

New Jersey Nonprofit Disclosure Law Temporarily Blocked By Federal Judge

October 3, 2019

A New Jersey law passed in June creating [new disclosure requirements](#) for certain groups seeking to influence elections and government actions in the state was [temporarily enjoined](#) by Judge Brian Martinotti of the U.S. District Court for New Jersey on October 2, 2019.

The law requires “527” political organizations and “501(c)(4)” nonprofit groups seeking to influence New Jersey elections, ballot measures, legislation, or regulations to disclose donors contributing \$10,000 or more. Disclosure is also triggered even if a group merely provides “political information” (including advertisements and get-out-the-vote efforts) about an election, legislation, or regulation in New Jersey. Previously, these groups were not required to publicly disclose their donors.

The injunction stems from a [lawsuit](#) brought by the conservative advocacy group Americans for Prosperity (AFP), which argued that the disclosure requirements are overly broad and violate AFP’s right to freedom of speech and association. Judge Martinotti’s opinion granting the preliminary injunction agreed that the law is too broad, especially the provision on “providing political information,” which requires disclosures not only for communications related to an election, but also communications that seek to influence legislation or regulations—an unusually wide-ranging requirement. According to the Court, “because the Act requires the same disclosure scheme whether an independent expenditure committee engages in electioneering communications identifying a clearly defined candidate, engages in ‘influencing or attempting to influence’ any election, or engages in providing political information, which the Act makes clear includes any fact or opinion,” the law goes beyond permissible boundaries set by *Citizens United* and similar campaign finance cases.

The Court also found that the donor disclosure provisions of the law would chill free speech, citing harassment already experienced by those AFP donors whose identities have become known.

Judge Martinotti pointed out that the preliminary injunction would not prevent the New Jersey Legislature from passing legislation to correct the unconstitutional portions of the law, nor prevent the state’s Election Law Enforcement Commission from engaging in rulemaking to clarify the law’s language.

Caplin & Drysdale will continue to monitor any changes to the new law. Please contact a member of [Caplin & Drysdale's Political Law Group](#) if you have questions concerning this alert or for more information.

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