

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H2/2/17 S2/8/17 S2/20/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1401

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5 By: Representatives Gillam, M. Gray, *Eubanks, Vaught, Branscum, Rushing, Magie, Brown, Wing,*

6 *Warren, M. Hodges*

7 By: Senator Hester

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For An Act To Be Entitled

10 AN ACT TO AMEND CERTAIN ARKANSAS ETHICS LAWS;
11 AMENDING ARTICLE 19, § 30, OF THE ARKANSAS
12 CONSTITUTION UNDER THE AUTHORITY GRANTED BY ARKANSAS
13 CONSTITUTION, ARTICLE 19, § 30(D); AMENDING A PORTION
14 OF ARKANSAS LAW RESULTING FROM INITIATED ACT 1 OF
15 1988; TO DECLARE AN EMERGENCY; AND FOR OTHER
16 PURPOSES.

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Subtitle

20 TO AMEND CERTAIN ARKANSAS ETHICS LAWS,
21 ARTICLE 19, § 30, OF THE ARKANSAS
22 CONSTITUTION, AND PORTIONS OF LAW
23 RESULTING FROM INITIATED ACT 1 OF 1988;
24 AND TO DECLARE AN EMERGENCY.

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 *SECTION 1. Under the authority granted by Arkansas Constitution*
30 *Article 19, Section 30(d), Arkansas Constitution, Article 19, Section 30(b),*
31 *concerning definitions applicable to the section, is amended to read as*
32 *follows:*

33 *(b) As used in this section:*

34 *(1)(A) "Administrative action" means a decision on, or proposal,*
35 *consideration, or making of a rule, regulation, ratemaking proceeding, or*
36 *policy action by a governmental body.*



1 (B) "Administrative action" does not include ministerial
2 action;

3 (2)(A) "Gift" means any payment, entertainment, advance,
4 services, or anything of value, unless consideration of equal or greater
5 value has been given therefor.

6 (B) "Gift" does not include:

7 (i)(a) Informational material such as books,
8 reports, pamphlets, calendars, or periodicals informing a person elected or
9 appointed to an office under subsection (a) of this section regarding his or
10 her official duties.

11 (b) Payments for travel or reimbursement for
12 any expenses are not informational material;

13 (ii) Gifts that are not used and which, within
14 thirty (30) days after receipt, are returned to the donor;

15 (iii) Gifts from the spouse, child, parent,
16 grandparent, grandchild, brother, sister, parent-in-law, brother-in-law,
17 sister-in-law, nephew, niece, aunt, uncle, or first cousin of a person
18 elected or appointed to an office under subsection (a) of this section, or
19 the spouse of any of these persons, unless the person is acting as an agent
20 or intermediary for any person not covered by this subdivision

21 (b)(2)(B)(iii);

22 (iv) Anything of value that is readily available to
23 the general public at no cost;

24 (v)(a)(1) Food or drink available at a planned
25 activity to which a specific governmental body is invited, including without
26 limitation a governmental body to which a person elected or appointed to an
27 office under subsection (a) of this section is not a member.

28 (2) If a committee of the General
29 Assembly is invited to a planned activity under subdivision

30 (b)(2)(B)(v)(a)(1) of this section, only members of the committee of the
31 General Assembly may accept food or drink at the planned activity.

32 (b)(1) As used in this subdivision

33 (b)(2)(B)(v), "planned activity" means an event for which a written
34 invitation is distributed electronically or by other means by the lobbyist,
35 person acting on behalf of a lobbyist, or a person employing or contracting
36 with a lobbyist to the members of the specific governmental body at least

1 *twenty-four (24) hours before the event.*

2 *(2) As used in this subdivision*

3 *(b)(2)(B)(v), "planned activity" does not include food or drink available at*
4 *a meeting of a specific governmental body for which the person elected or*
5 *appointed to an office under subsection (a) of this section is entitled to*
6 *receive per diem for attendance at the meeting.*

7 *(c) A lobbyist, a person acting on behalf of a*
8 *lobbyist, or a person employing or contracting with a lobbyist shall not*
9 *offer or pay for food or drink at more than one (1) planned activity in a*
10 *seven-day period;*

11 *(vi)(a) Payments by regional or national*
12 *organizations for travel to regional or national conferences at which the*
13 *State of Arkansas is requested to be represented by a person or persons*
14 *elected or appointed to an office under subsection (a) of this section.*

15 *(b) As used in this subdivision (b)(2)(B)(vi),*
16 *"travel" means transportation, lodging, and conference registration fees.*

17 *(c) This section does not prohibit the*
18 *acceptance of:*

19 *(1) Food, drink, informational*
20 *materials, or other items included in the conference registration fee; and*

21 *(2) Food and drink at events coordinated*
22 *through the regional or national conference and provided to persons*
23 *registered to attend the regional or national conference;*

24 *(vii) Campaign contributions;*

25 *(viii) Any devise or inheritance;*

26 *(ix) Salaries, benefits, services, fees,*
27 *commissions, expenses, or anything of value in connection with:*

28 *(a) The employment or occupation of a person*
29 *elected or appointed to an office under subsection (a) of this section or his*
30 *or her spouse so long as the salary, benefit, service, fee, commission,*
31 *expense, or anything of value is solely connected with the person's*
32 *employment or occupation and is unrelated to and does not arise from the*
33 *duties or responsibilities of the office to which the person has been elected*
34 *or appointed; or*

35 *(b) Service as an officer, director, or board*
36 *member of a corporation, a firm registered to do business in the state, or*

1 other organization that files a state and federal tax return or is an
2 affiliate of an organization that files a state and federal tax return by a
3 person elected or appointed to an office under subsection (a) of this section
4 or his or her spouse so long as the salary, benefit, service, fee,
5 commission, expense, or anything of value is solely connected with the
6 person's service as an officer, director, or board member and is unrelated to
7 and does not arise from the duties or responsibilities of the office to which
8 the person has been elected or appointed; ~~and~~

9 (x) A personalized award, plaque, or trophy with a
10 value of one hundred fifty dollars (\$150) or less;

11 (xi) Nonalcoholic beverages provided to attendees
12 at a meeting of a civic, social, or cultural organization or group;

13 (xii) Food and nonalcoholic beverages provided to
14 participants in a bona fide panel, seminar, or speaking engagement at which
15 the audience is a civic, social, or cultural organization or group; and

16 (xiii) Anything of value provided by a recognized
17 political party when serving as the host of the following events to all
18 attendees as part of attendance at the event:

19 (a) The official swearing-in, inaugural, and
20 recognition events of constitutional officers and members of the General
21 Assembly; and

22 (b) An official event of a recognized
23 political party so long as all members of either house of the General
24 Assembly affiliated with the recognized political party are invited to the
25 official event.

26 (3) "Governmental body" or "governmental bodies" means an
27 office, department, commission, council, board, committee, legislative body,
28 agency, or other establishment of the executive, judicial, or legislative
29 branch of the state, municipality, county, school district, improvement
30 district, or any political district or subdivision thereof;

31 (4)(A) "Income" means any money or anything of value received or
32 to be received as a claim for future services, whether in the form of a
33 retainer, fee, salary, expense, allowance, forbearance, forgiveness,
34 interest, dividend, royalty, rent, or any other form of recompense or any
35 combination thereof.

36 (B) "Income" includes a payment made under obligation for

1 *services or other value received;*

2 (5) *“Legislative action” means introduction, sponsorship,*
3 *consideration, debate, amendment, passage, defeat, approval, veto, or any*
4 *other official action or nonaction on any bill, ordinance, law, resolution,*
5 *amendment, nomination, appointment, report, or other matter pending or*
6 *proposed before a committee or house of the General Assembly, a quorum court,*
7 *or a city council or board of directors of a municipality;*

8 (6) *“Legislator” means a person who is a member of the General*
9 *Assembly, a quorum court of a county, or the city council or board of*
10 *directors of a municipality;*

11 (7) *“Lobbying” means communicating directly or soliciting others*
12 *to communicate with a public servant with the purpose of influencing*
13 *legislative action or administrative action;*

14 (8)(A) *“Lobbyist” means a person who:*

15 ~~(A)(i)~~ *Receives income or reimbursement in a combined*
16 *amount of four hundred dollars (\$400) or more in a calendar quarter for*
17 *lobbying one (1) or more governmental bodies;*

18 ~~(B)(ii)~~ *Expends four hundred dollars (\$400) or more in a*
19 *calendar quarter for lobbying one (1) or more governmental bodies, excluding*
20 *the cost of personal travel, lodging, meals, or dues; or*

21 ~~(C)(iii)~~ *Expends four hundred dollars (\$400) or more in a*
22 *calendar quarter, including postage, for the express purpose of soliciting*
23 *others to communicate with a public servant to influence any legislative*
24 *action or administrative action of one (1) or more governmental bodies unless*
25 *the communication has been filed with the Secretary of State or the*
26 *communication has been published in the news media. If the communication is*
27 *filed with the Secretary of State, the filing shall include the approximate*
28 *number of recipients.*

29 (B) “Lobbyist” does not include a recognized political
30 party;

31 (9)(A) *“Person” means a business, individual, union,*
32 *association, firm, committee, club, or other organization or group of*
33 *persons.*

34 (B) *As used in subdivision (b)(9)(A) of this section,*
35 *“business” includes without limitation a corporation, partnership, sole*
36 *proprietorship, firm, enterprise, franchise, association, organization, self-*

1 employed individual, receivership, trust, or any legal entity through which
2 business is conducted;

3 (10)(A) "Public appointee" means an individual who is appointed
4 to a governmental body.

5 (B) "Public appointee" does not include an individual
6 appointed to an elective office;

7 (11)(A) "Public employee" means an individual who is employed by
8 a governmental body or who is appointed to serve a governmental body.

9 (B) "Public employee" does not include a public official
10 or a public appointee;

11 (12) "Public official" means a legislator or any other person
12 holding an elective office of any governmental body, whether elected or
13 appointed to the office, and shall include such persons during the time
14 period between the date they were elected and the date they took office; and

15 (13) "Public servant" means all public officials, public
16 employees, and public appointees; and

17 (14)(A) "Recognized political party" means a political party
18 that:

19 (i) At the last preceding general election polled
20 for its candidate for Governor in the state or nominees for presidential
21 electors at least three percent (3%) of the entire vote cast for the office;
22 or

23 (ii) Has been formed by the petition process under §
24 7-7-205.

25 (B) When a recognized political party fails to obtain
26 three percent (3%) of the total votes cast in an election for the office of
27 Governor or nominees for presidential electors, it shall cease to be a
28 recognized political party.

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31 SECTION 2. Arkansas Code § 21-8-402(5)(B), resulting from Initiated
32 Act 1 of 1988, is amended to add an additional subdivision to read as
33 follows:

34 (xvi) Anything of value provided by a political
35 party under § 7-1-101 or § 7-7-205 when serving as the host of the following
36 events to all attendees as part of attendance at the event:

1 (a) The official swearing-in, inaugural, and
2 recognition events of constitutional officers and members of the General
3 Assembly; and

4 (b) An official event of a recognized
5 political party so long as all members of either house of the General
6 Assembly affiliated with the recognized political party are invited to the
7 official event.

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9 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
10 General Assembly of the State of Arkansas that the provisions of this act
11 impact the behavior and conduct of public servants in this state by amending
12 certain ethics laws; that the state's ethics laws ensure consistent and
13 appropriate behavior by public office holders and other public servants; and
14 that the provisions of this act should be implemented at the earliest
15 opportunity to ensure that the conduct of public servants is consistent with
16 the ethics laws of this state and the provisions of this act. Therefore, an
17 emergency is declared to exist, and this act being immediately necessary for
18 the preservation of the public peace, health, and safety shall become
19 effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
22 the expiration of the period of time during which the Governor may veto the
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto.

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27 /s/Gillam
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