,322.

Approved: 

Date: 7/2/18

Director, Legislative Research Council

An Act to revise certain provisions regarding contributions to ballot question committees.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 12-27 be amended by adding a NEW SECTION to read:

If a ballot question committee receives contributions totaling twenty-five thousand dollars or more within a twelve-month period from an entity or from a political action committee that is not otherwise required to file a campaign finance report statement under subdivision 12-27-22(2), the committee shall disclose in a supplemental disclosure within the committee's campaign finance disclosure required under this chapter the name and address of the fifty largest contributors to the entity or political action committee during the one year preceding the date the supplemental report is filed.

Section 2. That chapter 12-27 be amended by adding a NEW SECTION to read:

If any entity, or any political action committee that is otherwise required to file a campaign finance disclosure statement under subdivision 12-27-22(2), makes an independent communication expenditure of twenty-five thousand dollars or more within a twelve-month period, the entity or committee shall disclose as a supplemental disclosure within the campaign finance disclosure statement required under this chapter the name and address of the fifty largest contributors to the entity or the political action committee during the one year preceding the date the supplemental report is filed.

Section 3. That chapter 12-27 be amended by adding a NEW SECTION to read:

If any of the fifty largest contributors required to be disclosed under this Act is an entity or political action committee that is not otherwise required by any other law to disclose its contributors, the ballot question committee, entity, or political action committee shall collect and disclose the top fifty contributors to the contributing entity or political action committee in a supplemental report.

Section 4. That chapter 12-27 be amended by adding a NEW SECTION to read:

The disclosure requirements under this Act do not apply to:

- (1) A nonprofit corporation as defined in 26 U.S.C. § 501(c)(3);
- (2) An entity from which any part of the net earnings inures to the benefit of a private shareholder, partner, member, or person; or
- (3) A contributor of less than five thousand dollars during the required reporting period.

Section 5. That chapter 12-27 be amended by adding a NEW SECTION to read: If an entity, political action committee, or ballot question committee fails to make a timely disclosure pursuant to this Act, the entity, political action committee, or ballot question committee is subject to a civil penalty of not more than five thousand dollars to be imposed by the secretary of state and deposited into the state general fund. If a ballot question committee knowingly and intentionally fails to make a timely disclosure pursuant to this Act, the ballot question committee is subject to a civil penalty equal to twenty-five percent of the entity's or political action committee's aggregate contribution during that calendar year to be imposed by the secretary of state and deposited into the general fund. If an entity or political action committee fails to make a timely disclosure pursuant to section 3 of this Act the entity or political action committee is subject to a civil penalty equal to twenty-five percent of the total independent communication expenditure made by that entity or political action committee imposed by the secretary of state and deposited into the state general fund. An intentional violation of the provisions of this Act is a Class 1 misdemeanor.

Section 6. That chapter 12-27 be amended by adding a NEW SECTION to read:

If any ballot question committee, entity, or political action committee violates any provision of this Act and does not comply within ten days of written notification of the violation delivered by certified mail from the secretary of state, the committee or entity may not contribute to any other ballot question committee or make any other independent communication expenditure for a period of five years.

Section 7. That chapter 12-27 be amended by adding a NEW SECTION to read:

For purposes of this Act, all ballot question committees established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit are affiliated and share a single contribution limit.