S T A T E O F N E W Y O R K

690

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. SILVER, MORELLE, CUSICK, COOK, ORTIZ, LUPARDO, CAHILL, CLARK, LIFTON, O'DONNELL, MAGNARELLI -- Multi-Sponsored by -- M. of A. ABINANTI, BARRETT, BARRON, BRINDISI, BUCHWALD, COLTON, CRESPO, CYMBROWITZ, DenDEKKER, DINOWITZ, FAHY, GABRYSZAK, GALEF, GLICK, GOTTFRIED, HENNESSY, JAFFEE, KELLNER, MAGEE, MAYER, McDONALD, MILLMAN, MOSLEY, NOLAN, PAULIN, PRETLOW, RAMOS, ROBERTS, RODRIGUEZ, ROSA, ROSENTHAL, RUSSELL, SANTABARBARA, SCARBOROUGH, SCHIMEL, SIMOTAS, SKARTADOS, STECK, STIRPE, SWEENEY, WEINSTEIN, WEISENBERG, WRIGHT, ZEBROWSKI -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to defining the term "express advocacy"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 14-100 of the election law, as amended by chapter 71 of the laws of 1988, is amended to read as follows:

1. "political committee" means any corporation aiding or promoting and any committee, political club or combination of one or more persons operating or co-operating to aid or to promote the success or defeat of a political party or principle, or of any ballot proposal; or to aid or take part in the election or defeat of a candidate for public office or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this article shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote or to a national committee organized for the election of presidential or vice-presidential candidates; PROVIDED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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HOWEVER THAT EXPRESS ADVOCACY AS DEFINED BY SUBDIVISION TWELVE OF THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE; provided, [however] FURTHER, that a person or corporation making contribution or contributions to a candidate or a political committee which has filed pursuant to section 14-118 OF THIS ARTICLE shall not, by that fact alone, be deemed to be a political committee as herein defined.

S 2. Section 14-100 of the election law is amended by adding two new subdivisions 12 and 13 to read as follows:

12. "EXPRESS ADVOCACY" MEANS A COMMUNICATION:

(1) THAT CONTAINS EXPRESS WORDS SUCH AS VOTE, OPPOSE, SUPPORT, ELECT, DEFEAT, OR REJECT, WHICH CALL FOR THE ELECTION OR DEFEAT OF A CANDIDATE, OR

(2) WHEN TAKEN AS A WHOLE WITH LIMITED REFERENCE TO EXTERNAL EVENTS, SUCH AS THE PROXIMITY TO THE ELECTION, COULD ONLY BE INTERPRETED BY A REASONABLE PERSON AS CONTAINING ADVOCACY OF THE ELECTION OR DEFEAT OF ONE OR MORE CLEARLY IDENTIFIED CANDIDATES BECAUSE:

(A) THE ELECTORAL PORTION OF THE COMMUNICATION IS UNMISTAKABLE, UNAMBIGUOUS, AND SUGGESTIVE OF ONLY ONE MEANING; AND

(B) REASONABLE MINDS COULD NOT DIFFER AS TO WHETHER IT ENCOURAGES ACTIONS TO ELECT OR DEFEAT ONE OR MORE CLEARLY IDENTIFIED CANDIDATES OR ENCOURAGES SOME OTHER KIND OF ACTION.

13. "INDEPENDENT EXPENDITURE" MEANS AN EXPENDITURE MADE IN SUPPORT OR OPPOSITION OF A CANDIDATE:

(I) THAT EXPRESSLY ADVOCATES FOR THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED CANDIDATE; AND

(II) THAT THE CANDIDATE OR HIS OR HER AGENTS OR AUTHORIZED POLITICAL COMMITTEE(S) DID NOT AUTHORIZE, REQUEST, SUGGEST, FOSTER OR COOPERATE WITH IN ANY WAY.

S 3. This act shall take effect immediately.