

RÉSUMÉ DIGEST

HB 898

2024 Regular Session

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Present law for purposes of the Campaign Finance Disclosure Act (CFDA) provides that "contribution" includes a gift, conveyance, payment, or deposit of money or anything of value, or the forgiveness of a loan or of a debt, made for the purpose of supporting, opposing, or otherwise influencing the nomination or election of a person to public office, for the purpose of supporting or opposing a proposition or question submitted to the voters, or for the purpose of supporting or opposing the recall of a public officer, whether made before or after the election. Present law provides that "expenditure" includes the purchase, payment, advance, deposit, or gift of money or anything of value made for the purpose of supporting, opposing, or otherwise influencing the nomination or election of a person to public office, for the purpose of supporting or opposing a proposition or question submitted to the voters, or for the purpose of supporting or opposing the recall of a public officer, whether made before or after the election.

Proposed law would have changed the phrase "otherwise influencing the nomination or election of a person to public office" to "providing for an electioneering communication in order to influence the nomination or election of a person to public office" in the above present law definitions and would have otherwise retained present law. Proposed law would have defined "electioneering communication" as the advertisement, transmission, or distribution of any oral, visual, digital, or written material containing any image, audio, video, or identity of a candidate to an audience that includes members of the electorate for the office the candidate seeks made within thirty days before an election for the office the candidate is seeking and that is subject to no other reasonable interpretation than to be advocating for the election or defeat of one or more candidates in the election.

(Proposed to amend R.S. 18:1483(6)(a) and (9)(a); proposed to add R.S. 18:1483(21))

VETO MESSAGE:

"Please be advised that I have vetoed House Bill 898 of the 2024 Regular Session.

This bill amends the Louisiana Campaign Finance Disclosure Act by redefining the definitions of "contribution" and "expenditure" to specifically refer to "electioneering communication." The bill further defines "electioneering communication" as:

the advertisement, transmission, or distribution of any oral, visual, digital, or written material containing any image, audio, video, or identity of a candidate to an audience that includes members of the electorate for the office the candidate seeks made within thirty days before an election for the office the candidate is seeking and that is subject to no other reasonable interpretation than to be advocating for the election or defeat of one or more candidates in the election.

While I applaud attempts to bring more transparency to our political process, this bill does much to muddy the waters of campaign finance in Louisiana.

First, it should be noted that federal law provides a definition for electioneering communication. 52 U.S.C. 30104(f)(3). The Federal Election Commission has issued guidance on this issue, and summed up the electioneering communication definition as, "any broadcast, cable or satellite communication that refers to a clearly identified federal candidate, is publicly distributed within 30 days of a primary or 60 days of a general election and is targeted to the relevant electorate."

<https://www.fec.gov/help-candidates-and-committees/other-filers/making-electioneering-communications/>

House Bill 898 goes far beyond the FEC's definition and would further confuse both candidates and the public. Further, the FEC provides extensive guidance on these definitions, including describing a "clearly defined candidate", as well as guidance on public distribution and the targeted audience of the communication. House Bill 898 lacks such guidance, and it further does not provide for any state agency, such as the Louisiana Board of Ethics, to provide further guidance in this area.

Even more concerning is the thirty-day window provided by HB 898. First, the clear language of the bill adds confusion as to whether the thirty-day period applies to when the

proposed material is actually made, or if it only applies to when the proposed material is shared with the public. Second, it would presumably exclude the requirements of any disclosures outside the thirty-day window. For example, if someone makes a large contribution thirty-one days before an election, apparently that contribution would not have to be reported under HB 898.

I have deep concerns that this bill would disrupt our existing campaign finance laws, add confusion amongst candidates and the public, and that First Amendment concerns have not been adequately addressed, as this bill specifically governs political speech.

For these reasons, House Bill 898 will not become law."