

AMENDING THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO PERMIT
CANDIDATES FOR ELECTION FOR FEDERAL OFFICE TO DESIGNATE AN
INDIVIDUAL WHO WILL BE AUTHORIZED TO DISBURSE FUNDS OF THE
AUTHORIZED CAMPAIGN COMMITTEES OF THE CANDIDATE IN THE
EVENT OF THE DEATH OF THE CANDIDATE

JULY 30, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. DANIEL E. LUNGREN of California, from the Committee on
House Administration, submitted the following

R E P O R T

[To accompany H.R. 406]

The Committee on House Administration, to whom was referred the bill (H.R. 406) to amend the Federal Election Campaign Act of 1971 to permit candidates for election for Federal office to designate an individual who will be authorized to disburse funds of the authorized campaign committees of the candidate in the event of the death of the candidate, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 406 permits candidates for election to federal office to designate an individual who will be authorized to disburse funds of the authorized campaign committees of the candidate in the event of the death of the candidate and to provide instructions regarding the disbursement of such funds by the designee. The bill also allows the candidate to designate a second individual to perform those functions in the event of the death or incapacity of the designee. This limited authority to direct the disbursement of funds is provided notwithstanding any state law authorizing any other person to direct the disbursement of the campaign's funds.

H.R. 406 amends section 302 of the Federal Election Campaign Act of 1971, by adding a section providing that a candidate for federal office may submit to the Federal Election Commission a signed, written statement designating an individual to be authorized to direct the disbursement of the funds of the authorized campaign committees of the candidate in the event of the death of the candidate, and may also provide instructions regarding the dis-

bursement of such funds. H.R. 406 also allows for a second designee to be appointed in the event of the death or incapacity of the original designee. The Federal Election Commission is directed to develop such forms as are necessary to implement H.R. 406.

INTRODUCTION AND REFERRAL

On January 24, 2011, Congressman Walter B. Jones of North Carolina introduced H.R. 406, which was referred to the Committee on House Administration.

HEARINGS

At a hearing of the Subcommittee on Elections on oversight of the Federal Election Commission held on November 3, 2011, the Chairman inquired as to whether current law would permit someone other than the campaign treasurer to dispose of campaign assets in the event of the candidate's death. Federal Election Commission Chair Cynthia Bauerly sent a letter to the Committee on November 18, 2011, which noted the possibility of state laws allowing the appointment of other campaign officers who might have authority over the disbursement of funds. The letter also noted an advisory opinion stating that a candidate could provide written instruction to a treasurer regarding disbursement of funds after the candidate's death, although such instruction would be subject to state law. The letter did not describe any existing legal provision that would give any federal candidate the ability to designate an individual for the purpose of directing the disbursement of campaign funds after the candidate's death.

COMMITTEE CONSIDERATION

On July 19, 2012, the Committee on House Administration met to consider H.R. 406. The Committee ordered the bill reported favorably to the House without amendment by voice vote with a quorum present.

COMMITTEE RECORD VOTES

In compliance with House Rule XIII, clause 3(b), requiring the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the Committee report, the Committee states that there were no record votes during the Committee's consideration of H.R. 406.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with House Rule XIII, clause 3(c)(1), the Committee states that the findings and recommendations of the Committee, based on oversight activities under House Rule X, clause 2(b)(1), are incorporated into the general discussion section of this report.

STATEMENT OF BUDGET AUTHORITY AND RELATED ITEMS

The bill does not provide new budget authority, new spending authority, new credit authority, or an increase or decrease in revenues or tax expenditures and a statement under House Rule XIII,

clause 3(c)(2), and section 308(a)(1) of the Congressional Budget Act of 1974 is not required.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with House Rule XIII, clause 3(c)(3), the Committee states, with respect to the bill, H.R. 406, that the Director of the Congressional Budget Office did not submit a cost estimate and comparison under section 402 of the Congressional Budget Act of 1974.

PERFORMANCE GOALS AND OBJECTIVES

In compliance with House Rule XIII, clause 3(c)(4), the Committee states that the general discussion section of this report includes a statement of the general performance goals and objectives, including outcome-related goals and objectives, for which H.R. 406 authorizes funding.

ADVISORY ON EARMARKS

In accordance with House Rule XXI, clause 9, the Committee states that H.R. 406 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

CHANGES IN EXISTING LAW MADE BY THE BILL

In compliance with House Rule XIII, clause 3(e), the Committee states that H.R. 406 changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black, brackets, new matter is printed in italic, existing law in which no changes is proposed is shown in roman):

FEDERAL ELECTION CAMPAIGN ACT OF 1971

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TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

* * * * *

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

* * * * *

(j)(1) Each candidate may, with respect to each authorized committee of the candidate, designate an individual who shall be responsible for disbursing funds in the accounts of the committee in the event of the death of the candidate, and may also designate another individual to carry out the responsibilities of the designated individual under this subsection in the event of the death or incapacity of the designated individual or the unwillingness of the designated individual to carry out the responsibilities.

(2) In order to designate an individual under this subsection, the candidate shall file with the Commission a signed written statement (in a standardized form developed by the Commission) that contains the name and address of the individual and the name of the authorized committee for which the designation shall apply, and that may

contain the candidate's instructions regarding the disbursement of the funds involved by the individual. At any time after filing the statement, the candidate may revoke the designation of an individual by filing with the Commission a signed written statement of revocation (in a standardized form developed by the Commission).

(3) Upon the death of a candidate who has designated an individual for purposes of paragraph (1), funds in the accounts of each authorized committee of the candidate may be disbursed only under the direction and in accordance with the instructions of such individual, subject to the terms and conditions applicable to the disbursement of such funds under this Act or any other applicable Federal or State law (other than any provision of State law which authorizes any person other than such individual to direct the disbursement of such funds).

(4) Nothing in paragraph (3) may be construed to grant any authority to an individual who is designated pursuant to this subsection other than the authority to direct the disbursement of funds as provided in such paragraph, or may be construed to affect the responsibility of the treasurer of an authorized committee for which funds are disbursed in accordance with such paragraph to file reports of the disbursements of such funds under section 304(a).

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 303. (a) * * *

(b) The statement of organization of a political committee shall include—

(1) * * *

* * * * *

(5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; **[and]**

(6) a listing of all banks, safety deposit boxes, or other depositories used by the committee**【.】**; and

(7) *in the case of an authorized committee of a candidate who has designated an individual under section 302(j) (including a second individual designated to carry out the responsibilities of that individual under such section in the event of that individual's death or incapacity or unwillingness to carry out the responsibilities) to disburse funds from the accounts of the committee in the event of the death of the candidate, a copy of the statement filed by the candidate with the Commission under such section (as well as a copy of any subsequent statement of revocation filed by the candidate with the Commission under such section).*

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