

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

A Bill

HOUSE BILL 1425

4
5 By: Representative Tucker

For An Act To Be Entitled

8 AN ACT TO REQUIRE REPORTING AND DISCLOSURE OF
9 ELECTIONEERING COMMUNICATIONS; AND FOR OTHER
10 PURPOSES.

Subtitle

14 TO REQUIRE REPORTING AND DISCLOSURE OF
15 ELECTIONEERING COMMUNICATIONS.

16
17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19
20 SECTION 1. Arkansas Code § 7-6-201 is amended to add additional
21 subdivisions to read as follows:

22 (19) "Broadcast, cable, or satellite communication" means a
23 communication that is publicly distributed by a television station, radio
24 station, cable television system, or satellite system;

25 (20)(A) "Electioneering communication" means any broadcast,
26 cable, or satellite communication that:

27 (i) Refers to a clearly identified candidate for
28 public office;

29 (ii) Is publicly distributed within:

30 (a) Ninety (90) days before a general election
31 for the office sought by the candidate; or

32 (b) Sixty (60) days before a primary election
33 for the office sought by the candidate; and

34 (iii) Is targeted to the relevant electorate for
35 that candidate.

36 (B) "Electioneering communication" does not include any



1 communication that:

2 (i) Is publicly disseminated through a means of
 3 communication other than a broadcast, cable, or satellite television or
 4 communication such as:

5 (a) Communications appearing in print media,
 6 including a newspaper, magazine, handbill, brochure, bumper sticker, yard
 7 sign, poster, billboard, and other written materials, including mailings;

8 (b) Communications over the Internet,
 9 including electronic mail; or

10 (c) Telephone communications;

11 (ii) Appears in a news story, commentary, or
 12 editorial distributed through the facilities of any broadcast, cable, or
 13 satellite communication, unless the facilities are owned or controlled by any
 14 political party, political committee, or candidate;

15 (iii) Constitutes an expenditure that is reported as
 16 required under this subchapter;

17 (iv) Constitutes an independent expenditure that is
 18 reported as required under this subchapter; or

19 (v) Constitutes a candidate debate or forum
 20 conducted, or that solely promotes such a debate or forum and is made by or
 21 on behalf of the person sponsoring the debate or forum;

22 (21) "Refers to a clearly identified candidate" means that the
 23 candidate's name, nickname, photograph, or drawing appears, or the identity
 24 of the candidate is otherwise apparent through an unambiguous reference such
 25 as "the Governor", "your county judge", or "the incumbent", or through an
 26 unambiguous reference to his or her status as a candidate such as "the
 27 Republican nominee for Governor" or "the Democratic candidate for Secretary
 28 of State in the State of Arkansas";

29 (22) "Publicly distributed" means aired, broadcast, cablecast,
 30 or otherwise disseminated through the facilities of a television station,
 31 radio station, cable television system, or satellite system; and

32 (23) "Targeted to the relevant electorate" means the
 33 communication can be seen or heard:

34 (A) In the district the candidate seeks to represent, in
 35 the case of a candidate for district office;

36 (B) In the county, municipality, or school district in the

1 case of candidates for county office, municipal office, or school board; or
 2 (C) Anywhere in the State of Arkansas, in the case of a
 3 candidate for statewide office.

4
 5 SECTION 2. Arkansas Code Title 7, Chapter 6, Subchapter 2, is amended
 6 to add additional sections to read as follows:

7 7-6-228. Coordinated electioneering communications.

8 (a)(1) A coordinated electioneering communication is an in-kind
 9 contribution to the candidate or political party who or to the candidate or
 10 political party whose authorized committee or agent arranged, cooperated,
 11 consulted, requested, suggested, or acted in concert with the person making
 12 the electioneering communication or his or her authorized agent.

13 (2) The in-kind contribution under subdivision (a)(1) of this
 14 section shall be subject to the contribution limits set forth under § 7-6-
 15 203.

16 (b) As used in this section "coordinated electioneering communication"
 17 means an electioneering communication made:

18 (1) In arrangement, cooperation, or consultation between:

19 (A) A candidate or his or her authorized committee or
 20 agent; and

21 (B) The person making the electioneering communication or
 22 his or her authorized agent;

23 (2) In arrangement, cooperation, or consultation between:

24 (A) A political party or its authorized agent; and

25 (B) The person making the electioneering communication or
 26 his or her authorized agent;

27 (3) In concert with or at the request or suggestion of a
 28 candidate or his or her authorized committee or agent; or

29 (4) In concert with or at the request or suggestion of a
 30 political party or its authorized agent.

31
 32 7-6-229. Reporting and disclosure of electioneering communication.

33 (a)(1) A person who has made an electioneering communication using an
 34 aggregate amount exceeding five thousand dollars (\$5,000) in one (1) calendar
 35 year shall file a statement with the Secretary of State within three (3) days
 36 of the disclosure date but no later than the close of business on the day

1 before the election.

2 (2) The statement shall be filed under penalty of false swearing
3 and shall disclose the following:

4 (A) The identification, including the name, address, and
5 phone number, of the person who made the disbursement or who executed a
6 contract to make a disbursement, and, if the person is not an individual, the
7 person's principal place of business with name, address, and phone number;

8 (B) The identification, including the name, address, and
9 phone number, of any person sharing or exercising direction or control over
10 the activities of the person who made the disbursement or who executed a
11 contract to make a disbursement;

12 (C) The identification, including the name, address, and
13 phone number, of the custodian of the books and accounts from which the
14 disbursements were made;

15 (D)(i) The amount of each disbursement, or amount
16 obligated, of more than one hundred dollars (\$100) during the period covered
17 by the statement, the date the disbursement was made, or the contract was
18 executed, and the identification of the person to whom that disbursement was
19 made.

20 (ii) The disclosure under subdivision (a)(2)(D)(i)
21 of this section shall include without limitation the direct costs of
22 producing or airing an electioneering communication;

23 (E) All clearly identified candidates referred to in the
24 electioneering communication and the elections in which they are candidates;

25 (F) The disclosure date;

26 (G) If the disbursements were paid exclusively from a
27 segregated bank account established to pay for electioneering communications,
28 consisting of funds provided solely by individuals who are United States
29 citizens, the name and address of and the amount contributed by each person
30 who made a contribution or contributions which, in the aggregate, exceed one
31 hundred dollars (\$100) or more to the person making the disbursement,
32 aggregating since the first day of the preceding calendar year; and

33 (H) If the disbursements were not paid exclusively from a
34 segregated bank account established to pay for the electioneering
35 communications, the name and address of and amount contributed by each person
36 who made a contribution or contributions which, in the aggregate, exceed two

1 hundred fifty dollars (\$250) or more to the person making the disbursement,
2 aggregating since the first day of the preceding calendar year.

3 (b) A person that makes an electioneering communication that is an
4 independent expenditure:

5 (1) Shall file an independent expenditure report under § 7-6-
6 220; and

7 (2) Shall not file an electioneering communication disclosure
8 under this section.

9 (c) A person who makes an electioneering communication or who accepts
10 a contribution for the purpose of making an electioneering communication must
11 maintain records for a period of four (4) years.

12 (d) As used in this section:

13 (1) "Direct costs of producing or airing electioneering
14 communications" means:

15 (A) Costs charged by a vendor, such as studio rental time,
16 staff salaries, cost of video or audio recording media, and talent; or

17 (B) The cost of airtime on broadcast, cable, or satellite
18 radio and television stations, studio time, material costs, and the charges
19 for a broker to purchase the airtime;

20 (2) "Disclosure date" means:

21 (A) The first date on which an electioneering
22 communication is publicly distributed provided that the person making the
23 electioneering communication has made one (1) or more disbursements, or has
24 executed one (1) or more contracts to make disbursements, for the direct
25 costs of producing or airing one (1) or more electioneering communications
26 using an aggregate amount in excess of five thousand dollars (\$5,000); or

27 (B) Any other date during the same calendar year on which
28 an electioneering communication is publicly distributed provided that the
29 person making the electioneering communication has made one (1) or more
30 disbursements, or has executed one (1) or more contracts to make
31 disbursements, for the direct costs of producing or airing one (1) or more
32 electioneering communications using an aggregate amount in excess of five
33 thousand dollars (\$5,000) since the most recent disclosure date during such
34 calendar year; and

35 (3) "Persons sharing or exercising direction or control" means
36 officers, directors, executive directors or their equivalent, partners, and,

1 in the case of unincorporated organizations, owners, of the entity or person
2 making the disbursement for the electioneering communication.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36