

SHORT TITLE: State government; Ethics Commission Act; prohibiting campaign contributions in excess of certain limits; allowing expenditure limits; providing penalties; requiring reporting of independent expenditures; codification; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1052

By: Roberts

AS INTRODUCED

An Act relating to state government; allowing candidate for state, local or federal office to elect to limit campaign expenditures; providing procedures therefor; specifying amounts of expenditure limits; providing that certain provisions apply to certain candidates; prohibiting contributions to committee other than candidate committee in excess of certain amount; prohibiting acceptance of excess contributions; providing that certain limitations not apply to certain committees; providing penalties; defining term; requiring certain persons or committees to register or file statement of organization and file certain reports; providing penalty; providing for codification; repealing 74 O.S. 1991, Section 4216, as amended by Section 24 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature (74 O.S. Supp. 1993, Section 4216), which relates to the Ethics Commission Act; providing severability; providing that act not apply to campaigns for which general election held prior to January 1, 1995; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4216.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A candidate for state or local office may elect to limit campaign expenditures for a campaign to the amounts specified in this subsection. Such election shall be filed with the Ethics Commission and shall be made in writing on a form prescribed by the Ethics Commission. Such election shall be made prior to accepting a contribution exceeding the amount specified in paragraph 1 of subsection D of this section. The campaign expenditure limits shall be a limit on the total amount of expenditures made by:

1. A candidate electing to limit campaign expenditures;
2. A candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf; and
3. Any other person who makes a campaign expenditure, other than an independent expenditure as defined in Section 3 of this act, on behalf of such a candidate.

B. The campaign expenditure limits shall be as follows:

1. For a candidate for statewide office, campaign expenditures shall be limited to an amount equal to thirty cents (\$0.30) multiplied by the number of residents of this state according to the most recent Federal Decennial Census. If such a candidate is opposed in a Primary Election, the limit shall be increased by an amount equal to twenty cents (\$0.20) multiplied by the number of residents of this state according to the most recent Federal Decennial Census. If such a candidate is opposed in a Runoff Primary Election, the limit shall be further increased by an amount equal to twenty cents (\$0.20) multiplied by the number of residents of this state according to the most recent Federal Decennial Census. If such a candidate is opposed in a General Election, the limit shall be further increased by an amount equal to thirty cents

(\$0.30) multiplied by the number of residents of this state according to the most recent Federal Decennial Census;

2. For a candidate for State Senate or Oklahoma House of Representatives, campaign expenditures shall be limited to an amount equal to thirty cents (\$0.30) multiplied by the average number of residents in State Senate or Oklahoma House of Representatives districts according to the most recent apportionment of the Legislature pursuant to the provisions of Section 11A et seq. of Article V of the Oklahoma Constitution. If such a candidate is opposed in a Primary Election, the limit shall be increased by an amount equal to twenty cents (\$0.20) multiplied by such number of residents. If such a candidate is opposed in a Runoff Primary Election, the limit shall be further increased by an amount equal to twenty cents (\$0.20) multiplied by such number of residents. If such a candidate is opposed in a General Election, the limit shall be further increased by an amount equal to thirty cents (\$0.30) multiplied by such number of residents; and

3. For a candidate for state office other than State Senate or Oklahoma House of Representatives or for a candidate for local office, campaign expenditures shall be limited to an amount equal to thirty cents (\$0.30) multiplied by the average number of residents of the type of district for the office for which the candidate is running according to the most recent apportionment of such districts. If such a candidate is opposed in a Primary Election, the limit shall be increased by an amount equal to twenty cents (\$0.20) multiplied by such number of residents. If such a candidate is opposed in a Runoff Primary Election, the limit shall be further increased by an amount equal to twenty cents (\$0.20) multiplied by such number of residents. If such a candidate is opposed in a General Election, the limit shall be further increased by an amount equal to thirty cents (\$0.30) multiplied by such number of residents.

C. If a candidate elects to limit campaign expenditures pursuant to this section, the following provisions shall apply:

1. No person or family may contribute more than Five Thousand Dollars (\$5,000.00) to such a candidate for state office or to a candidate for municipal office in a municipality with a population of over two hundred fifty thousand (250,000) persons, according to the most recent Federal Decennial Census, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, for a campaign; and

2. No person or family may contribute more than One Thousand Dollars (\$1,000.00) to such a candidate for local office other than that specified in paragraph 1 of this subsection, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, for a campaign.

D. If a candidate does not elect to limit campaign expenditures pursuant to this section, the following provisions shall apply:

1. No person or family may contribute more than Fifty Dollars (\$50.00) to such a candidate, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, for a campaign;

2. In addition to the reports of contributions and expenditures or statements of inactivity required to be filed pursuant to the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes, or rules of the Ethics Commission, reports of contributions and expenditures or statements of inactivity shall be filed with the Ethics Commission not later than the tenth day of each month. Such reports shall include all contributions accepted and all expenditures made for the previous calendar month; and

3. In addition to the information required on reports of contributions and expenditures pursuant to the Ethics Commission Act or rules of the Ethics Commission, the following shall be required:

- a. for each contribution, regardless of amount, the name, address, and occupation of the contributor, the date the contribution is accepted, and a specific description of the contribution shall be disclosed. Each contributor shall be required to complete and sign a card containing the information required by this subparagraph. Such card shall also contain an affidavit that the contribution is not reimbursed by any third party and shall indicate whether the contributor is a resident of the district for the office for which the candidate is running. A copy of the check or other written instrument by which the contribution was made, if any, shall be attached to the report, and
- b. for each expenditure, regardless of amount, the name, address, and occupation of the person to whom the expenditure was paid, the date of the expenditure, and the purpose of the expenditure. The person to whom the expenditure was paid shall be required to complete and sign a card containing the information required by this subparagraph. Such card shall also contain an affidavit that the amount paid for the goods or services received is the reasonable and customary rate charged by the person for like services or products in like quantities; provided, such affidavit shall not be required if the differences between the amount paid for such goods or services and the reasonable and customary rate for such goods or services is reported by the candidate as a contribution and such contribution is evidenced by a contributor card as required by subparagraph a of this paragraph. A copy of the check or other written instrument by which the

expenditure was made, if any, shall be attached to the report.

E. No person or family may contribute more than Five Thousand Dollars (\$5,000.00) to a committee other than a candidate committee in any calendar year.

F. No candidate, candidate committee, or other committee shall accept contributions in excess of the amounts provided herein.

G. The provisions of subsection E of this section shall not apply to a committee supporting or opposing an initiative or referendum petition or a legislative referendum.

H. Every person who knowingly and willfully violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment; provided, a candidate electing to limit campaign expenditures as provided in this section who exceeds such expenditure limitations and who knowingly accepts a contribution exceeding the amount specified in paragraph 1 of subsection D of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than the amount of the excess contribution plus Fifty Thousand Dollars (\$50,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4216.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A candidate for federal office may elect to limit campaign expenditures for a campaign to the amounts specified in this subsection. Such election shall be filed with the Ethics Commission and shall be made in writing on a form prescribed by the Ethics Commission. Such election shall be made prior to accepting a

contribution exceeding the amount specified in paragraph 1 of subsection D of this section. The campaign expenditure limits shall be a limit on the total amount of expenditures made by:

1. A candidate electing to limit campaign expenditures;
2. A candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf; and
3. Any other person who makes a campaign expenditure, other than an independent expenditure as defined in Section 3 of this act, on behalf of such a candidate.

B. The campaign expenditure limits shall be as follows:

1. For a candidate for United States Senate, campaign expenditures shall be limited to an amount equal to thirty cents (\$0.30) multiplied by the number of residents of this state according to the most recent Federal Decennial Census. If such a candidate is opposed in a Primary Election, the limit shall be increased by an amount equal to twenty cents (\$0.20) multiplied by the number of residents of this state according to the most recent Federal Decennial Census. If such a candidate is opposed in a Runoff Primary Election, the limit shall be further increased by an amount equal to twenty cents (\$0.20) multiplied by the number of residents of this state according to the most recent Federal Decennial Census. If such a candidate is opposed in a General Election, the limit shall be further increased by an amount equal to thirty cents (\$0.30) multiplied by the number of residents of this state according to the most recent Federal Decennial Census; and
2. For a candidate for United States House of Representatives, campaign expenditures shall be limited to an amount equal to thirty cents (\$0.30) multiplied by the average number of residents in congressional districts according to the most recent apportionment of congressional districts. If such a candidate is opposed in a Primary Election, the limit shall be increased by an amount equal to twenty cents (\$0.20) multiplied by such number of residents. If

such a candidate is opposed in a Runoff Primary Election, the limit shall be further increased by an amount equal to twenty cents (\$0.20) multiplied by such number of residents. If such a candidate is opposed in a General Election, the limit shall be further increased by an amount equal to thirty cents (\$0.30) multiplied by such number of residents.

C. If a candidate elects to limit campaign expenditures pursuant to this section, no person or family may contribute more than Five Thousand Dollars (\$5,000.00) to such a candidate for federal office, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, for a campaign.

D. If a candidate does not elect to limit campaign expenditures pursuant to this section, the following provisions shall apply:

1. No person or family may contribute more than Fifty Dollars (\$50.00) to such a candidate, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his behalf, for a campaign;

2. In addition to the reports of contributions and expenditures or statements of inactivity required to be filed pursuant to the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes, rules of the Ethics Commission, or federal law or rule reports of contributions and expenditures or statements of inactivity shall be filed with the Ethics Commission not later than the tenth day of each month. Such reports shall include all contributions accepted and all expenditures made for the previous calendar month; and

3. In addition to the information required on reports of contributions and expenditures pursuant to the Ethics Commission Act, rules of the Ethics Commission or federal law or rule, the following shall be required:

- a. for each contribution, regardless of amount, the name, address, and occupation of the contributor, the date the contribution is accepted, and a specific description of the contribution shall be disclosed. Each contributor shall be required to complete and sign a card containing the information required by this subparagraph. Such card shall also contain an affidavit that the contribution is not reimbursed by any third party and shall indicate whether the contributor is a resident of the district for the office for which the candidate is running. A copy of the check or other written instrument by which the contribution was made, if any, shall be attached to the report, and
- b. for each expenditure, regardless of amount, the name, address, and occupation of the person to whom the expenditure was paid, the date of the expenditure, and the purpose of the expenditure. The person to whom the expenditure was paid shall be required to complete and sign a card containing the information required by this subparagraph. Such card shall also contain an affidavit that the amount paid for the goods or services received is the reasonable and customary rate charged by the person for like services or products in like quantities; provided, such affidavit shall not be required if the differences between the amount paid for such goods or services and the reasonable and customary rate for such goods or services is reported by the candidate as a contribution and such contribution is evidenced by a contributor card as required by subparagraph a of this paragraph. A copy of the check or other written instrument by which the

expenditure was made, if any, shall be attached to the report.

E. Every person who knowingly and willfully violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment; provided, a candidate electing to limit campaign expenditures as provided in this section who exceeds such expenditure limitations and who knowingly accepts a contribution exceeding the amount specified in paragraph 1 of subsection D of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than the amount of the excess contribution plus Fifty Thousand Dollars (\$50,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4211.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "independent expenditure" means an expenditure made to advocate the election or defeat of a clearly identified candidate, or, taken as a whole and in context, expressly urges a particular result in an election, but which is not made to, controlled by, coordinated with, requested by, or made upon consultation with a candidate, committee, or treasurer or agent of a committee.

B. A person who makes independent expenditures of Two Hundred Dollars (\$200.00) or more in the aggregate shall be required to register or file a statement of organization and file complete written reports of all contributions and expenditures with the Ethics Commission. Such reports shall be filed for each month that an independent expenditure is made and shall be filed not later than

the tenth day of the month following the month an independent expenditure is made.

C. Every person who knowingly and willfully violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 4. REPEALER 74 O.S. 1991, Section 4216, as amended by Section 24 of House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature (74 O.S. Supp. 1993, Section 4216), is hereby repealed.

SECTION 5. The provisions of this act are severable and if any part or provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

SECTION 6. The provisions of this act shall not apply to any campaign for which the general election is held prior to January 1, 1995.

SECTION 7. NONCODIFICATION The provisions of Section 6 of this act shall not be codified in the Oklahoma Statutes.

SECTION 8. This act shall become effective January 1, 1995.

44-2-1579 CD