

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

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H3/30/21 H4/1/21

A Bill

HOUSE BILL 1675

5 By: Representative Evans
6 By: Senator J. English
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING CAMPAIGN FINANCE;
10 TO REPEAL THE PROVISIONS CONCERNING CARRYOVER FUNDS;
11 TO MODIFY THE USE OF CAMPAIGN FUNDS; TO AMEND
12 PORTIONS OF INITIATED ACT 1 OF 1990 AND INITIATED ACT
13 1 OF 1996; AND FOR OTHER PURPOSES.
14
15

Subtitle

16 TO AMEND THE LAW CONCERNING CAMPAIGN
17 FINANCE; TO REPEAL THE PROVISIONS
18 CONCERNING CARRYOVER FUNDS; TO MODIFY THE
19 USE OF CAMPAIGN FUNDS; AND TO AMEND
20 PORTIONS OF INITIATED ACT 1 OF 1990 AND
21 INITIATED ACT 1 OF 1996.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 7-6-201(3), concerning the definition of
28 "carryover funds" as applied to campaign financing and resulting from
29 Initiated Act 1 of 1990 and Initiated Act 1 of 1996, is repealed.

30 ~~(3)(A) "Carryover funds" means the amount of campaign funds~~
31 ~~retained from the last election by the candidate for future use but not to~~
32 ~~exceed the annual salary, excluding expense allowances, set by Arkansas law~~
33 ~~for the office sought.~~

34 ~~(B) "Carryover funds" does not include campaign signs,~~
35 ~~campaign literature, and other printed campaign materials that were~~

36 ~~(i) Purchased by the campaign;~~



1 ~~(ii) Reported on the appropriate contribution and~~
 2 ~~expenditure report for the campaign at the time of the purchase; and~~
 3 ~~(iii) Retained for use in a future campaign by the~~
 4 ~~same candidate;~~

5
 6 SECTION 2. Arkansas Code § 7-6-201(17)(A), concerning the definition
 7 of "surplus campaign funds" as applied to campaign financing and resulting
 8 from Initiated Act 1 of 1990 and Initiated Act 1 of 1996, is amended to read
 9 as follows:

10 (17)(A) ~~"Surplus~~ Remaining campaign funds" means any balance of
 11 campaign funds over expenses incurred as of the day of the election except
 12 for:

13 ~~(i) Carryover funds; and~~
 14 ~~(ii)~~ Any funds required to repay loans made by the
 15 candidate from his or her personal funds to the campaign; or
 16 (ii) ~~to~~ To repay loans made by financial
 17 institutions to the candidate and applied to the campaign.

18
 19 SECTION 3. Arkansas Code § 7-6-203(f)(4)(A), concerning contribution,
 20 limitation, acceptance, use as personal income, and disposition of campaign
 21 funds and resulting from Initiated Act 1 of 1990 and Initiated Act 1 of 1996,
 22 is amended to read as follows:

23 (4)(A)(i) For purposes of this subsection, a candidate or
 24 officeholder, who uses campaign funds ~~or carryover funds~~ to fulfill any
 25 commitment, obligation, or expense that would exist regardless of the
 26 candidate's campaign or officeholder activity, shall be deemed to have taken
 27 campaign funds as personal income.

28 (ii) Candidates or officeholders may use campaign
 29 funds ~~or carryover funds~~ to fulfill any commitment, obligation, or expense
 30 authorized by law, or permitted by an Arkansas Ethics Commission rule or
 31 opinion at the time of the expenditure, or reasonably and legitimately
 32 related to a campaign or officeholder activity.

33
 34 SECTION 4. Arkansas Code § 7-6-203(f)(5), concerning contribution,
 35 limitation, acceptance, use as personal income, and disposition of campaign
 36 funds and resulting from Initiated Act 1 of 1990 and Initiated Act 1 of 1996,

1 is amended to read as follows:

2 (5) If a candidate loses an election or if an officeholder is no
3 longer in office, ~~and after disposing of surplus funds, has carryover funds~~
4 ~~remaining~~, personal use of campaign funds remains prohibited by this section
5 ~~for expenses~~ unless the expenses relate to a future candidacy and shall
6 comply with subdivision (f)(4) of this section.

7
8 SECTION 5. Arkansas Code § 7-6-203(f)(7), concerning contribution,
9 limitation, acceptance, use as personal income, and disposition of campaign
10 funds and resulting from Initiated Act 1 of 1990 and Initiated Act 1 of 1996,
11 is amended to read as follows:

12 (7) It is an affirmative defense to a prosecution for taking
13 campaign funds as personal income if the candidate or officeholder shows by a
14 preponderance of the evidence that:

15 ~~(A) If the personal property was retained as carryover~~
16 campaign funds, and the candidate or officeholder:

17 ~~(i)(A) Reported the personal property as carryover~~
18 campaign funds; and

19 ~~(ii)(B) Retained or disposed of the personal~~
20 property in the manner that is required by law for carryover campaign funds;
21 ~~or~~

22 ~~(B) If the personal property was retained as surplus~~
23 funds, the candidate or officeholder:

24 ~~(i) Reported the personal property as surplus funds;~~
25 and

26 ~~(ii) Retained or disposed of the personal property~~
27 in the manner that is required by law for surplus funds.

28
29 SECTION 6. Arkansas Code § 7-6-203(g), concerning contribution,
30 limitation, acceptance, use as personal income, and disposition of campaign
31 funds and resulting from Initiated Act 1 of 1990 and Initiated Act 1 of 1996,
32 is amended to read as follows:

33 (g)(1) ~~Within thirty (30) days following the end of the month in which~~
34 ~~an election is held or a candidate has withdrawn, a A candidate shall may~~
35 turn over surplus campaign funds to either:

36 (A) The Treasurer of State for the benefit of the General

1 Revenue Fund Account of the State Apportionment Fund;

2 (B) A political party as defined in § 7-1-101 or a
3 political party caucus of the General Assembly, the Senate, or the House of
4 Representatives;

5 (C) A nonprofit organization that is exempt from taxation
6 under Section 501(c)(3) of the Internal Revenue Code;

7 (D) Cities of the first class, cities of the second class,
8 or incorporated towns; or

9 (E) The contributors to the candidate's campaign.

10 ~~(2) If the candidate's campaign has not ended, disposal of~~
11 ~~surplus campaign funds shall not be required and the candidate may carry~~
12 ~~forward any remaining funds to the general primary election, general~~
13 ~~election, or general runoff election for that same office.~~

14 ~~(3)(A) If an unopposed candidate agrees not to solicit further~~
15 ~~campaign contributions by filing an affidavit declaring such an agreement,~~
16 ~~the candidate may dispose of any surplus campaign funds prior to a general~~
17 ~~election as soon as the time has passed to declare an intent to be a write-in~~
18 ~~candidate pursuant to § 7-5-205.~~

19 ~~(B) For an unopposed nonpartisan candidate, the affidavit~~
20 ~~may be filed after the deadlines have passed to declare as a filing fee~~
21 ~~candidate, petition candidate, or write-in candidate under § 7-10-103.~~

22 ~~(C) The affidavit shall be filed in the office in which~~
23 ~~the candidate is required to file reports of contributions received and~~
24 ~~expenditures made.~~

25 ~~(D) Unopposed candidates and defeated candidates who file~~
26 ~~the affidavit are exempt from further reporting requirements provided that~~
27 ~~the affidavit contains:~~

28 ~~(i) All campaign activity not previously reported;~~
29 ~~and~~

30 ~~(ii) A statement that the candidate's campaign fund~~
31 ~~has a zero (\$0.00) balance.~~

32 ~~(4)(A)(2)(A) Carryover funds may be expended at any time for any~~
33 ~~purpose not prohibited by this chapter and may be used as campaign funds for~~
34 ~~seeking any public office Remaining campaign funds may be maintained after an~~
35 ~~election and used to run for election or re-election.~~

36 (B) Nothing shall prohibit a person at any time from

1 ~~disposing of all or any portion of his or her carryover~~ campaign funds in the
2 ~~same manner as for surplus campaign funds~~ manner set out under subdivision
3 (g)(1) of this section. However, the candidate shall not take the funds as
4 personal income or as income for his or her spouse or dependent children.

5 ~~(B)(i) When a person having carryover funds files as a~~
6 ~~candidate for public office, his or her carryover funds shall be transferred~~
7 ~~to the person's active campaign fund. Once transferred, the funds will no~~
8 ~~longer be treated as carryover funds.~~

9 ~~(ii) This subdivision (g)(4)(B) shall not apply to~~
10 ~~carryover funds from an election held prior to July 1, 1997.~~

11 ~~(iii) This subdivision (g)(4)(B) shall not apply to~~
12 ~~a campaign debt.~~

13 ~~(C)(i) If carryover funds are expended prior to~~
14 ~~transferring the funds to an active campaign fund, the expenditures shall be~~
15 ~~reported pursuant to this subdivision (g)(4)(C). A person shall file an~~
16 ~~expenditure report concerning carryover funds if, since the last report~~
17 ~~concerning the carryover funds, the person has expended in excess of five~~
18 ~~hundred dollars (\$500). The report shall be filed at the office in which the~~
19 ~~candidate was required to file his or her campaign contribution and~~
20 ~~expenditure reports for the previous campaign not later than fifteen (15)~~
21 ~~days after a calendar quarter in which a report becomes required. No report~~
22 ~~is required in any calendar quarter in which the cumulative expenditure limit~~
23 ~~has not been exceeded since the person's last report.~~

24 ~~(ii) The person shall also file an expenditure~~
25 ~~report for the calendar quarter in which he or she transfers the carryover~~
26 ~~funds to an active campaign fund.~~

27 ~~(iii)(a) A person who retains carryover funds shall~~
28 ~~file an annual report outlining the status of the carryover fund account as~~
29 ~~of December 31 unless the person has filed a quarterly report during the~~
30 ~~calendar year pursuant to subdivisions (g)(4)(C)(i) and (ii) of this section.~~

31 ~~(b) The annual report shall be due by January~~
32 ~~31 of each year.~~

33 ~~(c) A person who retains carryover funds from~~
34 ~~a general election held in November or a runoff election held in November is~~
35 ~~not required to file an annual report for the year of the general election or~~
36 ~~runoff election from which carryover funds were retained.~~

1 ~~(iv) The carryover fund reports of a candidate for~~
2 ~~school district, township, municipal, or county office shall be filed with~~
3 ~~the county clerk of the county in which the election was held.~~

4 ~~(v)(a) The carryover fund reports of a candidate for~~
5 ~~state or district office shall be filed with the Secretary of State.~~

6 ~~(b) The carryover fund reports of a candidate~~
7 ~~for state or district office filed with the Secretary of State shall be filed~~
8 ~~in electronic form through the official website of the Secretary of State.~~
9 ~~The Arkansas Ethics Commission shall approve the format used by the Secretary~~
10 ~~of State for the filing of carryover fund reports in electronic form under~~
11 ~~this subdivision (g)(4)(C)(v)(b) to ensure that all required information is~~
12 ~~requested. The official website of the Secretary of State shall allow for~~
13 ~~searches of carryover fund report information required to be filed in~~
14 ~~electronic form under this subdivision (g)(4)(C)(v)(b).~~

15 ~~(D)(i)(C)(i)~~ Carryover Campaign funds may be retained by a
16 person for not more than ten (10) years after the last election at which he
17 or she was a candidate, or if applicable, not more than ten (10) years after
18 the last day that the person held office, and any remaining ~~carryover~~
19 campaign funds shall be disposed of in the same manner as for surplus
20 campaign funds manner set out under subdivision (g)(1) of this section.

21 (ii)(a) The officer with whom the person last filed
22 a final campaign report shall provide the person timely notice of the
23 requirements of this subdivision ~~(g)(4)(D)(g)(2)(C)~~ prior to the expiration
24 of the ten-year period.

25 (b) However, failure to provide the notice
26 does not relieve the person of his or her obligation under this subsection.

27 ~~(E)(i)(D)(i)~~ The use of ~~carryover~~ campaign funds to pay an
28 elected candidate's own personal expenses for food, lodging, conference fees,
29 or travel to attend a conference related to the performance of his or her
30 responsibilities as an elected official shall not be considered a taking of
31 campaign funds as personal income.

32 (ii) The reimbursement of expenses shall be a result
33 of travel and the source of the reimbursement shall be authorized under the
34 rules of the House of Representatives or the Senate and used to reimburse the
35 ~~carryover~~ campaign account.

36 (iii) The reimbursement amount shall be reported in

1 the elected candidate's ~~carryover~~ campaign fund report.

2 ~~(5)(3)~~ After the date of an election at which the person is a
3 candidate for nomination or election, the person shall not accept campaign
4 contributions for that election except for the sole purpose of raising funds
5 to retire campaign debt.

6 ~~(6)(4)~~ Surplus Campaign funds or remaining Surplus campaign
7 funds ~~or carryover funds~~ given to a political party caucus shall be
8 segregated in an account separated from other caucus funds and shall not be
9 used:

10 (A) By the political party caucus to make a campaign
11 contribution; or

12 (B) To provide any personal income to any candidate who
13 donated ~~surplus~~ campaign funds or remaining campaign funds ~~or carryover~~
14 ~~funds~~.

15
16 *SECTION 7. Arkansas Code § 7-6-207(a)(1), concerning reports of*
17 *contributions by candidates for state or district office and resulting from*
18 *Initiated Act 1 of 1990 and Initiated Act 1 of 1996, is amended to add an*
19 *additional subdivision to read as follows:*

20 (F) If a candidate keeps remaining campaign funds after an
21 election, the candidate shall continue filing the reports required by this
22 subsection.

23
24 *SECTION 8. Arkansas Code § 7-6-207(b)(1), concerning reports of*
25 *contributions by candidates for state or district office and resulting from*
26 *Initiated Act 1 of 1990 and Initiated Act 1 of 1996, is amended to add an*
27 *additional subdivision to read as follows:*

28 (H) *The total amount of all nonitemized expenditures made*
29 *during the filing period; and*

30 (I) A list of all disbursements made under § 7-6-
31 203(g)(1); and

32 (J) The current balance of campaign funds.

33
34 *SECTION 9. Arkansas Code § 7-6-207(b)(2), concerning reports of*
35 *contributions by candidates for state or district office and resulting from*
36 *Initiated Act 1 of 1990 and Initiated Act 1 of 1996, is amended to read as*

1 follows:

2 (2)(A) ~~When the~~ If a candidate's campaign has ended and the
3 candidate does not retain remaining campaign funds, the final report shall
4 also indicate which option under § 7-6-203(g) was used to dispose of ~~any~~
5 ~~surplus of campaign funds, the amount of funds disposed of by the candidate,~~
6 ~~and.~~

7 (B) If a candidate's campaign has ended and the candidate
8 is retaining remaining campaign funds, the final report shall also indicate
9 the amount of funds retained by the candidate in accordance with § 7-6-
10 201(3).

11 ~~(B)(C)~~ If the candidate's campaign has not ended, disposal
12 of campaign funds shall not be required and the candidate may carry forward
13 any remaining campaign funds to the general primary election, general
14 election, or general runoff election for that same office.

15
16 SECTION 10. Arkansas Code § 7-6-208(a), concerning reports of
17 contributions by candidates for school district, township, or municipal
18 office and resulting from Initiated Act 1 of 1990 and Initiated Act 1 of
19 1996, is amended to read as follows:

20 (a) Reports Required. Except as provided in subsection (d) of this
21 section, each candidate for school district, township, or municipal office,
22 or a person acting in the candidate's behalf, shall:

23 (1)(A) For each year in which a candidate is not listed on a
24 ballot for election, file an annual report of all contributions received and
25 expenditures made during that year.

26 (B) The annual report shall be filed no later than fifteen
27 (15) days after the end of the year;

28 (2) No later than seven (7) days prior to any preferential
29 primary election, runoff election, general election, school election, or
30 special election in which the candidate's name appears on the ballot, file a
31 preelection report of all contributions received and expenditures made
32 between the period covered by the previous report, if any, and the period ten
33 (10) days before the election. In case of a runoff election, the report shall
34 cover all contributions received and expenditures made during that period of
35 time that begins after the date of the election from which the runoff arose
36 and ends ten (10) days before the runoff election;

1 ~~(2)~~(3) No later than thirty (30) days after the end of the month
2 in which the candidate's name has appeared on the ballot in any preferential
3 primary election, runoff election, general election, school election, or
4 special election, or when only one (1) candidate qualifies for a particular
5 office or position and no position or name of an unopposed candidate shall
6 appear on a ballot, file a final report of all contributions received and
7 expenditures made that have not been disclosed on reports previously required
8 to be filed. A final report is required regardless of whether a candidate has
9 received contributions or made expenditures in excess of five hundred dollars
10 (\$500);

11 ~~(3)~~(4) File supplemental reports of all contributions received
12 and expenditures made after the date of preparation of the final report. The
13 supplemental reports shall be filed within thirty (30) days after the receipt
14 of a contribution or the making of an expenditure; ~~and~~

15 ~~(4)(A)~~(5)(A) No later than thirty (30) days after the end of the
16 month in which the candidate has withdrawn, file a final report of all
17 contributions received and expenditures made that have not been disclosed on
18 reports previously required to be filed.

19 (B) If a candidate withdraws from the campaign, the
20 candidate shall notify the county clerk in writing of the withdrawal; and

21 (6) If a candidate keeps remaining campaign funds after an
22 election, the candidate shall continue filing the reports required by this
23 subsection.

24
25 SECTION 11. Arkansas Code § 7-6-209(a), concerning reports of
26 contributions by candidates for county office and resulting from Initiated
27 Act 1 of 1990 and Initiated Act 1 of 1996, is amended to read as follows:

28 (a) Reports Required. Except as provided in subsection (d) of this
29 section, each candidate for county office or a person acting in the
30 candidate's behalf shall:

31 (1)(A) For each year in which a candidate is not listed on a
32 ballot for election, file an annual report of all contributions received and
33 expenditures made during that year.

34 (B) The annual report shall be filed no later than fifteen
35 (15) days after the end of the year;

36 (2) No later than seven (7) days prior to any preferential

1 primary election, runoff election, general election, or special election in
2 which the candidate's name appears on the ballot, file a preelection report
3 of all contributions received and expenditures made between the period
4 covered by the previous report, if any, and the period ten (10) days before
5 the election. In case of a runoff election, the report shall cover all
6 contributions received and expenditures made during that period of time that
7 begins after the date of the election from which the runoff arose and ends
8 ten (10) days before the runoff election;

9 ~~(2)(3)~~ No later than thirty (30) days after the end of the month
10 in which the candidate's name has appeared on the ballot in any preferential
11 primary election, runoff election, general election, or special election, or
12 when only one (1) candidate qualifies for a particular office or position and
13 no position or name of an unopposed candidate shall appear on a ballot, file
14 a final report of all contributions received and expenditures made that have
15 not been disclosed on reports previously required to be filed. A final report
16 is required regardless of whether a candidate has received contributions or
17 made expenditures in excess of five hundred dollars (\$500);

18 ~~(3)(4)~~ File supplemental reports of all contributions received
19 and expenditures made after the date of preparation of the final report, and
20 the supplemental reports shall be filed within thirty (30) days after the
21 receipt of a contribution or the making of an expenditure; ~~and~~

22 ~~(4)(A)(5)(A)~~ No later than thirty (30) days after the end of the month
23 in which the candidate has withdrawn, a final report of all contributions
24 received and expenditures made that have not been disclosed on reports
25 previously required to be filed.

26 (B) If a candidate withdraws from the campaign, the
27 candidate shall notify the county clerk in writing of the withdrawal; and

28 (6) If a candidate keeps remaining campaign funds after an
29 election, the candidate shall continue filing the reports required by this
30 subsection.

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32
33 /s/Evans
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36