

**CAMPAIGN FINANCE LAW
IN INDIANA**

I. INTRODUCTION

Indiana requires all political committees and any person making an independent expenditure to file information on all contributions and expenditures at least once annually, once before any election, and (if a state convention candidate) once after a convention. Any individual or entity, other than a corporation or labor union, may make unlimited contributions. A corporation or labor union is limited to contributions aggregating \$5,000 for statewide candidates, \$5,000 for state party central committees, \$2,000 for house legislative caucuses, \$2,000 for senate legislative caucuses, \$2,000 for all house candidates, \$2,000 for all senate candidates, \$2,000 for school board and local office candidates, and \$2,000 for non-state party committees. Government employees may not solicit or receive contributions during business hours, and certain state employees may not be forced to make or solicit contributions. Major lottery vendors; riverboat casino license holders and those holding licenses to supply the casinos; and pari-mutuel horse-racing license holders and certain officers and related entities of these businesses may not make contributions to certain candidates or committees. Candidates for the General Assembly, their committees, and legislative caucus committees may not conduct fundraising activities during the odd-numbered year legislative sessions. Certain House of Representatives party caucus fundraisers are prohibited during periods surrounding sessions of the General Assembly. Indiana offers no tax incentives for political contributions, but offers a mechanism for financing political parties through personalized license plate revenues. The Indiana Election Commission and the Election Division of the Office of the Secretary of State are responsible for overseeing the campaign finance provisions of the law. An attempt to regulate contributions and expenditures by a local unit of government is not permitted, absent specific statutory authority [1].

II. CONTRIBUTION AND SOLICITATION LIMITATIONS

A. Definition of Contribution. A contribution is a donation, whether characterized as an advance, gift, subscription, loan, or a contract or promise to make a donation of property for the purpose of influencing the nomination or election to office of a candidate [2], the outcome of a public question [3], or the election of delegates to a constitutional convention [4] which is accepted by a candidate [5], a candidate's committee [6], a regular party committee [7], or a political action committee [8]. Funds

received by a political committee which are transferred to that committee from another political committee are considered to be a contribution to the accepting committee [9]. Whenever a candidate or committee accepts the personal services of a person whose compensation is being paid by a third person, the candidate or committee is considered to be receiving a contribution from the third person in the amount of the compensation paid [10]. A candidate or committee other than a political action committee which accepts a donation of rent, office expenses, management fees, costs of solicitations of contributions, or other administrative costs is not considered to have accepted a contribution [11].

A contribution does not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate or committee [12].

A contribution is considered to be "made" for campaign finance reporting purposes when a person makes a contribution during the calendar year in which the person relinquishes control over the contribution by depositing the contribution in the United States mail [13]; or transferring the contribution to any other person who has been directed to convey the contribution to the person intended to be the recipient of the contribution [14]. A contribution is considered to be "received" and "accepted" for campaign finance reporting purposes when any member of the committee has physical possession of the contribution and manifests an intent to keep the contribution by depositing, rather than returning, the contribution [15].

B. Limitations on Nature of Contributions. All contributions are required to be made through the committee treasurer [16], and a committee cannot receive contributions without a duly appointed treasurer [17], who may be the candidate [18]. The treasurer is required to keep detailed records of all contributions [19], including names and addresses of those making aggregate contributions of more than \$25 and the date and amount of such contributions [20].

Money received by a candidate's committee as a contribution may be used only to defray any expense reasonably related to the person's campaign for federal, state, legislative, or local office [21]; continuing political activity [22]; activity related to service in an elected office [23]; or to make an expenditure to any national, state, or local committee of any political party or another candidate's committee [24]. Money received by a candidate's committee as a contribution may not be used for primarily personal purposes by the candidate or by any other person except as specified by law [25].

A person, group, or committee may not recklessly make [26] or knowingly accept a contribution made by a person, group, or committee in the name of another [27].

C. Limitations on Source of Contributions. A foreign national may not make a contribution connected with an election, convention, or caucus in Indiana [28].

Contractors for major procurements or auditing services [29] or contractors for ticket printing, certain on-line services, consulting services, and security [30] with the Indiana State Lottery Commission or its director (or an officer or political action committee of the contractor) may not make a contribution to: (1) a candidate for state office; or (2) a candidate's committee, a regular party committee, or a state legislative caucus committee while a contract is in effect and during the three years following the expiration of the contract [31].

A person holding a permit from the Indiana Horse Racing Commission [32] or a person who holds at least a one percent interest in the permit holder [33]; an officer of the permit holder [34]; an officer of a person that holds at least a one percent interest in the permit holder [35]; or a political action committee of the permit holder [36] may not make a contribution to a candidate for state office, state legislative office, or a local office [37]; or a candidate's committee, a regular party committee, or a state legislative caucus committee [38] while the permit holder holds the permit [39] or during the three years after the final expiration or termination of the permit [40]; and may not give any property [41] to a member of a precinct committee to induce the member of the precinct committee to do any act or refrain from doing any act with respect to the approval of a local public question concerning pari-mutuel horse racing or the operation of satellite facilities in the county [42].

A person holding an owner's license [43] or certain types of a supplier's license under the riverboat gambling law [44]; a person who holds at least a one percent interest in the license holder [45]; an officer of the license holder [46]; an officer of a person that holds at least a one percent interest in the license holder [47]; or a political action committee of the license holder [48] may not make a contribution to a candidate for state office, state legislative office, or a local office [49]; or a candidate's committee, a regular party committee, or a state legislative caucus committee [50] while the license holder holds the license [51] or during the three years after the final expiration or termination of the license [52]; and may not give any property [53] to a member of a precinct committee to induce the member of the precinct committee to do any act or refrain from doing any act or refrain from doing any act with respect to the approval of a local public question concerning riverboat gaming in the county [54].

A public utility (or any officer of a political subdivision constituting a public utility) may not offer or give to any candidate or political committee, any frank, privilege, or property not available to any other person for a product or service, nor may a candidate or political committee seek such a gratuity [55].

D. Limitations on Amounts of Contributions. Corporations and labor organizations are limited to total political contributions, in any calendar year, of an aggregate of \$5,000 apportioned in any manner among all candidates for state offices (including a judge of the court of appeals whose retention in office is voted on by a district that does not include all of the state) [56]; an aggregate of \$5,000 apportioned in any manner for the political party state committees [57]; an aggregate of \$2,000 apportioned in any manner for all candidates for state senate [58]; an aggregate of \$2,000 apportioned in any manner for all candidates for state house [59]; an aggregate of \$2,000 apportioned in any manner among regular party committees organized by a legislative caucus of the state senate [60]; an aggregate of \$2,000 apportioned in any manner among regular party committees organized by a legislative caucus of the state house of representatives [61]; and an aggregate of \$2,000 apportioned in any manner for all candidates for school board offices and local offices [62]; and an aggregate of \$2,000 apportioned in any manner among all central committees other than state committees [63].

A corporation or labor union may thus contribute a total of \$22,000 per calendar year to political committees, including contributions made to a political action committee sponsored by the corporation or labor union [64]. These are the only corporate or labor organization contributions authorized by law, and these limits cannot be evaded by giving to a committee, nominally in one category, funds designated for another category, but contributions by political action committees associated with these entities are not limited, nor is the amount of administrative funding provided by a corporation or labor organization to its own political action committee limited under the contribution provisions [65]. The limitations do not apply to nonpartisan voter registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and employees [66], or by a trade association or labor organization aimed at its members [67].

The contribution limits do not apply to a contribution or transfer by an incorporated nonpartisan political action committee to any other committee [68] or to a contribution supporting or opposing the approval of a public question submitted to the electorate of the entire state or a local public question [69].

Contributions by national party or national party congressional committees to state,

district, county, city, or town political party committees are also specifically permitted [70].

E. Limitations on Timing of Contributions. A member of the General Assembly (or a candidate for the General Assembly) may not solicit or accept campaign contributions, or conduct other fundraising activities during the period beginning when the General Assembly convenes in January of each odd-numbered year and ending when that session adjourns *sine die* [71]. This limitation does not apply to a member of the General Assembly (or the candidate's committee of the member) if the member is seeking election to an office other than that of a state legislator [72].

A House of Representatives legislative caucus party committee may not intentionally solicit contributions from a lobbyist or political action committee during the period from the day before through the day after the day in November of each year that the General Assembly convenes [73], or during the period from the first day in January each year through the adjournment *sine die* of a regular session of the General Assembly [74].

F. Limitations Pertaining to Government Employees. An Indiana state police employee, a police officer, or a firefighter (including a special duty, auxiliary, or volunteer police officer or firefighter of a political subdivision) may not recklessly solicit campaign funds [75] while wearing any identifying insignia or article of clothing that is part of an official uniform, or while on duty [76].

No member of the Indiana State Library and Historical Board nor any director or other employee of the department shall directly or indirectly solicit subscription or contribution for any political party or political purpose, or be forced in any way to make such contribution, or be required to participate in any form of political activity [77].

An employee of the Indiana State Historical Bureau may not directly or indirectly solicit subscription or contribution for any political party or political purpose, or be forced in any way to make such contribution, or be required to participate in any form of political activity [78].

An employee of the Indiana Department of Transportation whose duties require specialized knowledge or skill, acquired by professional or technical education, training, and experience may not solicit or receive political contributions [79], and may not be required to make contributions for or participate in political activities [80].

An employee of the Department of Natural Resources designated by the state personnel department as professional or technical may not solicit or receive money for political purposes [81], or be required to make contributions for or participate in political activities [82]. A Department of Natural Resources property manager may not solicit or receive money for political purposes [83].

An individual may not solicit or receive a contribution if it would violate the provisions relating to contributions by those affiliated with the Indiana Library and Historical Department; the Indiana State Library; the Indiana Historical Bureau; and the Indiana Department of Transportation [84].

A state employee is prohibited from soliciting political contributions from another employee or any other person when on duty or acting in an official capacity [85]. A state employee is free, however to engage in such activity when not on duty [86]; however, a state employee is prohibited from soliciting contributions at any time from persons whom the employee knows to have a business relationship with the employee's agency [87], or state employees directly supervised by the employee [88].

A judge should not solicit funds for or pay an assessment or make a contribution to a political organization or candidate, or purchase tickets for political party dinners [89]. A candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates should not personally solicit or accept campaign funds, but may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign [90]. Such committees may solicit campaign contributions from lawyers [91]. A candidate's committee may solicit funds for the campaign no earlier than 120 days before a primary election, and no later than 90 days after the last election in which the candidate participates during the election year [92]. A judge is not permitted to use or permit the use of campaign contributions for the private benefit of the judge or members of the judge's family [93]. An incumbent judge engaged in a retention election that has drawn active opposition may raise campaign funds in a similar manner [94].

Employees and officials subject to a judge's direction and control are subject to the same restrictions on political activity as the judge [95].

III. EXPENDITURE LIMITATIONS

A. Definition of Expenditure. An expenditure is a disbursement (whether characterized as an advance, deposit, distribution, gift, loan payment, purchase or contract or promise to make a disbursement) of property made for the purpose of influencing the nomination or election to office of a candidate, the outcome of a public question, or the election of delegates to a state constitutional convention [96] made by an individual (except that a contribution made by an individual is not considered to be an expenditure), a candidate's committee, a regular party committee, or a political action committee [97]. Whenever funds are transferred from one committee to another, the disbursing committee is considered to be making an expenditure in the amount of the funds transferred [98].

An expenditure is considered to be on behalf of a candidate if: (1) the expenditure is made in support of the candidate who is specifically identifiable [99]; or, (2) the expenditure is made in opposition to an opponent of the candidate [100] who is specifically identifiable [101]. An expenditure is not considered to be made on behalf of a candidate if the expenditure is made to inform the members of the organization or for the development of the committee's political party [102].

B. Limitations on Nature of Expenditures. The treasurer is the only person permitted by law to disburse money received by the committee [103], and the committee may not make expenditures in the absence of a treasurer [104]. The treasurer may not expend or disburse money or other property or incur any liability except by the authority and subject to the direction of the committee the treasurer is serving [105]. The treasurer must keep a detailed accounting of all information required to be reported under the campaign finance law [106]. Proof of payment and a record of particulars must also be maintained by the treasurer for all committee expenditures in excess of \$25, or, if aggregate payments to the same person exceeds \$25 in a calendar year, any expenditures [107]. Records must be maintained for three years [108] or for one year after the date of dissolution of the committee, whichever occurs first [109].

Money received by a candidate's committee or other political committee as a contribution may be used only to defray any expense reasonably related to the person's campaign for federal, state, legislative, or local office [110]; continuing political activity [111]; or activity related to service in an elected office [112]. Funds may also be used to make an expenditure to any national, state, or local committee of any political party or another candidate's committee [113].

C. Special Provisions Related to Personal Use of Campaign Funds. Money received by a candidate's committee or other political committee as a contribution may

not be used for primarily personal purposes by the candidate or by any other person except as just noted [114]. However, the law has been interpreted to allow the payment of a salary to the candidate or a member of the candidate's household by the candidate's campaign committee, and to permit the reimbursement of a candidate for lost wages [115].

A candidate and a candidate's campaign committee may execute a written contract providing that the committee will pay a salary to the candidate or a member of the candidate's household [116]. The contract must state the obligations of the candidate and committee regarding the services to be rendered by the candidate or other individual [117]; state the basis for computation of the compensation for the candidate's or individual's services (meaning an hourly, daily, monthly, or other basis for the computation) [118]; and be filed with each office in which the committee is required to file a campaign finance report before any payment is made under the contract [119].

A candidate and a candidate's campaign committee may execute a written contract providing that the committee will reimburse the candidate for lost wages or salary payments from other employment incurred by the candidate as a result of services provided to the committee [120]. The contract must state the employer and job position of the candidate subject to the reimbursement for lost wages or salary payments [121]; state the basis for computation of the compensation for the candidate's lost wages or salary payments (meaning an hourly, daily, monthly, or other basis for the computation) [122]; and be filed with each office in which the committee is required to file a campaign finance report before any payment is made under the contract [123]. Reimbursement may not exceed the actual wages or salaries that would have been earned by the candidate in the candidate's regular employment [124].

A candidate and a candidate's campaign committee may not pay a salary or reimbursement in an amount that exceeds the amount specified under the contract unless the candidate first files a written amendment to the contract permitting the additional payment, and doing so in the same office in which the original contract was filed [125].

IV. REPORTING REQUIREMENTS

A. Registration. A candidate must file a declaration of candidacy form, which must state if the candidate has filed all annual campaign finance reports from any previous campaigns [126]; has filed or is aware of the requirement to file a statement of organization within the requisite time frame [127]; is aware of the state laws concerning

campaign finance and the reporting of campaign finance contributions and expenditures [128]; and agrees to comply with the campaign finance laws [129].

Every political committee must file a statement of organization no later than noon 10 days after its organization or after it becomes a committee [130], which includes the committee's name, address [131], and purpose, if not a candidate committee [132]; the names and addresses of the committee's chairman and treasurer [133]; a listing of all banks, safety deposit boxes, and other depositories used [134]; and, if applicable, a listing of the name, address, office sought, and party of each candidate supported [135]; the party name, if the committee is supporting an entire ticket [136]; and a brief statement of any questions supported or opposed, if applicable [137].

A political committee which is engaged solely in issue advocacy and which does not advocate the election or defeat of a clearly identified candidate, or advocate the passage or defeat of a public question is not required to register and report [138].

Changes in information contained in statements of organizations must be reported to the Election Division within 10 days after the change [139].

No later than noon 10 days after becoming a candidate, or noon seven days after the deadline for filing as a candidate, whichever comes first (but not later than the date a candidate is required to file the candidate's first campaign finance report), each candidate must file a statement naming a principal committee, campaign chair, and treasurer [140]. Failure to file the statement results in a committee name being designated by statute, with the candidate serving as chair and treasurer [141].

B. Candidates, Committees, Individuals, Corporations, and Labor Organizations Required to Report and Filing Officer. All candidates, candidates for state office and their candidate's committees [142], state central and congressional district central committees [143], other regular party committees that propose to influence the election of a candidate for state or legislative office, or the outcome of a statewide public question [144], certain individuals or political action committees that propose to influence the election of a candidate for state or legislative office, or the outcome of a statewide public question [145], and a corporation or labor organization which makes an independent expenditure of more than \$100 in a year to influence the outcome of a riverboat gambling public question are required to file reports with the Election Division or a county election board [146]. A candidate for legislative office and the candidate's committee file a duplicate copy of each required report with the county election board of the county in which the candidate resides [147].

Each local candidate for local office and his or her candidate's committee [148],

regular party committees that are not required to file with the Election Division [149], and political action committees that are not required to file with the Election Division file reports with the county election board of each county comprising part of the affected election district [150].

A public utility regulated by the Indiana Utility Regulatory Commission must file an annual report of contributions to office seekers and/or political committees with that entity [151].

A candidate who holds one office and files a statement of organization for an exploratory committee without indicating that the individual is a candidate for a specific office is required to file a supplemental campaign finance report if the candidate's committee for the office the candidate currently holds spends, transfers in, or transfers out at least \$10,000 before a primary or general election [152].

The treasurer of a campaign finance committee (or an organization) who receives a contribution on behalf of a candidate or makes an expenditure on behalf of a candidate must report to the candidate's committee all information about a contribution received or an expenditure made on behalf of a candidate that the treasurer of the candidate's committee would be required to report if the candidate's committee had received the contribution or made the expenditure [153].

Reports indicating whether or not a committee has received large, late contributions are also required from all committees. This supplemental report must indicate whether a committee has received a contribution of at least \$1,000 not more than 25 days before an election and not less than five days before a primary or general election or nominating convention, and include the information required of such a contribution as in any other report [154].

C. Reporting Dates. Each candidate's committee, legislative caucus committee, or political action committee is required to file an annual report, due by the third Wednesday in January of each year current through December 31st of the previous year, covering the period since the last report [155]. Annual reports of political party committees are not due until March 1st but still must be current through December 31st of the previous year, covering the period since the last report [156].

All committees must also file reports with the appropriate office current and dated as of 25 days before a primary election or nominating convention [157], and 25 days before a general election [158]. In the case of a candidate for nomination at a convention who becomes a candidate less than 25 days before a convention, a report

must be filed no later than noon 20 days after the state convention [159].

Hand-delivered reports must be received not later than noon seven days after the date of the report [160]. Reports that are mailed must be filed not later than noon seven days after the date of the report [161]. If the appropriate office has the capacity to receive reports via electronic mail, reports delivered by electronic mail must be received by the appropriate office not later than noon seven days after the date of the report [162].

The campaign finance reporting period for a candidate selected to fill a vacancy on the general election ballot begins on the date the individual became a candidate and ends 25 days before the general election [163].

A supplemental report of large contributions must be filed not later than noon five days before the election [164], if such contributions were received [165].

A legislative caucus committee is not required to file a pre-primary or pre-general election campaign finance report during an odd-numbered year, but rather must only file an annual report during the following January reporting its activity during the entire odd-numbered year [166].

The Election Division permits the electronic submission of campaign finance reports of candidates for statewide and state legislative office [167]. An electronic submission must be in a format previously approved by the Indiana Election Commission that permits the Election Division to print out a hard copy of the report upon the receipt of the electronic submission from the candidate [168]. Filing of a report occurs when the hard copy is printed out and the filing office records the date and time of the printout on the hard copy, and if a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed to correct the discrepancy [169].

A campaign finance report may be submitted by e-mail if the filing office has the ability to receive it and print out a hard copy of the report immediately upon its receipt [170]. Filing of a report occurs when the hard copy is printed out and the office records the date and time of the printout on the hard copy, and if a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed to correct the discrepancy [171].

An e-mail report must be filed no later than noon seven days after the date of the report [172].

Filing may be made by FAX if the filing office has previously approved such filing [173].

D. Report Contents. Each report is filed by the committee treasurer, and must include information on the cash on hand at the beginning of the reporting period [174]; the sum of individual contributions, including transfers-in, accepted by the committee during its reporting period [175]; names and addresses of those making aggregate contributions within the year exceeding \$100 in the case of a candidate's committee or a political action committee [176] or in the aggregate exceeding \$200 for contributions to regular party committees, along with dates and amounts [177]; the name and address of each committee from which the reporting committee received, or to which that committee made, a transfer of funds, along with the dates and amounts [178]; loan amounts and dates, along with names and addresses of the lender and any endorsers [179]; the total sum of all receipts of the committee during the reporting period [180]; the name, address, occupation, and principal place of business of each person other than a committee to whom any expenditure was made by the committee aggregating in excess of \$100 in the case of a candidate's committee or political action committee [181], or aggregating in excess of \$200 in the case of a regular party committee [182]; along with the amount, date, and purpose of each expenditure, the name and address of, and question or office sought by each candidate on whose behalf the expenditure was made [183]; the name, address, occupation, and principal place of business of each person receiving an aggregate amount more than \$100, in the case of a candidate's committee or political action committee [184], or in excess of an aggregate of \$200 for regular party committees for personal services, salaries, or unreimbursed expenses, along with a notation of the date, amount, and purpose of the expenditure [185]; the total sum of expenditures made by the committee during the reporting period [186]; and the amount and nature of debts and obligations owed by or to the committee, until the debts or obligations are extinguished [187].

If a person contributed or loaned at least \$1,000 in a calendar year, the contributor's occupation must also be disclosed [188].

Candidate's committee reports are cumulative during the calendar year [189]. If no contributions were received or expenditures made by a candidate's committee during the year, a statement to that effect must be filed [190].

A supplemental report of large contributions must include: (1) the name and address of the person making the large contribution [191]; (2) the person's occupation, if the person is an individual [192]; (3) the amount of the contribution [193]; and, (4) the date

the contribution was received [194].

A person may file duplicates of the reports required to be filed under the Federal Election Campaign Act [195] to comply with the Indiana reporting requirements [196]. Such a duplicate must cover all activity of the committee, and the committee must file a supplementary report as directed by the Election Division to provide any information required by state law that is not included in the federal report [197].

An annual report of a public utility filed with the Indiana Utility Regulatory Commission must contain the names of candidates or political committees to which contributions were made, the amounts, and whether the candidate or committee is registered at the federal or state level [198].

V. PUBLIC FINANCING

Indiana has a unique statutory scheme for distributing the revenues from personalized license plates to political parties. Of the requisite license plate fees, a specified amount after the deduction of normal registration costs is deposited by the state treasurer in a special fund, distributed on a quarterly basis by the state auditor [199]. The state auditor distributes funds from this account to any political party having at least five percent but less than one-third of the total vote of the state of all political parties in the last preceding general election for governor to the political party treasurers [200]. The balance of the monies is distributed quarterly by the auditor in equal amounts to the treasurers of the state central committees of the two political parties casting the largest and next largest number of votes statewide for governor [201]. Within 30 days of receiving these funds, the state party treasurer must distribute to the treasurer of each county central committee of their party an amount equal to one-half of the second-tier, equal amount distributions to the two political parties collected from that county in that quarter [202].

VI. POST-ELECTION REQUIREMENTS

A. Administrative Dissolution. The appropriate filing office is empowered to disband certain defunct committees by administrative action after an annual review that must take place no later than the final Friday of each year [203] if the filing office determines that a committee has not filed any report of expenditures during the previous three calendar years [204]; owes no debts to any person other than a civil penalty assessed by the commission or board [205]; or to an individual who was a candidate and also serves as the chairman or treasurer of the candidate's committee [206]; and last

reported cash on hand in an amount that does not exceed \$1,000 [207].

The filing office must provide notice of the proceeding by certified mail to the last known address of the chair and treasurer of the committee [208]. The filing office may issue an order administratively dissolving the committee and waiving any outstanding civil penalty previously imposed by the filing office, if the appropriate office finds that there is no evidence that the committee continues to receive contributions, make expenditures, or otherwise function as a committee [209]; the prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust [210]; and, according to the best evidence available to the filing office, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person [211].

The Election Division shall arrange for the publication in the *Indiana Register* of an order administratively disbanding a committee, while a county election board shall publish a notice under regular state laws governing publication of legal notices [212] stating that the entity has disbanded a committee, including in the notice the date of the order and the name of the committee [213].

Such an order takes effect immediately upon its adoption, unless otherwise specified in the order [214].

Except with respect to the waiver of certain civil penalties, a dissolution or transfer of funds does not relieve the committee or the committee's members from civil or criminal liability [215].

B. Recordkeeping. The committee treasurer must preserve all required receipted bills and accounts for at least three years [216], or for one year from the date of dissolution of the committee [217].

C. Reporting. Not later than noon 30 days after a political committee is disbanded, the last person to be treasurer must file a final report complete as of the last day the committee existed, covering the period since the most recent report [218].

Not later than noon 30 days after leaving the office, the outgoing treasurer of a continuing committee must file a final report complete as of the last day he or she was treasurer, covering the period since the most recent report [219].

D. Disposition of Surplus Funds. A political committee, upon disbanding, may transfer any surplus of contributions less expenditures to any one or a combination of

the following: one or more regular party committees [220], one or more candidate's committees [221], the Election Division [222], an organization exempt from federal income taxation under the Internal Revenue Code [223], contributors to the committee, on a pro rata basis [224], and a candidate committee may also use the surplus to defray any expense reasonably related to the person's continuing political activity [225] or activity related to service in an elected office [226].

VII. OFFENSES AND PENALTIES

A person who knowingly or intentionally violates the campaign contribution restrictions commits a class A infraction [227].

The reckless collection, receipt, or disbursement of money or property by a committee without appointment of a treasurer [228]; reckless exceeding of contribution limits by a corporation or labor organization [229]; reckless making [230] or knowing acceptance of a contribution made in the name of another person [231]; failure to file a required report [232] or reckless commingling of campaign funds [233]; is a class B misdemeanor, which carries a \$1,000 penalty [234].

A person who knowingly or intentionally violates the provisions applicable to prohibited contributions by a person associated with the state lottery, riverboat casinos, or pari-mutuel horse-racing commits a class D felony, and may be subject to additional discipline by the appropriate regulatory entity [235].

A person who violates the statutory prohibitions related to fundraising during a legislative session is subject to a civil penalty equal to the greater of: (1) twice the amount of the contribution received; or, (3) \$1,000; as well as any investigative costs incurred and documented by the Election Division [236].

A person who knowingly files a false required report commits a class D felony [237].

A candidate who fails to file a required campaign finance report or a statement of organization may be fined \$50 per day the report is late, to a maximum of \$1,000 plus documented investigative costs [238].

A candidate who fails to correct a deficient required campaign finance report or a statement of organization after proper notice may be fined \$10 per day that the report is late (after the requisite five-day notice period has run), to a maximum of \$100 plus documented investigative costs [239].

A candidate who has been fined for a campaign finance violation and who is subsequently elected to office is subject to the withholding of the civil penalty from the person's salary as an officeholder [240].

Excess labor and corporate contributions are subject to civil penalties [241].

VIII. RESPONSIBLE STATE AGENCIES

A. Indiana Election Commission and the Election Division of the Office of the Secretary of State. The Indiana Election Commission oversees the regulation of campaign finance in Indiana, while the Election Division of the Office of the Secretary of State is responsible for the implementation of the law.

The governing body of the Indiana Election Commission has four members, all appointed by the governor [242], with two members being appointed after nomination by the state chair of each major political party [243]. When filling a seat on the Commission, the appropriate state chair nominates two registered voters to fill the seat, and the governor then selects one of the two individuals to appoint to the seat [244]. A Commission member serves a two-year term, beginning July 1 following appointment and qualification [245]. Special procedures for appointment exist if the appropriate state party chair fails to make a timely nomination to fill a Commission seat [246].

The governor appoints a member of the Indiana Election Commission who is of the same political party as the Secretary of State to serve as chair [247]. The person appointed as chair serves until the person's term as a commission member expires [248].

The Election Division is part of the Office of the Secretary of State [249]. The Election Division is headed by two co-directors, appointed by the governor [250], who serve for a term of four years each [251]. The co-directors, who may not be members of the same political party [252], have equal authority and responsibilities [253], share the same employment classification for state personnel purposes [254], and receive the same compensation, except for differences due to years of service [255]. If a vacancy in the office of co-director occurs, the state chair of the appropriate party submits two names to the governor within thirty days after receiving notice of the vacancy, and the governor then appoints one of the two nominees as a co-director [256]. If the state chair fails to make a timely nomination, the governor may then appoint a person of the appropriate political party as a co-director, subject to disapproval within seven days by the state chair [257].

The Election Division develops and furnishes necessary forms [258]; notifies candidates and committees by mail 21 days before a report is due that a given report is due on a particular date [259]; publishes an information manual [260]; provides training to candidates with respect to electronic filing of campaign finance reports [261]; implements a filing, coding, and cross-indexing system for reports [262]; makes reports available for public inspection and copying at cost, as soon as practicable, but not later than the end of the second business day following the day received [263]; preserves reports for a period of four years from December 1st following the election to which they pertain, unless the records are in litigation [264]; and publishes annual reports and annual compilations of contributions and expenditures [265]. The Commission is also empowered to promulgate necessary regulations [266].

The Election Division is also charged with developing and maintaining a computer system to store campaign finance reports from candidates, political action committees, and regular party committees that are filed with the Election Division [267]. This computer system must enable the Election Division to identify all candidates or committees that received contributions from a contributor during the past three years [268], and all contributors to a candidate or committee over the past three years [269]. The Election Division must make campaign finance reports stored on this computer system available through an on-line service [270].

The Election Division is also empowered to make audits and field investigations, and may request the assistance of the State Board of Accounts [271] and the state police department and state police officers [272]. An audit or investigation authorized by the Commission must be conducted by at least two state employees divided equally between the two major political parties of the state [273].

The Election Division is required to notify delinquent entities to file a statement of organization or campaign finance report immediately upon receipt of the division's notice, with the delinquency notice rendered not later than 30 days after the date the item was required to be filed [274]. The Election Division may also give notice to delinquent filers at other times [275]. The Election Division is required to notify those who file defective statements or reports and give them five days from receipt of the notice to remedy the deficient filing [276]. The Election Division must publicly post a list of delinquent filers [277].

The Election Division is empowered to disband certain defunct committees by administrative action after an annual review and special findings [278].

The Election Division maintains the Campaign Finance Enforcement Account, a non-reverting account within the state General Fund [279].

If the Commission determines that there is substantial reason to believe that a violation has occurred, it is required to expeditiously investigate [280]. The Commission is to report violations of the law to the appropriate prosecuting attorney for criminal prosecution [281], and to the attorney general for civil prosecution [282] or injunction after due notice and hearing to restrain any violation of the campaign finance laws [283]. Upon showing of cause, the injunction must be granted by the circuit or superior court [284].

The Commission has subpoena power [285]. However, only the entire Commission has the power to issue a subpoena, and the affirmative vote of at least three Commission members is required for the commission to take official action [286].

B. County Election Board. The county election board in each county serves as the filing entity for local office candidates and their candidate's committees [287], regular party committees that are not required to file with the Election Division [288], and political action committees that are not required to file with the Election Division [289]. The boards make the reports filed available for public inspection and copying at cost, as soon as practicable, but not later than the second day after the day received [290], and must preserve the reports for four years from December 1st following the election to which they pertain, unless the records are in litigation [291]. An index of statements is to be maintained [292]. A county election board may send forms and notice of reports due to candidates for local office, but is not required to do so [293].

The county election boards are to make necessary field audits and investigations [294]. The boards are to ascertain whether reports have been properly filed [295]; notify delinquent filers to correct defects within five calendar days after notice [296]; and publicly list all delinquent filers [297]. County election boards also have the authority to fine candidates for delinquent reports [298].

The county election board is empowered to disband certain defunct committees by administrative action after an annual review and special findings [299].

C. Secretary of State. The Secretary of State submits biennial budget estimates for the Election Division. [300].

D. State Treasurer and State Auditor. The state treasurer and the state auditor are respectively responsible for the maintenance and distribution of funds to the political parties from the personalized license plate revenue fund [301]. The state treasurer also is required to maintain the campaign finance enforcement account, consisting of fines paid for delinquent reports [302]. The state auditor is authorized to withhold money from an elected official's paycheck to collect a fine for failure to file a required annual report if the candidate runs and wins the subsequent election [303].

E. Attorney General and Prosecuting Attorney. The attorney general and appropriate prosecuting attorneys have the respective responsibility of instituting, on

behalf of the state, a civil action or criminal action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order upon the referral of a matter by the Indiana Election Commission [304].

F. Indiana Horse Racing Commission. If the Indiana Horse Racing Commission or its executive director determines that a permit holder may have violated the rule relating to contributions by those with an interest in a permit, the executive director or the Commission may initiate an investigation, a disciplinary action, or both [305].

References

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 14. IC § 3-9-25.5(2)
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 27. IC § 3-14-1(11)(2)
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 29. IC § 4-30-3-19.5(e). *See*, Fed'l Election Comm'n Advisory Opinion No. 1989-12.
 30. IC § 4-30-3-19.7(e)
 31. IC §§ 4-30-3-19.5; 19.7
 32. IC § 4-31-13-3.5(h). A permit holder must file a quarterly report of interest in a permit holder with the Indiana Horse Racing Commission and the Indiana Election Commission. 71 IAC 11-1-22.
 33. IC § 4-31-13-3.5(f)(1)
 34. IC § 4-31-13-3.5(f)(2)
 35. IC § 4-31-13-3.5(f)(3)
 36. IC § 4-31-13-3.5(f)(4)
 37. IC § 4-31-13-3.5(c)
 38. IC § 4-31-13-3.5(d)
 39. IC § 4-31-13-3.5(h)(1)
 40. IC § 4-31-13-3.5(h)(2)
 41. IC § 35-41-1-23
 42. IC § 4-31-13-9(e)
 43. IC § 4-33-10-2.1(e)(1). A license holder must file a quarterly report of interest in a permit holder with the Indiana Gaming Commission and the Indiana Election Commission. 68 IAC 1-13-1.
 44. IC § 4-33-10-2.1(e)(2). A license holder must file a quarterly report of interest in a permit holder with the Indiana Gaming Commission and the Indiana Election Commission. 68 IAC 1-13-1.
 45. IC § 4-33-10-2.1(h)(1)
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 49. IC § 4-33-10-2.1(c)
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 51. IC § 4-33-10-2.1(j)(1)
 52. IC § 4-33-10-2.1(j)(2)
 53. IC § 35-41-1-23
 54. IC § 4-33-10-2.1(g)
 55. IC § 8-1-2-102
 56. IC § 3-9-2-4(1)
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 64. State Election Commission, *Instruction Manual for the Indiana Campaign Finance Act, 1996 Edition* (hereafter *Manual*) at 9
 65. Opinion of the Indiana Attorney General No. 82-11; *see*, IC § 3-9-2-5
 66. IC § 3-9-2-6(1)(a)
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 71. IC § 3-9-2-12(b) - (d)
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 73. *House of Representatives Rules for the Government of the House* (1999 (hereafter *1999 House Rules*), Code of Ethics at 91, 92
 74. *1999 House Rules*, Code of Ethics at 92
 75. IC § 3-14-1-6(1)
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 77. IC § 4-23-7-3.5
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 84. IC § 3-9-2-13
 85. 40 Indiana Administrative Code (hereafter IAC) § 2-1-7.1(a)
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 87. 40 IAC § 2-1-7.1(c)(1). The Indiana State Teachers' Retirement Fund has a policy that considers it "inappropriate and improper for members of the Board to solicit contributions or support of ... candidates from any investment managers, consultants or staff." Indiana State Teachers Retirement Fund Investment Policy Statement (1997) at 11.
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 89. Indiana Code of Judicial Conduct (hereafter *Conduct Code*), Canon 7(A)(1)(c)
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 99. IC § 3-9-15(b)(1)
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 106. IC § 3-9-1-23
 107. IC §§ 3-9-1-24(a)(1), (2)
 108. IC § 3-9-1-24(b)(1)
 109. IC § 3-9-1-24(b)(2)
 110. IC § 3-9-3-4(a)(1)(A). However, insofar as the provisions apply to federal office, they are superseded or preempted by the Federal Election Campaign Act, 2 U.S.C. § 431 *et seq.* Opinion of the Indiana Attorney General No. 90-19 (1990)
 111. IC § 3-9-3-4(a)(1)(B)
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 113. IC § 3-9-3-4(a)(2)
 114. IC § 3-9-3-4(b); *Wurster, et al. v. State*, No. 49A02-9802-CR-126 (Ct. App. Ind. March 29, 1999), *aff'd*, *Wurster, et al. v. State*, No. 49S02-9907-CR-404 (Sup. Ct. Ind. July 28, 1999) (summarily affirming Court of Appeals judgment upholding constitutionality and interpretation of the law)
 115. Indiana Election Commission Advisory Opinion No. 1999-01 (hereafter Adv. Op. 1999-01)
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137. IC § 3-9-1-4(6)
138. *Brownsburg Area Patrons Affecting Change v. Baldwin*, 943 F. Supp. 975, 985 (S.D. Ind. 1996), as corrected November 21, 1996 *nunc pro tunc*. A political action committee “should be narrowly construed to encompass ‘only those organizations which make contributions or expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for office or the victory or defeat of a public question.’” *Brownsburg Area Patrons Affecting Change v. Baldwin*, No. 94S00-9803-CQ-144 (Ind. June 23, 1999), citing *Brownsburg Area Patrons Affecting Change v. Baldwin*, 137 F.3d 503, 510 (7th Cir. 1998)
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151. IC § 8-1-2-26(3); *see* Indiana Utility Regulatory Comm’n, Form JA1
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