

2 State of Arkansas
3 88th General Assembly
4 Regular Session, 2011

As Engrossed: H3/31/11

A Bill

HOUSE BILL 2209

5
6 By: Representatives Bell, Baird, Biviano, J. Burris, Catlett, Clemmer, Collins, Collins-Smith, English,
7 Eubanks, Harris, Hobbs, Lea, S. Meeks, Rice, Sanders, Steel, Westerman, Wright

8 Filed with: Interim House Committee on State Agencies and Governmental Affairs
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

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15
16 TO AMEND ARKANSAS LAW CONCERNING THE USE
17 OF PUBLIC FUNDS TO SUPPORT OR OPPOSE
18 BALLOT MEASURES.

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

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

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

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

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

1 (ii) ~~not efforts~~ Efforts to support or oppose a
2 ballot measure, except as provided in § 7-1-111;
3

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

6 7-1-111. Use of public funds to support or oppose ballot measure.

7 (a) As used in this section:

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

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

13 (3)(A) Except as provided in subdivision (a)(3)(B) of this
14 section, "public servant" means the same as defined in § 21-8-402.

15 (B) "Public servant" does not include an elected official.

16 (b) It shall be unlawful for a public servant or a governmental body
17 to expend or permit the expenditure of public funds to support or oppose a
18 ballot measure.

19 (c) This section shall not:

20 (1) Limit the freedom of speech of a public servant or
21 governmental body; or

22 (2) Prohibit a governmental body from expressing an opinion on a
23 ballot measure through the passage of a resolution or proclamation.

24 (d)(1) Except as provided under subdivision (d)(2) of this section, a
25 violation of this section shall be a Class A misdemeanor.

26 (2)(A) A public servant convicted under this section shall be
27 ineligible to hold any office or employment in a governmental body.

28 (B)(i) If a public servant is convicted under this section
29 while employed by a governmental body, he or she shall be removed from
30 employment immediately.

31 (ii) If a public servant is convicted under the
32 provisions of this section while holding public office, the conviction shall
33 be deemed a misfeasance and malfeasance in office and shall subject the
34 person to impeachment.
35

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

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

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

12
13 SECTION 4. Arkansas Code § 7-9-406(c), concerning financial reports or
14 contributions and expenditures, is amended to read as follows:

15 (c) ~~A public servant or governmental body~~ An elected official
16 expending public funds in excess of five hundred dollars (\$500) for the
17 purpose of expressly advocating the qualification, disqualification, passage,
18 or defeat of a ballot question or the passage or defeat of a legislative
19 question shall file with the commission financial reports as required by §§
20 7-9-407 – 7-9-409.

21
22 SECTION 5. Arkansas Code § 7-9-407 is amended to read as follows:
23 7-9-407. Financial report – Information.

24 A financial report of a ballot question committee, a legislative
25 question committee, an individual person, ~~a public servant,~~ or ~~a governmental~~
26 ~~body~~ an elected official, as required by § 7-9-406, shall contain the
27 following information:

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

31 (2)(A) For a committee:

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

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

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

3 (iv) The balance of cash and cash equivalents on
4 hand at the beginning and the end of the period covered by the financial
5 report;

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

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

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

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

22 (B) For an individual person:

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

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

27 (C) For a public servant or governmental body using public
28 funds:

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

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

33 (3) The name and street address of each person to whom
34 expenditures totalling one hundred dollars (\$100) or more were made, together
35 with the date and amount of each separate expenditure to each person during

1 the period covered by the financial report and the purpose of the
2 expenditure.

3
4 SECTION 6. Arkansas Code §§ 7-9-412 through 7-9-414 are repealed.

5 ~~7-9-412. Reporting the use of state funds to oppose or support a ballot~~
6 ~~measure.~~

7 ~~Any funds appropriated to any state agency, board, or commission that~~
8 ~~are expended, as prescribed in § 7-9-413, for the purpose of opposing or~~
9 ~~supporting any initiative, referendum, proposed constitutional amendment, or~~
10 ~~other measure which is submitted or intended to be submitted to a popular~~
11 ~~vote at an election, whether or not it qualifies for the ballot, shall be~~
12 ~~reported to the Legislative Council if the amount exceeds one hundred dollars~~
13 ~~(\$100).~~

14
15 ~~7-9-413. Use of state funds to oppose or support a ballot measure.~~

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

- 17 ~~(1) Newspaper, television, radio, and other forms of~~
18 ~~communication;~~
19 ~~(2) Publication materials;~~
20 ~~(3) Travel expenses relative to reimbursement;~~
21 ~~(4) Surveys;~~
22 ~~(5) Private contracts; and~~
23 ~~(6) Postage.~~

24
25 ~~7-9-414. Applicability of §§ 7-9-412 and 7-9-413.~~

26 ~~This act does not apply to state funds appropriated to any elected~~
27 ~~officials.~~

28
29 */s/Bell*

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33 Referred by the Arkansas House of Representatives

34 Prepared by: MBM/VJF