

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4
5 By: Representative Bell

A Bill

HOUSE BILL 2209

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

32 (i) ~~the~~ The campaign of a candidate for public
33 office; and

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



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

3 7-1-111. Use of public funds to support or oppose ballot measure.

4 (a) As used in this section:

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

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

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

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

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

16 (c) This section shall not:

17 (1) Limit the freedom of speech of a public servant or
18 governmental body; or

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

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

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

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

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

32
33 SECTION 3. Arkansas Code § 7-9-402(9), concerning the definition of
34 "person" applicable to disclosure for matters referred to voters, is amended
35 to read as follows:

36 (9)(A) "Person" means any individual, business, proprietorship,

1 firm, partnership, joint venture, syndicate, business trust, labor
 2 organization, company, corporation, association, committee, or any other
 3 organization or group of persons acting in concert-

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

8
 9 SECTION 4. Arkansas Code § 7-9-406(c), concerning financial reports or
 10 contributions and expenditures, is amended to read as follows:

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

17
 18 SECTION 5. Arkansas Code § 7-9-407 is amended to read as follows:
 19 7-9-407. Financial report – Information.

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

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

27 (2)(A) For a committee:

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

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

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

34 (iv) The balance of cash and cash equivalents on
 35 hand at the beginning and the end of the period covered by the financial
 36 report;

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

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

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

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

17 (B) For an individual person:

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

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

22 (C) For a public servant or governmental body using public
 23 funds:

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

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

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

33
 34 SECTION 6. Arkansas Code §§ 7-9-412 through 7-9-414 are repealed.

35 ~~7-9-412. Reporting the use of state funds to oppose or support a ballot~~
 36 ~~measure.~~

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

8
 9 ~~7-9-413. Use of state funds to oppose or support a ballot measure.~~
 10 ~~The use of state funds under § 7-9-412 includes:~~

- 11 ~~(1) Newspaper, television, radio, and other forms of~~
 12 ~~communication;~~
- 13 ~~(2) Publication materials;~~
- 14 ~~(3) Travel expenses relative to reimbursement;~~
- 15 ~~(4) Surveys;~~
- 16 ~~(5) Private contracts; and~~
- 17 ~~(6) Postage.~~

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 19 ~~7-9-414. Applicability of §§ 7-9-412 and 7-9-413.~~

20 ~~This act does not apply to state funds appropriated to any elected~~
 21 ~~officials.~~

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