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2 89th General Assembly
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4

As Engrossed: H2/14/13

A Bill

HOUSE BILL 1187

5 By: Representatives Bell, Deffenbaugh, C. Douglas, Eubanks, Harris, Hobbs, Lea, S. Meeks, Westerman,
6 Wright

7 By: Senators J. English, A. Clark, Rapert, D. Sanders
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE USE OF
11 PUBLIC FUNDS TO SUPPORT OR OPPOSE BALLOT MEASURES;
12 AND FOR OTHER PURPOSES.
13
14

Subtitle

15
16 TO AMEND ARKANSAS LAW CONCERNING THE USE
17 OF PUBLIC FUNDS TO SUPPORT OR OPPOSE
18 BALLOT MEASURES.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 7-1-103(a)(3), concerning certain
24 misdemeanor offenses, is amended to read as follows:

25 (3)(A) It shall be unlawful for any public servant, as defined
26 in § 21-8-402, to use any office or room furnished at public expense to
27 distribute any letters, circulars, or other campaign materials unless such
28 office or room is regularly used by members of the public for such purposes
29 without regard to political affiliation. It shall further be unlawful for any
30 public servant to use for campaign purposes any item of personal property
31 provided with public funds.

32 (B) As used in subdivision (a)(3)(A) of this section,
33 "campaign materials" and "campaign purposes" refer to:

34 (i) ~~the~~ The campaign of a candidate for public
35 office; and

36 (ii) ~~not-efforts~~ Efforts to support or oppose a



1 ballot measure, except as provided in § 7-1-111;

2
3 SECTION 2. Arkansas Code Title 7, Chapter 1, Subchapter 1 is amended
4 to add an additional section to read as follows:

5 7-1-111. Use of public funds to support or oppose ballot measure.

6 (a) As used in this section:

7 (1) "Governmental body" means the same as defined in § 21-8-402;

8 (2) "Public funds" means funds, moneys, receivables, grants,
9 investments, instruments, real or personal property, or other assets,
10 liabilities, equities, revenues, receipts, or disbursements belonging to,
11 held by, or passed through a governmental body; and

12 (3)(A) Except as provided in subdivision (a)(3)(B) of this
13 section, "public servant" means an individual who is:

14 (i) Employed by a governmental body;

15 (ii) Appointed to serve a governmental body; or

16 (iii) Appointed to a governmental body.

17 (B) "Public servant" does not include:

18 (i) An elected official; or

19 (ii) A person appointed to an elective office.

20 (b) It is unlawful for a public servant or a governmental body to
21 expend or permit the expenditure of public funds to support or oppose a
22 ballot measure.

23 (c) This section does not:

24 (1) Limit the freedom of speech of a public servant or government
25 body, including without limitation verbal expressions of views supporting or
26 opposing a ballot measure;

27 (2) Prohibit a governmental body from expressing an opinion on a
28 ballot measure through the passage of a resolution or proclamation;

29 (3) Prohibit the incidental use of state resources by a public
30 servant, including without limitation travel costs, when speaking at an event
31 in which a ballot measure is discussed if the subject matter of the speaking
32 engagement is within the scope of the official duties and responsibilities of
33 the public servant; or

34 (4) Prohibit the dissemination of public information at a
35 speaking engagement and the incidental use of state resources in the analysis
36 and preparation of that public information if the subject matter of the

1 public information is within the scope of the official duties and
2 responsibilities of the public servant.

3 (d)(1) Except as provided under subdivision (d)(2) of this section, a
4 violation of this section is a Class A misdemeanor.

5 (2)(A) A public servant who is found guilty or pleads guilty or
6 nolo contendere to a violation under this section is ineligible to hold any
7 office, employment, or appointment in a governmental body.

8 (B) If a public servant is found guilty or pleads guilty
9 or nolo contendere to a violation under this section while employed by a
10 governmental body, he or she shall be removed from employment immediately.

11
12 SECTION 3. Arkansas Code § 7-9-402(9), concerning the definition of
13 "person" applicable to disclosure for matters referred to voters, is amended
14 to read as follows:

15 (9)(A) "Person" means any individual, business, proprietorship,
16 firm, partnership, joint venture, syndicate, business trust, labor
17 organization, company, corporation, association, committee, or any other
18 organization or group of persons acting in concert.

19 (B) "Person" includes ~~a public servant or governmental~~
20 ~~body~~ an elected official using public funds to expressly advocate the
21 qualification, disqualification, passage, or defeat of any ballot question or
22 the passage or defeat of any legislative question; and

23
24 SECTION 4. Arkansas Code § 7-9-406(c), concerning financial reports or
25 contributions and expenditures, is amended to read as follows:

26 (c) ~~A public servant or governmental body~~ An elected official
27 expending public funds in excess of five hundred dollars (\$500) for the
28 purpose of expressly advocating the qualification, disqualification, passage,
29 or defeat of a ballot question or the passage or defeat of a legislative
30 question shall file with the commission financial reports as required by §§
31 7-9-407 – 7-9-409.

32
33 SECTION 5. Arkansas Code § 7-9-407 is amended to read as follows:
34 7-9-407. Financial report – Information.

35 A financial report of a ballot question committee, a legislative
36 question committee, an individual person, ~~a public servant, or a governmental~~

1 ~~body~~ an elected official, as required by § 7-9-406, shall contain the
2 following information:

3 (1) The name, address, and telephone number of the committee,
4 individual person, ~~public servant, or governmental body~~ elected official
5 filing the statement;

6 (2)(A) For a committee:

7 (i) The total amount of contributions received
8 during the period covered by the financial report;

9 (ii) The total amount of expenditures made during
10 the period covered by the financial report;

11 (iii) The cumulative amount of those totals for each
12 ballot question or legislative question;

13 (iv) The balance of cash and cash equivalents on
14 hand at the beginning and the end of the period covered by the financial
15 report;

16 (v) The total amount of contributions received
17 during the period covered by the financial statement from persons who
18 contributed less than fifty dollars (\$50.00), and the cumulative amount of
19 that total for each ballot question or legislative question;

20 (vi) The total amount of contributions received
21 during the period covered by the financial statement from persons who
22 contributed fifty dollars (\$50.00) or more, and the cumulative amount of that
23 total for each ballot question or legislative question;

24 (vii) The name and street address of each person who
25 contributed fifty dollars (\$50.00) or more during the period covered by the
26 financial report, together with the amount contributed, the date of receipt,
27 and the cumulative amount contributed by that person for each ballot question
28 or legislative question; and

29 (viii) The name and address of each person who contributed
30 a nonmoney item, together with a description of the item, the date of
31 receipt, and the value, not including volunteer service by individuals.

32 (B) For an individual person:

33 (i) The total amount of expenditures made during the
34 period covered by the financial report; and

35 (ii) The cumulative amount of that total for each
36 ballot question or legislative question.

1 (C) For a public servant or governmental body using public
2 funds:

3 (i) The total amount of expenditures made during the
4 period covered by the financial report; and

5 (ii) The cumulative amount of that total for each
6 ballot question or legislative question; and

7 (3) The name and street address of each person to whom
8 expenditures totalling one hundred dollars (\$100) or more were made, together
9 with the date and amount of each separate expenditure to each person during
10 the period covered by the financial report and the purpose of the
11 expenditure.

12
13 SECTION 6. Arkansas Code §§ 7-9-412 – 7-9-414 are repealed.

14 ~~7-9-412. Reporting the use of state funds to oppose or support a ballot~~
15 ~~measure.~~

16 ~~Any funds appropriated to any state agency, board, or commission that~~
17 ~~are expended, as prescribed in § 7-9-413, for the purpose of opposing or~~
18 ~~supporting any initiative, referendum, proposed constitutional amendment, or~~
19 ~~other measure which is submitted or intended to be submitted to a popular~~
20 ~~vote at an election, whether or not it qualifies for the ballot, shall be~~
21 ~~reported to the Legislative Council if the amount exceeds one hundred dollars~~
22 ~~(\$100).~~

23
24 ~~7-9-413. Use of state funds to oppose or support a ballot measure.~~

25 ~~The use of state funds under § 7-9-412 includes:~~

26 ~~(1) Newspaper, television, radio, and other forms of~~
27 ~~communication;~~

28 ~~(2) Publication materials;~~

29 ~~(3) Travel expenses relative to reimbursement;~~

30 ~~(4) Surveys;~~

31 ~~(5) Private contracts; and~~

32 ~~(6) Postage.~~

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34 ~~7-9-414. Applicability of §§ 7-9-412 and 7-9-413.~~

35 ~~This act does not apply to state funds appropriated to any elected~~
36 ~~officials.~~

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/s/Bell

APPROVED: 03/11/2013