

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 68

4
5 By: Senator Faris
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND VARIOUS ARKANSAS ETHICS AND
10 CAMPAIGN FINANCE STATUTES; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 AN ACT TO AMEND VARIOUS ARKANSAS ETHICS
15 AND CAMPAIGN FINANCE STATUTES.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 7-1-103(a)(7), concerning miscellaneous
21 misdemeanor penalties, is amended to read as follows:

22 (7)(A) All articles, statements, or communications appearing in
23 any newspaper printed or circulated in this state or on radio, television, or
24 any other electronic medium intended or calculated to influence the vote of
25 any elector in any election and for the publication of which a consideration
26 is paid or to be paid shall ~~be preceded or followed by~~ clearly contain the
27 words "Paid Political Advertisement" or "Paid Political Ad". ~~in conspicuous~~
28 ~~letters~~

29 (B) Both the persons placing and the persons publishing
30 the articles, statements, or communications shall be responsible for
31 including the required disclaimer;
32

33 SECTION 2. Arkansas Code § 7-6-201 is amended to read as follows:
34 7-6-201. Definitions.

35 As used in this subchapter, unless the context otherwise requires:

36 (1)(A) "Approved political action committee" means any person



1 who:

2 (i) Receives contributions from one (1) or more
3 persons in order to make contributions to candidates;

4 (ii) Does not accept any contribution or cumulative
5 contributions in excess of five thousand dollars (\$5,000) from any person in
6 any calendar year; and

7 (iii) Has been registered pursuant to § 7-6-215 for
8 at least four (4) continuous months prior to making contributions to
9 candidates.

10 (B) "Approved political action committee" shall not
11 include an organized political party as defined in § 7-1-101~~(16)~~, the
12 candidate's own campaign committee, or an exploratory committee;

13 (2) "Candidate" means any person who has knowingly and willingly
14 taken affirmative action, including solicitation of funds, for the purpose of
15 seeking nomination for or election to any public office;

16 (3) "Carryover funds" means the amount of campaign funds
17 retained from the last election by the candidate for future use but not to
18 exceed the annual salary, excluding expense allowances, set by Arkansas law
19 for the office sought;

20 (4)(A) "Contribution" means, whether direct or indirect,
21 advances, deposits, or transfers of funds, contracts, or obligations, whether
22 or not legally enforceable, payments, gifts, subscriptions, assessments,
23 payment for services, dues, advancements, forbearance, loans, pledge or
24 promise of money or anything of value, whether or not legally enforceable, to
25 a candidate, committee, or holder of elective office, made for the purpose of
26 influencing the nomination or election of any candidate, ~~and.~~

27 (B) "Contribution" includes the purchase of tickets for
28 events such as dinners, luncheons, rallies, and similar fundraising events;
29 the granting of discounts or rebates by television and radio stations and
30 newspapers not extended on an equal basis to all candidates for the same
31 office; and any payments for the services of any person serving as an agent
32 of a candidate or committee by a person other than the candidate or committee
33 or persons whose expenditures the candidates or committee must report under
34 this subchapter. The term "contribution" further includes any transfer of
35 anything of value received by a committee from another committee.

36 (C) "Contribution" shall not include noncompensated,

1 nonreimbursed, volunteer personal services or travel;

2 (5) "Contribution and expenditure" shall not include activity
 3 sponsored and funded by organized political parties as defined in § 7-1-
 4 101-~~16~~ to promote their candidates or nominees through events such as
 5 dinners, luncheons, rallies, or similar gatherings and shall not include
 6 nonpartisan activity designed to encourage individuals to register to vote,
 7 or to vote, or any communication by any membership organization to its
 8 members or stockholders if the membership organization or corporation is not
 9 organized primarily for the purpose of influencing the nomination for
 10 election, or election, of any candidate;

11 (6) "Election" means each election held to nominate or elect a
 12 candidate to any public office, including school elections. For the purposes
 13 of this subchapter, a preferential primary, a general primary, a special
 14 election, and a general election shall each constitute a separate election;

15 (7) "Expenditure" means a purchase, payment, distribution, gift,
 16 loan, or advance of money or anything of value, and a contract, promise, or
 17 agreement to make an expenditure, made for the purpose of influencing the
 18 nomination or election of any candidate;

19 (8) "Exploratory committee" means a person who receives
 20 contributions which are held to be transferred to the campaign of a single
 21 candidate in an election. "Exploratory committee" shall not include an
 22 organized political party as defined in § 7-1-101-~~16~~ or the candidate's own
 23 campaign committee;

24 (9) "Financial institution" means any commercial bank, savings
 25 and loan, mutual savings bank or savings bank, insurance company brokerage
 26 house, or any corporation that is in the business of lending money and that
 27 is subject to state or federal regulation;

28 (10) An "independent expenditure" is any expenditure which is
 29 not a contribution and:

30 (A) Expressly advocates the election or defeat of a
 31 clearly identified candidate for office;

32 (B) Is made without arrangement, cooperation, or
 33 consultation between any candidate or any authorized committee or agent of
 34 the candidate and the person making the expenditure or any authorized agent
 35 of that person; and

36 (C) Is not made in concert with or at the request or

1 suggestion of any candidate or any authorized committee or agent of the
2 candidate;

3 (11) "Independent expenditure committee" means any person who
4 receives contributions from one (1) or more persons in order to make an
5 independent expenditure and is registered pursuant to § 7-6-215 prior to
6 making expenditures;

7 (12) "Person" means any individual, proprietorship, firm,
8 partnership, joint venture, syndicate, labor union, business trust, company,
9 corporation, association, committee, or any other organization or group of
10 persons acting in concert. It shall also include organized political parties
11 as defined in § 7-1-101~~(16)~~ and political committees within the meaning of
12 the Federal Election Campaign Act of 1971, 2 U.S.C. § 431 et seq., as in
13 effect on January 1, 2005;

14 (13) "Prohibited political action committee" means any person
15 who receives contributions from one (1) or more persons in order to make
16 contributions to candidates but who does not meet the requirements of an
17 approved political action committee or a small donor political action
18 committee. "Prohibited political action committee" shall not include an
19 organized political party as defined in § 7-1-101~~(16)~~, the candidate's own
20 campaign committee, or an exploratory committee;

21 (14) "Public office" means any office created by or under
22 authority of the laws of the State of Arkansas, or of a subdivision thereof,
23 that is filled by the voters, except a federal office;

24 (15) A "small donor political action committee" means any person
25 who:

26 (A) Receives contributions from one (1) or more
27 individuals in order to make contributions to candidates;

28 (B) Does not accept any contribution or cumulative
29 contributions in excess of twenty-five dollars (\$25) from any individual in
30 any calendar year; and

31 (C) Is registered pursuant to § 7-6-215 prior to making
32 contributions to candidates. "Small donor political action committee" shall
33 not include an organized political party, the candidate's own campaign
34 committee, or an exploratory committee; and

35 (16) "Surplus campaign funds" means any balance of campaign
36 funds over expenses incurred as of the day of the election except for:

1 (A) Carryover funds; and

2 (B) Any funds required to reimburse the candidate for
3 personal funds contributed to the campaign or to repay loans made by
4 financial institutions to the candidate and applied to the campaign.

5
6 SECTION 3. Arkansas Code § 7-6-203(d), concerning candidates accepting
7 campaign contributions, is amended to read as follows:

8 (d) However, an organized political party as defined in § 7-1-101~~(16)~~
9 may contribute up to two thousand five hundred dollars (\$2,500) to each of
10 the party's candidates per election.

11
12 SECTION 4. Arkansas Code § 7-6-203(h), concerning candidates accepting
13 campaign contributions, is amended to read as follows:

14 (h)(1) Within thirty (30) days following the end of the month in which
15 the general election is held, a candidate shall turn over surplus campaign
16 funds to either:

17 (A) The Treasurer of State for the benefit of the General
18 Revenue Fund Account of the State Apportionment Fund;

19 (B) An organized political party as defined in § 7-1-
20 101~~(16)~~ or a political party caucus of the General Assembly, the Senate, or
21 House of Representatives;

22 (C) A nonprofit organization which is exempt from taxation
23 under Section 501(c)(3) of the Internal Revenue Code; or

24 (D) The contributors to the candidate's campaign.

25 (2)(A) If an unopposed candidate agrees not to solicit further
26 campaign contributions by filing an affidavit declaring such an agreement,
27 the candidate may dispose of any surplus campaign funds prior to a general
28 election as soon as the time has passed to declare an intent to be a write-in
29 candidate pursuant to § 7-5-205.

30 (B) For unopposed candidates for nonpartisan judicial
31 office, the affidavit may be filed after the deadlines have passed to declare
32 as a filing fee candidate, petition candidate, or write-in candidate under §
33 7-10-103.

34 (C) The affidavit shall be filed in the office where the
35 candidate is required to file reports of contributions received and
36 expenditures made.

1 (D) Unopposed candidates and defeated candidates who file
 2 the affidavit are exempt from further reporting requirements provided that
 3 the affidavit contains a statement that the candidate's campaign fund has a
 4 zero balance.

5
 6 SECTION 5. Arkansas Code § 7-6-217(c)(1), concerning members of the
 7 Arkansas Ethics Commission, is amended to read as follows:

8 (c)(1) No member of the commission shall be a federal, state, or local
 9 government official or employee, an elected public official, a candidate for
 10 public office, a lobbyist as defined in § 21-8-402(11), or an officer or paid
 11 employee of an organized political party as defined in § 7-1-101~~(16)~~.

12
 13 SECTION 6. Arkansas Code § 7-6-220(a), concerning the reporting of
 14 independent expenditures, is amended to read as follows:

15 (a) A person or an independent expenditure committee which makes
 16 independent expenditures in an aggregate amount or value in excess of five
 17 hundred dollars (\$500) in a calendar year shall file reports with the
 18 Secretary of State:

19 (1) No later than thirty (30) days prior to preferential primary
 20 elections, general elections and special elections covering the period ending
 21 thirty-five (35) days prior to such elections;

22 (2) No later than seven (7) days prior to preferential primary
 23 elections, runoff elections, general elections, and special elections
 24 covering the period ending ten (10) days prior to such elections; and

25 (3) As for a final report, no later than thirty (30) days after
 26 the end of the month in which the last election is held at which the
 27 candidate seeks nomination or election.

28
 29 SECTION 7. Arkansas Code § 7-6-222(a), concerning tax credits for
 30 certain campaign contributions, is amended to read as follows:

31 (a) Pursuant to regulations to be adopted by the Department of Finance
 32 and Administration, a credit against individual Arkansas income taxes shall
 33 be allowed for money contributions made by the taxpayer in a taxable year to
 34 one (1) or more of the following:

35 (1) A candidate seeking nomination or election to a public
 36 office at an election, or to the candidate's campaign committee;

1 (2) A small donor political action committee as defined in § 7-
2 6-201;

3 (3) An approved political action committee as defined in § 7-6-
4 201; or

5 (4) An organized political party as defined in § 7-1-101~~(16)~~.
6

7 SECTION 8. Arkansas Code § 7-6-223(a), concerning reports of
8 contributions by political parties, is amended to read as follows:

9 (a) Within fifteen (15) calendar days after the end of each calendar
10 quarter, each organized political party as defined in § 7-1-101~~(16)~~ shall
11 file a quarterly report with the Secretary of State.
12

13 SECTION 9. Arkansas Code Title 7, Chapter 6, Subchapter 2 is amended
14 to add an additional section to read as follows:

15 7-6-226. Treatment of loan guarantees.

16 (a) If any person guarantees a loan that is made to a candidate and
17 applied to his or her campaign, the person shall not be treated as having
18 made a contribution to the candidate.

19 (b) If a candidate defaults on a loan that is guaranteed and the
20 lender collects from the guarantor, the guarantor shall be treated as having
21 made a contribution to the candidate in an amount equal to the amount
22 collected by the lender from the guarantor.
23

24 SECTION 10. Arkansas Code § 7-9-404(a)(1), concerning filing
25 deadlines, is amended to read as follows:

26 (a)(1)(A) A ballot question committee or a legislative question
27 committee shall file a statement of organization with the Arkansas Ethics
28 Commission within ~~fifteen (15) days after the committee is formed~~ five (5)
29 days of receiving contributions or making expenditures in excess of five
30 hundred dollars (\$500) for the purpose of expressly advocating the
31 qualification, passage, or defeat of a ballot question or the passage or
32 defeat of a legislative question.

33 (B) The commission shall maintain such statement of
34 organization until notified of the committee's dissolution.
35

36 SECTION 11. Arkansas Code § 7-9-404(b), concerning information

1 included on the statement of organization, is amended to read as follows:

2 (b) The statement of organization shall include the following
3 information:

4 (1) The name, the street address, and, where available, the
5 telephone number of the committee. A committee address and telephone number
6 may be that of the residence of an officer or director of the committee;

7 (2) The name, street address, and, where available, the
8 telephone number of the treasurer and other principal officers and directors
9 of the committee;

10 (3) The name and address of each financial institution in which
11 the committee deposits money or anything else of monetary value;

12 (4) The name of each person who is a member of the committee. A
13 person that is not an individual may be listed by its name without also
14 listing its own members, if any; and

15 (5) A brief statement identifying the substance of each ballot
16 question ~~whose~~ the qualification, passage, or defeat of which the committee
17 seeks to influence or of each legislative question ~~which~~ the passage or
18 defeat of which the committee seeks to influence and, if known, the date each
19 ballot or legislative question shall be presented to a popular vote at an
20 election.

21
22 SECTION 12. Arkansas Code § 7-9-407 is amended to read as follows:

23 7-9-407. Financial Reports - 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, as required by § 7-9-406, shall contain the following information:

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

29 (2)(A) For a committee:

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

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

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

36 (iv) The balance of cash and cash equivalents on

1 hand at the beginning and the end of the period covered by the financial
2 report;

3 (v) The total amount of contributions received
4 during the period covered by the financial statement from persons who
5 contributed less than one hundred dollars (\$100), and the cumulative amount
6 of that total for each ballot question or legislative question;

7 (vi) The total amount of contributions received
8 during the period covered by the financial statement from persons who
9 contributed one hundred dollars (\$100) or more, and the cumulative amount of
10 that total for each ballot question or legislative question; ~~and~~

11 (vii) The name and street address of each person who
12 contributed one hundred dollars (\$100) or more during the period covered by
13 the financial report, together with the amount contributed, the date of
14 receipt, and the cumulative amount contributed by that person for each ballot
15 question or legislative question; and

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

20 (B) For an individual person:

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

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

25 (C) For a public servant or governmental body using public
26 funds:

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

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

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

36

1 SECTION 13. Arkansas Code § 21-8-301 is amended to read as follows:

2 21-8-301. Definitions.

3 In this subchapter,

4 ~~(1)(A) "Financial interest" means notes, stock certificates,~~
 5 ~~bonds, contracts, or other evidence of ownership interest in any firm,~~
 6 ~~corporation, or enterprise.~~

7 ~~(B) "Financial interest" does not mean demand deposits,~~
 8 ~~time deposits, or other types of deposits that do not vest any ownership~~
 9 ~~interest in any firm, corporation, or enterprise;~~

10 ~~(2) "Regulatory agency" means any state board, commission,~~
 11 ~~department, or officer authorized by law to make rules or to adjudicate~~
 12 ~~contested cases except those in the legislative or judicial branches; and~~

13 ~~(3) "State state employee" means all employees of the State of~~
 14 ~~Arkansas employed on a full-time or part-time basis.~~

15
 16 SECTION 14. Arkansas Code § 21-8-302 is amended to read as follows:

17 21-8-302. Penalties.

18 ~~(a) Any person who knowingly or willfully fails to file any report~~
 19 ~~pursuant to this subchapter or files an incomplete or inaccurate report or~~
 20 ~~otherwise violates any provision of this subchapter shall be guilty of a~~
 21 ~~Class B misdemeanor.~~

22 ~~(b) In addition, any person who shall willfully conceal or fail~~
 23 ~~to disclose any information which, by the provisions of this subchapter, is~~
 24 ~~required to be disclosed and filed with the appropriate official as required~~
 25 ~~by this subchapter shall be guilty of malfeasance in office or position of~~
 26 ~~employment and shall be removed therefrom.~~

27
 28 SECTION 15. Arkansas Code § 21-8-601(a), concerning lobbyist
 29 registration, is amended to read as follows:

30 (a)(1) A lobbyist shall register within five (5) days after beginning
 31 lobbying. Such registration shall be on forms provided by the Secretary of
 32 State containing the following information:

33 (A) The name, address, and telephone number of the
 34 lobbyist;

35 (B) The calendar year for which the lobbyist is
 36 registering;

1 (C) The types of public servants being lobbied;
 2 ~~(C)~~(D) The name, address, and telephone number of the
 3 lobbyist's client or employer;

4 ~~(D)~~(E) A description of the nature of the lobbyist's
 5 client or employer; and

6 ~~(E)~~(F) Certification by the lobbyist that the information
 7 contained on the lobbyist registration form is true and correct.

8 (2) If there is a change of information during the registration
 9 period, a lobbyist shall file an amended registration form within ten (10)
 10 days of the change.

11 ~~(2)~~(3) A lobbyist shall not be required to register if he or she
 12 engages in no lobbying other than the following activities:

13 (A) The publishing or broadcasting, by news media
 14 executives or their employees or agents, in the ordinary course of business,
 15 of news items, editorials, or other comments or paid advertisements which
 16 directly or indirectly urge legislative action or administrative action;

17 (B) Engaging in lobbying exclusively on behalf of an
 18 Arkansas church which qualifies as a tax exempt organization under §
 19 501(c)(3) of the Internal Revenue Code when lobbying solely for the purpose
 20 of protecting the rights of members or adherents to practice the religious
 21 doctrines of the church;

22 (C)(i) Action in a person's official capacity as a public
 23 servant.

24 (ii) However, a public servant shall be required to
 25 register as a lobbyist if he or she:

26 (a) Receives income from a nongovernmental
 27 person in excess of four hundred dollars (\$400) in a quarter for lobbying; or

28 (b) Expends or is reimbursed in excess of four
 29 hundred dollars (\$400), regardless of the source, in a quarter for lobbying,
 30 excluding the cost of informational material and personal travel, lodging,
 31 meals, and dues;

32 (D) Drafting legislation;

33 (E) Appearing in:

34 (i) A judicial proceeding;

35 (ii) A proceeding or hearing if the appearance is a
 36 matter of public record; or

1 (iii) Any hearing or appeal proceeding conducted
2 pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

3 (F) Assisting an executive agency, at the written request
4 of the agency, in drafting administrative regulations or in publicizing or
5 assisting in the implementation of final administrative actions;

6 (G) Testifying as an individual at a public hearing in
7 support of or in opposition to legislation or administrative action,
8 testifying on behalf of a corporation, partnership, association, or other
9 organization with which the person is regularly associated as an employee,
10 officer, member, or partner, or testifying at the request of a legislative
11 committee; or

12 (H) Actions by contractors or employees of contractors
13 while engaged in selling to a governmental body by demonstrating or
14 describing commodities or services or inquiring as to specifications or terms
15 and conditions of a particular purchase unless such contractor or its
16 employees expend in excess of four hundred dollars (\$400) in a calendar
17 quarter for food, lodging, travel, or gifts to benefit public servants who
18 purchase commodities or services on behalf of a governmental body.

19 ~~(3)~~(4) A person whose only act of lobbying is to compensate or
20 reimburse a registered lobbyist in the person's behalf shall not be required
21 to register as a lobbyist.

22
23 SECTION 16. Arkansas Code § 21-8-701(a), concerning persons required
24 to file a written statement of financial interest, is amended to read as
25 follows:

26 (a) The following persons shall file a written statement of financial
27 interest:

28 (1) A public official, as defined in § 21-8-402(17);

29 (2) A candidate for elective office;

30 (3) A district judge or city attorney, whether elected or
31 appointed;

32 (4) Any agency head, department director, or division director
33 of state government;

34 (5)(A) Any public appointee to any state board or commission ~~who~~
35 that is authorized or charged by law with the exercise of regulatory
36 authority or is authorized to receive or disburse state or federal funds.

1 (B) A public appointee to a state board or commission
2 which is not charged by law with the exercise of regulatory authority and
3 which receives or disburses state or federal funds only in the form of
4 mileage reimbursement for members attending meetings of the board or
5 commission shall not be required to file a written statement of financial
6 interest;

7 (6) All persons who are elected members of a school board or who
8 are candidates for a position on a school board;

9 (7) All public and charter school superintendents;

10 (8) Directors of educational cooperatives; and

11 (9) Any person appointed to one (1) of the following types of
12 regional, municipal, or county boards or commissions:

13 (A) A planning board or commission;

14 (B) An airport board or commission;

15 (C) A water or sewer board or commission;

16 (D) A utility board or commission; or

17 (E) A civil service commission.

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