

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1608

By: Benson

AS INTRODUCED An Act relating to ethics; defining terms; prohibiting campaign contributions in excess of certain limits; providing exceptions; prohibiting campaign contributions through an intermediary or conduit; providing sanctions; prohibiting certain corporate contributions and expenditures; providing sanctions; amending 74 O.S. 1994, Section 4201.1, as amended by Section 16, Chapter 259, O.S.L. 1993 (74 O.S. Supp. 1994, Section 4201.1), which relates to the Ethics Commission Act; modifying certain responsibilities of Ethics Commission and municipal clerk; requiring reports of contributions and expenditures or statements of inactivity to be filed with respect to certain propositions or measures; specifying time when such reports must be filed and certain requirements related thereto; specifying filing requirements; stating rule on compliance; repealing 74 O.S. 1991, Sections 4216 and 4219, as amended by Sections 24 and 27 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature (74 O.S. Supp. 1994, Sections 4216 and 4219), which relate to campaign contributions; providing for codification; providing an effective date; and declaring an emergency.

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 187.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1 through 3 of this act:

1. "Accept", with reference to a contribution, means failure by a candidate, treasurer or agent of a committee to expressly and unconditionally reject and return a tendered contribution to the contributor within six (6) business days from receipt of the tender;

2. "Ballot measure" means an initiative, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election;

3. "Campaign" means and includes all activities for or against the election of a candidate to a specific state or local office for a specific term or the passage or defeat of a ballot measure or local question from the date of acceptance of the first contribution, the making of the first expenditure, or the filing of a declaration of candidacy whichever is first, until a final campaign contributions and expenditures report is filed;

4. "Candidate" means a person who seeks nomination or election to state or local office. An individual is a candidate when the individual:

- a. has filed a declaration of candidacy for any state or local office with the Secretary of the State Election Board or the secretary of any county election board,
- b. is nominated as a "substitute candidate" pursuant to Section 1-105 of Title 26 of the Oklahoma Statutes, or
- c. solicits or accepts contributions, makes expenditures or gives consent to an individual, organization, party committee, or other committee to solicit or accept contributions or make expenditures to secure election to any state or local office at any time, whether or

not the office for which the individual will seek nomination or election is known when the:

- (1) solicitation is made,
- (2) contribution is accepted, or
- (3) expenditure is made.

The term "candidate" shall include a person whose candidacy is unopposed, but shall not include any person who has withdrawn such declaration of candidacy;

5. "Candidate committee" means the committee, consisting of one or more persons who may be the candidate only, designated by a candidate to promote the candidate's candidacy and serve as the recipient of all contributions and the disbursing officer of all expenditures for the candidate;

6. "Committee" means a candidate committee, political action committee, or party committee;

7. "Contribution":

a. means and includes:

- (1) a gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution, or deposit of money or anything of value made to and with the knowledge and for the benefit of a committee for use in a campaign, or for reducing the debt of a committee,
- (2) an expenditure made by a person or committee, other than a candidate's committee, with the cooperation of, or in consultation with, a committee, a candidate, candidate committee, or candidate's agent or that is made in concert with, or at the request or suggestion of, a candidate, candidate committee, or candidate's agent,

- (3) the difference between the payment to a person, other than a candidate or committee, of compensation for personal services or products to the candidate or committee, and the reasonable and customary rate charged by the person for like services or products in like quantities when the candidate or committee has knowledge of the discounted services or products,
- (4) anything of value received by a committee that is transferred from another committee or other source,
- (5) sums paid for tickets for a political event such as a reception, rally, and a similar fundraising event; however, the amount of any such contribution may be reduced for the purpose of complying with the contribution limitations requirements of Section 2 of this act, by the actual cost of consumables furnished by the committee in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution,
- (6) the candidate's own money used on behalf of that candidate's candidacy, and
- (7) the difference between the open market value and a discount or rebate:
  - (i) not extended to the public generally, or
  - (ii) by a television or radio station not extended equally to all candidates for the same office, and

b. shall not include:

- (1) the value of services provided by a volunteer without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee or federal political action committee,
- (2) for purposes of the contribution limits set forth in Section 2 of this act, the transfer of any funds by a political action committee to another political action committee, provided the committees have been established as provided by law and the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common entity,
- (3) any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes,
- (4) a nonreimbursed payment made by an individual for the individual's own travel expenses on behalf of a committee,
- (5) a payment made by an occupant of a residence or office for costs related to a meeting or fundraising event held in the occupant's residence or office if the costs for the meeting or fundraising event do not exceed Five Hundred Dollars (\$500.00). However, if the occupant hosts more than one (1) event in an election

- cycle for the same beneficiary, all subsequent payments that exceed Five Hundred Dollars (\$500.00) in the aggregate are contributions,
- (6) a loan of money made in the ordinary course of business by a financial institution authorized to transact business in this state at terms and interest rates generally available to a member of the public without regard to that person's status as a state or local officer or state or local employee or a candidate for state or local office by the institution,
  - (7) a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, executive administrative personnel, or their families, or
  - (8) a tender of a contribution if the tender is not accepted, including use as collateral, or is transferred to the state;

8. "Expenditure":

- a. means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee deposit, transfer of funds between committees, or a gift made by a committee, and
- b. an expenditure does not include the following:
  - (1) a loan of money, made in the ordinary course of business, by a financial institution authorized to transact business in this state,
  - (2) a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, executive administrative personnel, or their families, except a communication by the corporation's

political action committee promoting or opposing  
a candidate or candidates,

(3) uncompensated services provided by an individual  
volunteering the individual's time, or

(4) a transfer of funds to another committee if such  
transfer is not accepted;

9. "Family" means an individual, his or her spouse, if any, and  
all children under the age of eighteen (18) years residing in the  
same household;

10. "Local office" means all elective offices for which a  
declaration of candidacy is filed with the secretary of any county  
election board;

11. "Local question" means any proposition or measure submitted  
to voters at a county, municipal or school district election;

12. "Party committee" means a political party or any affiliated  
or connected entity;

13. "Person" means an individual, corporation, association,  
proprietorship, firm, partnership, limited partnership, joint  
venture, joint stock company, syndicate, business trust, estate,  
trust, company, organization, committee, or club, or a group of  
persons who are voluntarily acting in concert;

14. "Political action committee" means a combination of at  
least two individuals, or a person other than an individual:

a. with the primary or incidental purpose of:

(1) supporting or opposing a candidate or candidates,  
or a party committee, except those required to  
file with the Federal Election Commission, or

(2) supporting or opposing a ballot measure or local  
question, and

b. which accepts or gives contributions or makes  
expenditures from a joint account aggregating at least  
Five Hundred Dollars (\$500.00) during a calendar year.

A political action committee does not include a party committee or a candidate committee;

15. "Political party" means any political party so recognized for the purpose of having candidates appear on the ballot; and

16. "State office" means all elective offices for which a declaration of candidacy is filed with the Secretary of the State Election Board.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 187.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No person or family may contribute more than:

1. Five Thousand Dollars (\$5,000.00) in any calendar year to a committee other than a candidate committee;

2. Five Thousand Dollars (\$5,000.00) to 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 or her behalf for any campaign; or

3. One Thousand Dollars (\$1,000.00) to a candidate for other local office or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his or her behalf for any campaign.

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

These restrictions shall not apply to a committee supporting or opposing a ballot measure or local question or to a candidate making a contribution of his or her own funds to his or her own campaign.

B. It shall be prohibited for a campaign contribution to be made to a particular candidate or committee through an intermediary or conduit for the purpose of:

1. Evading requirements of effective rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution or laws relating to the reporting of contributions and expenditures; or

2. Exceeding the contribution limitations imposed by subsection A of this section.

Any person making a contribution in violation of this subsection or serving as an intermediary or conduit for such a contribution, upon conviction, shall be subject to the penalties prescribed in subsections C and D of this section.

C. Any person who knowingly and willfully violates any provision of this section where the aggregate amount contributed equals or exceeds the contribution limitation specified in subsection A of this section by Five Thousand Dollars (\$5,000.00) or more, upon conviction, shall be guilty of a felony punishable by a fine of up to four times the amount exceeding the contribution limitation or by imprisonment in the State Penitentiary for up to one (1) year, or by both such fine and imprisonment.

D. Any person who knowingly and willfully violates any provision of this section where the aggregate amount contributed is less than Five Thousand Dollars (\$5,000.00) in excess of the contribution limitation specified in subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than three times the amount exceeding the contribution limitation or One Thousand Dollars (\$1,000.00), whichever is greater, or by imprisonment in the county jail for up to one (1) year, 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 187.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No corporation shall contribute to any campaign fund of any party committee of this state or to any other person for the benefit of such party committee or its candidates, nor shall it, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation, directly or through such other person, make any loan of money or anything of value, or give or furnish any privilege, favor or other thing of value to any party committee, or to any representative of a party committee, or to any other person for it, or to any candidate upon the ticket of any political party.

B. A corporation shall not make a contribution or expenditure to, or for the benefit of, a candidate or committee in connection with an election, except that this provision shall not apply to:

1. A campaign or committee solely for or against a ballot measure or local question; or

2. The establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation.

C. No candidate, candidate committee, or other committee shall knowingly accept contributions given in violation of the provisions of subsection A or B of this section.

D. The provisions of this section shall not apply to a bank, savings and loan association or credit union loaning money to a candidate in connection with his or her own campaign which is to be repaid with interest at a rate comparable to that of loans for equivalent amounts for other purposes.

E. Any person who knowingly and willfully violates any provision of this section where the aggregate amount contributed equals or exceeds the contribution limitation specified in

subsection A of Section 2 of this act by Five Thousand Dollars (\$5,000.00) or more, upon conviction, shall be guilty of a felony punishable by a fine of up to four times the amount of the prohibited contribution or by imprisonment in the State Penitentiary for up to one (1) year, or by both such fine and imprisonment.

F. Any person who knowingly and willfully violates any provision of this section where the aggregate amount contributed is less than Five Thousand Dollars (\$5,000.00) in excess of the contribution limitation specified in subsection A of Section 2 of this act, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than three times the amount of the prohibited contribution or One Thousand Dollars (\$1,000.00), whichever is greater, or by imprisonment in the county jail for up to one (1) year, or by both such fine and imprisonment.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 4201.1, as amended by Section 16, Chapter 259, O.S.L. 1993 (74 O.S. Supp. 1994, Section 4201.1), is amended to read as follows:

Section 4201.1 A. The provisions of the Ethics Commission Act, Section 4200 et seq. of ~~Title 74 of the Oklahoma Statutes~~ this title, shall be administered as follows:

1. The Ethics Commission created in Section 1 of Article XXIX of the Oklahoma Constitution shall administer the Ethics Commission Act with respect to candidates or candidate committees for state or county office, campaigns for or against state initiatives and referenda, campaigns for or against county ballot measures, and public officials and public employees elected or appointed to serve in state and county government;

2. The municipal clerk shall administer the Ethics Commission Act with respect to candidates or candidate committees for municipal office ~~or~~, committees supporting or opposing candidates for municipal office, and campaigns for or against municipal ballot measures other than those involving utility franchises; and

3. The clerk of the board of education shall administer ~~this act~~ the Ethics Commission Act with respect to candidates or candidate committees for school district office or committees supporting or opposing candidates for school district office.

B. The municipal clerk and the clerk of the board of education shall not receive any complaints of violations of this act and shall be limited to the duties prescribed in paragraphs 1, 2, 3, 4 and 5 of subsection A of Section 4206 of this title.

C. Pursuant to the provisions of paragraph 3 of subsection A of Section 4206 of this title, the Ethics Commission shall distribute the forms required by ~~this act~~ the Ethics Commission Act, copies of ~~this act~~ the Ethics Commission Act, and instructional materials to municipalities and school boards upon request. In return for such materials, the Commission shall charge and collect fees in an amount adequate to recover the costs of printing and distribution, not to exceed twenty-five cents (\$0.25) per page in accordance with the Open Records Act, Section 24A.1 of Title 51 of the Oklahoma Statutes. Such fees shall be deposited in the Ethics Commission Revolving Fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4215.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The reports of contributions and expenditures or statements of inactivity of committees accepting contributions or making expenditures for or against a proposition or measure submitted to voters at a county election or a municipal election other than one involving utility franchises shall be filed with the appropriate administering entity as provided by Section 4201.1 of Title 74 of the Oklahoma Statutes as follows:

1. A report shall be filed on or before the tenth day preceding the date of the election and shall include all contributions accepted and all expenditures made from the date on which the

earliest contribution was accepted or expenditure was made, whichever was earlier, through a period of time ending fifteen (15) days preceding the date of the election;

2. A final report shall be filed on or before the fortieth day after the date of election wherein the proposition or measure was voted upon, and shall include all contributions accepted and all expenditures made from the close of the reporting period required by paragraph 1 of this subsection through the thirtieth day after the date of the election; and

3. If any contributions are accepted or any expenditures are made within six (6) months after the date of the election wherein the proposition or measure was voted upon, the committee shall file a supplemental report within six (6) months and ten (10) days after the election at which the proposition or measure was voted upon, together with the names of the contributors and the purpose for which the expenditures were made. Such report shall include all contributions accepted and expenditures made from the date of the election wherein the proposition or measure was voted upon through six (6) months after the date of the election wherein the proposition or measure was voted upon. Provided, further, that if any contributions are accepted or expenditures are made in connection with such campaign after said six-month period, same shall also be fully reported not later than January 15 of each year thereafter. Such reports shall include all contributions accepted and expenditures made from the close of the reporting period of the report most recently filed through December 31 of the previous year.

B. Reports may be filed by mail or delivered to the Commission or the clerk of the appropriate political subdivision by hand, facsimile transmission, telegram or express delivery service but the same must be received by the Commission or the clerk of the appropriate political subdivision not later than 5:00 p.m. on the day specified for filing in order to be deemed timely filed.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4201.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. For state officers, state employees, candidates for elective state office, political action committees, committees or other persons who are subject to effective rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution, compliance with such rules shall constitute and be deemed compliance with the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.

B. For lobbyists and other persons who are subject to Chapter 23 of effective rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution, compliance with such rules shall constitute and be deemed compliance with Sections 4230 and 4230.1 of Title 74 of the Oklahoma Statutes.

SECTION 7. REPEALER 74 O.S. 1991, Sections 4216 and 4219, as amended by Sections 24 and 27 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature (74 O.S. Supp. 1994, Sections 4216 and 4219), are hereby repealed.

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

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-1-6252

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