

U.S. House Considering Change to Enforcement of Trade Association PAC Rules

A bill currently being considered by the U.S. House Committee on Appropriations could significantly alter the way trade associations may solicit contributions for their political action committees (PACs) in fiscal year 2018.

Federal law currently requires a trade association to seek written permission from a member company before soliciting the member's employees for contributions to the trade association's PAC. While most companies are members of more than one trade association, each member company can only authorize one trade association per calendar year to solicit its employees. This often has the effect of eliminating a significant number of otherwise-eligible employees of member companies from a trade association PAC's donor pool.

However, if the Financial Services and General Government Appropriations draft bill were to become law, the Federal Election Commission (FEC) could no longer enforce this restriction in fiscal year 2018. According to Section 630 of the draft bill, the FEC could not use funds appropriated by the bill to enforce these requirements on trade association PACs:

"SEC. 630. None of the funds made available by this Act may be used to enforce the requirements in section 316(b)(4)(D) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30118(b)(4)(D)) that the solicitation of contributions from member corporations stockholders and executive or administrative personnel, and the families of such stockholders or personnel, by trade associations must be separately and specifically approved by the member corporation involved prior to such solicitation, and that such member corporation does not approve any such solicitation by more than one such trade association in any calendar year."

Because this bill provides for the FEC's funding, this provision would preclude the FEC from enforcing existing restrictions on trade association PAC solicitations for the entirety of fiscal year 2018. Practically speaking, this would allow trade association PACs to solicit contributions from the restricted class employees, executives and stockholders of *all* of their member corporations and their families, and membership corporations would not be limited to selecting just one trade association per year.

As the bill is currently written, the FEC would only be precluded from enforcing these restrictions during fiscal year 2018 (from October 1, 2017 to September 30, 2018). If the subsequent appropriations bill for fiscal year 2019 does not include a similar provision to Section 630, the FEC could resume enforcing these restrictions against trade associations and presumably, could enforce violations that occurred during fiscal year 2018.

Note that the bill limits only the FEC's enforcement authority. It does not reach the U.S. Department of Justice, which also has authority to investigate and enforce campaign finance violations.

If you have questions about this bill, please contact experienced counsel.

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