



Political Law Update

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

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Tennessee Enacts New Requirements for Corporate and PAC Contributions

Tennessee law has historically subjected corporations that make political contributions in the state to the same restrictions and requirements as a state PAC. Recently enacted Tennessee Senate Bill 1005 makes a number of changes to the requirements for PACs operating in the state, which impacts both corporations and traditional PACs required to register in Tennessee.

Importantly, the new law requires that all funds in a Tennessee PAC account remain separate and segregated at all times from other funds. Given that corporations are deemed to be PACs, this requirement is also true of the funds corporations use to make contributions in the state. Indeed, written guidance by the Tennessee Registry of Election Finance from July 2022 confirms the agency interprets this provision to require corporations registered as PACs to create a separate and segregated bank account for funds to be used to contribute in Tennessee. However, in contrast, the guidance also notes that traditional PACs registered at the federal level or in two or more states do not need to establish such bank account.

Other notable modifications by S.B. 1005 to the operation of PACs, including corporations required to register as a PAC, include:

- **Certification and Identification:** PACs must now certify the name(s) and address(es) of all persons who directly control contributions (*e.g.*, final decision-maker). This is in addition to the existing requirement that PACs identify a treasurer and at least one individual serving as an officer. While the officer must be a different individual than the treasurer, there is no such requirement when identifying those who control contributions. For a corporation registered as a PAC, there is latitude in deciding who these individuals can be given that the positions are specific to the function of contributing in Tennessee as opposed to the corporation as a whole. In addition, existing PACs must submit proof of identification (such as a driver's license) of the treasurer, all officers, and persons who control contributions by January 31, 2023. Thereafter, a PAC must submit proof of identification of a new officer, treasurer or such persons who directly control contributions within 30 days of a change.
- **Late Reports:** Late reports are required for making, in addition to receiving, certain contributions within 10 days of an election. These reports are due by the end of the next business day. The thresholds for triggering late filings are \$5,000 for a committee

Political Law Update

participating in the election of a statewide office, \$3,000 for a committee participating in the election of a candidate for the Senate and \$1,000 if participating in an election for any other state or local office. Reports may be filed electronically.

- **Itemized Reporting of Expenditures:** Effective January 16, 2023, PACs must itemize all expenditures — not just expenditures of greater than \$100 as previously required.

- **Pre-Election Blackout Period:** The prohibition on contributions by PACs during the 10 days before an election is formally repealed. This restriction was previously enjoined in 2019, so this provision merely codifies the court decision.

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