

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H3/19/97

## A Bill

HOUSE BILL 2272

5 By: Representative McGee  
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### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 7-6-218 CONCERNING  
10 COMPLAINTS TO THE ARKANSAS ETHICS COMMISSION; AND FOR  
11 OTHER PURPOSES."  
12

### Subtitle

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14 "AN ACT CONCERNING COMPLAINTS TO THE  
15 ARKANSAS ETHICS COMMISSION."  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code 7-6-218 is amended to read as follows:

21 ~~7-6-218.~~ Citizen complaints.

22 (a)(1) Any citizen wishing to file a complaint against a person covered  
23 by this subchapter or by subchapters 4-9 of title 21, chapter 8, as amended,  
24 for an alleged violation of such subchapters may file a complaint with the  
25 Arkansas Ethics Commission.

26 (2) No complaint for a violation of this subchapter shall be  
27 filed with the Arkansas Ethics Commission during the period beginning thirty  
28 (30) days before an election through the date of the election.

29 (3) No complaint for a violation of this subchapter shall be  
30 filed more than one (1) year after the deadline for filing the final report  
31 for the election for which a violation is alleged to have occurred.

32 (b)(1)(A) Upon a complaint stating facts constituting an alleged  
33 violation signed under penalty of perjury by any person, the Arkansas Ethics  
34 Commission shall investigate the alleged violation of this subchapter or of  
35 subchapters 4-9 of title 21, chapter 8, as amended.

36 (B) The commission shall immediately notify any person under

1 investigation of the investigation and of the nature of the alleged violation.

2 (C) The commission in a document shall advise the complainant and  
3 the accused of the final action taken together with the reasons for the  
4 action, and such document shall be a public record.

5 (2) If, after the investigation, the commission finds that probable  
6 cause exists for a finding of a violation, the accused may request a hearing.  
7 The hearing shall be a public hearing.

8 (3)(A) The commission shall keep a record of its investigations,  
9 inquiries, and proceedings.

10 (B) All proceedings, records, and transcripts of any  
11 investigations or inquiries shall be kept confidential by the commission,  
12 unless the accused requests disclosure of documents relating to investigation  
13 of the case, or in case of a hearing under subdivision (b)(2) of this section,  
14 or in case of judicial review of a commission decision pursuant to § 25-15-  
15 212.

16 (C) Thirty (30) days after any final adjudication in which the  
17 commission makes a finding of a violation, all records relevant to the  
18 investigation and upon which the commission has based its decision, except  
19 working papers of the commission and its staff, shall be open to public  
20 inspection.

21 (4) If the commission finds a violation of this subchapter or of  
22 subchapters 4-9 of title 21, chapter 8, as amended, then the commission shall  
23 do one (1) or more of the following:

24 (A) Issue a public letter of caution or warning or reprimand;

25 (B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-409, 21-  
26 8-403, and 21-8-903, impose a fine of not less than twenty-five dollars  
27 (\$25.00) nor more than one thousand dollars (\$1,000) for negligent or  
28 intentional violation of this subchapter, or of subchapters 4-9 of title 21,  
29 chapter 8, as amended. If the violation is the failure to file a report or the  
30 filing of an inaccurate report, no fine shall be levied unless the commission  
31 first issues a letter of caution or warning or reprimand and the person fails  
32 to file or to correct the report within ten (10) days after receiving the  
33 letter.

34 (ii) The commission shall adopt rules governing the imposition of  
35 such fines in accordance with the provisions of the Arkansas Administrative  
36 Procedure Act, § 25-15-201 et seq.

1 (iii) All moneys received by the commission in payment of fines  
2 shall be deposited in the State Treasury as general revenues; or

3 (C) Report its finding, along with such information and documents  
4 as it deems appropriate, and make recommendations to the proper law  
5 enforcement authorities.

6 (5) The commission shall complete its investigation of a complaint  
7 filed pursuant to this section within one hundred fifty (150) days of the  
8 filing of the complaint; except that, if a hearing is conducted, all action on  
9 the complaint by the commission shall be completed within one hundred eighty  
10 (180) days.

11 (c) Any final action of the commission under this section shall  
12 constitute an adjudication for purposes of judicial review under § 25-15-212. ~~2~~  
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14 *SECTION 2. Arkansas Code 7-6-202 is amended to read as follows:*

15 *"Any person who knowingly or willfully fails to comply with any*  
16 *provisions of this subchapter shall, upon conviction, be fined an amount not*  
17 *to exceed one thousand dollars (\$1,000) or be imprisoned for not more than one*  
18 *(1) year, or both except that this criminal penalty shall not apply to*  
19 *violations of orders of the Ethics Commission. Orders of the Ethics*  
20 *Commission shall be enforceable only through civil contempt proceedings."*  
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22 *SECTION 3. All provisions of this act of a general and permanent nature*  
23 *are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code*  
24 *Revision Commission shall incorporate the same in the Code.*

26 *SECTION 4. If any provision of this act or the application thereof to*  
27 *any person or circumstance is held invalid, such invalidity shall not affect*  
28 *other provisions or applications of the act which can be given effect without*  
29 *the invalid provision or application, and to this end the provisions of this*  
30 *act are declared to be severable.*

32 *SECTION 5. All laws and parts of laws in conflict with this act are*  
33 *hereby repealed.*

35 *SECTION 6. EMERGENCY. It is found and determined by the General*  
36 *Assembly that the Arkansas Ethic Commission's exercise of its enforcement*

1 powers have been arbitrary; that current procedures do not adequately protect  
2 a candidate from unfounded complaints immediately before an election; and that  
3 this act is immediately necessary for the protection of candidates and for the  
4 appropriate administration of the ethics laws of this state. Therefore,  
5 an emergency is declared to exist and this act being immediately necessary for  
6 the preservation of the public peace, health and safety shall become effective  
7 on the date of its approval by the Governor. If the bill is neither approved  
8 nor vetoed by the Governor, it shall become effective on the expiration of the  
9 period of time during which the Governor may veto the bill. If the bill is  
10 vetoed by the Governor and the veto is overridden, it shall become effective  
11 on the date the last house overrides the veto.

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14 /s/Rep. McGee  
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