

Stricken language would be deleted from and underlined language would be added to present law.

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

As Engrossed: H3/31/11

A Bill

HOUSE BILL 2209

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

For An Act To Be Entitled

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

Subtitle

15 TO AMEND ARKANSAS LAW CONCERNING THE USE
16 OF PUBLIC FUNDS TO SUPPORT OR OPPOSE
17 BALLOT MEASURES.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 7-1-103(a)(3), concerning certain
23 misdemeanor offenses, is amended to read as follows:

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

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

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

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



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

4 7-1-111. Use of public funds to support or oppose ballot measure.

5 (a) As used in this section:

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

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

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

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

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

17 (c) This section shall not:

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

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

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

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

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

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

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

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

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

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

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

18
19 SECTION 5. Arkansas Code § 7-9-407 is amended to read as follows:
20 7-9-407. Financial report – Information.

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

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

28 (2)(A) For a committee:

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

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

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

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

1 report;

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

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

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

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

18 (B) For an individual person:

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

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

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

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

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

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

34

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

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

1 ~~measure.~~

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

9

10 ~~7-9-413. Use of state funds to oppose or support a ballot measure.~~

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

12 ~~(1) Newspaper, television, radio, and other forms of~~
13 ~~communication;~~

14 ~~(2) Publication materials;~~

15 ~~(3) Travel expenses relative to reimbursement;~~

16 ~~(4) Surveys;~~

17 ~~(5) Private contracts; and~~

18 ~~(6) Postage.~~

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20 ~~7-9-414. Applicability of §§ 7-9-412 and 7-9-413.~~

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

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24 */s/Bell*

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