

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
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*