

## Candidates, Committees May Directly Solicit Unlimited Contributions to 'Super PACs'

---

September 26, 2017

As candidates begin to ramp up fundraising efforts ahead of the November 2018 elections, state and local candidates in Michigan now have new tools in their arsenal to support their efforts, albeit indirectly, after the signing of Public Act 119 of 2017 ("Act 119"), an amendment to the Michigan Campaign Finance Act that allows candidates to directly solicit contributions for an independent political action committee.

Act 119 creates a new defined term, an Independent Expenditure Committee (an "IEC"), which is a committee formed under Section 24b of the Act for the purposes of making independent expenditures. An independent expenditure is an expenditure by a person if the expenditure is not a contribution to a committee and is not made in cooperation, consultation, or concert with, or at the request or suggestion of any of the following: a ballot question committee or a candidate, a candidate committee or its agents, or a political party committee or its agents. Act 119 specifically excludes an independent expenditure from the definition of a "contribution" under the Act.

An IEC may be created by one or more people, must submit a statement of organization under the Act, and must file campaign statements at the same times required of independent or political committees. An IEC may receive contributions from any person except a foreign national and may make contributions to another IEC, to a ballot question committee, or any make any other independent expenditures or disbursements not prohibited by the Act or any other law. Additionally, Act 119 authorizes a separate segregated fund established by a connected organization, which must be organized either as a political committee or an independent committee, to make contributions to an IEC in addition to the existing permissible recipients.

While an IEC may not make a contribution to a candidate committee, independent committee, political committee, political party committee, or House or Senate political party caucus committee, Act 119 permits a candidate, candidate committee, political party committee, or an agent of the candidate or any such committee to solicit contributions on behalf of an IEC but prohibits the solicitor from requesting or suggesting action by, or further cooperating, consulting, acting in concert, or otherwise coordinating in any way with an IEC related to any independent expenditure made on behalf of that candidate or committee. However, an IEC may not make independent expenditures solely to one candidate during an election cycle if that candidate or his or her committee or agent solicited funds on behalf of the IEC.

Additionally, a person making an independent expenditure related to a ballot question committee, candidate, candidate committee, or political party committee may engage an attorney, vendor or other agent that has been or is engaged by that candidate or committee in whose favor the expenditure is made, so long as the attorney, vendor, or agent does not: (1) for the creation, production, or distribution of a communication: (a) convey information to the person making the communication about the campaign plans, projects, activities, or needs of that candidate or committee that he or she also provided services for and that was obtained from that candidate or committee or its agents or (b) use any information about the campaign plans, projects, activities, or needs of that candidate or committee that he or she also provided services for and that was obtained from the candidate or committee or its agents, or (2) convey information about the creation, production, or distribution of the communication to the candidate or committee for which he or she also provided services.

Continued

---

Public Act 120 of 2017, which was tie-barred with Act 119, amends the Michigan Code of Criminal Procedure to provide penalties for violations of Act 119.

If you have any questions about Independent Expenditure Committees or the Michigan Campaign Finance Act, please contact your Miller Canfield attorney or any of the people listed on this alert.

Scott Eldridge  
+1.517.483.4918  
eldridge@millercanfield.com

Steven Mann  
+1.313.496.7509  
mann@millercanfield.com

Ronald Liscombe  
+1.313.496.7906  
liscombe@millercanfield.com