STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1015 By: Sullivan (John)

AS INTRODUCED

An Act relating to ethics; prohibiting campaign contributions during a certain time period; providing a penalty; amending Rule 257:10-1-2 of the Rules of the Ethics Commission, 74 O.S. Supp. 1996, Chapter 62, App., which relates to campaign contributions; prohibiting campaign contributions during a certain time period; providing for codification; 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 187.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No campaign contribution shall be made from February 1 to the last Friday in May of each year to a candidate committee created to support the candidacy of any member of the Oklahoma Legislature or any committee which has been primarily created to support the candidacy of any group of members of the Oklahoma Legislature. No candidate committee, political action committee or party committee shall knowingly accept contributions in violation of this section.

B. Any person who knowingly and willfully violates any provision of this section shall be guilty of a felony.

SECTION 2. AMENDATORY Ethics Commission Rule 257:10-1-2, is amended to read as follows:

Section 257:10-1-2. (a) Limitations on contributions from a person.

(1) No person or family may contribute more than five thousand dollars ($5,000) to a political action committee or a party committee in any calendar year. No political action committee or party committee shall knowingly accept a contribution from a person or family in excess of five thousand dollars ($5,000) in a calendar year.

(2) No person or family may contribute more than five thousand dollars ($5,000) to a candidate for state office or to a candidate committee authorized by such a candidate to accept contributions or make expenditures on his behalf during a campaign as defined in Chapter 1, Section 2 and as provided in Paragraphs (4) and (5) of this subsection. No candidate or candidate committee shall knowingly accept a contribution in excess of five thousand dollars ($5,000) from a person or family during a campaign.

(3) No candidate committee created to support the candidacy of any member of the Oklahoma Legislature nor any committee which has been primarily created to support the candidacy of any group of members of the Oklahoma Legislature shall accept contributions from February 1 to the last Friday in May.

(4) These restrictions do not apply to:

(A) a committee supporting or opposing a ballot measure; or

(B) a candidate making a contribution of his or her own funds, to his or her campaign.

~~(4)~~ (5) For purposes of this subsection, if a candidate:

(A) begins a campaign for a specific state office;

(B) accepts one or more contributions for such campaign but prior to the election therefor chooses not to run for such office and becomes a candidate for a different office; and

(C) transfers all or any part of the contributions accepted for the first campaign to the second campaign;

the second campaign shall be deemed to have begun when the candidate began the first campaign.

~~(5)~~ (6) For purposes of this subsection, if a candidate:

(A) does not dissolve his or her candidate committee after the election at which the office at stake is decided;

(B) accepts one or more contributions for such committee after such election; and

(C) begins a campaign for the same or another office in a subsequent election cycle;

any contributions accepted within six (6) months prior to the beginning of the campaign for the same or another office in a subsequent election cycle shall be applied to the limit specified in Paragraph (2) of this subsection for such campaign.

(b) Contributor statement. Before accepting a single contribution exceeding fifty dollars ($50.00), or before accepting multiple contributions from a single source which exceed fifty dollars ($50.00) in the aggregate, persons accepting contributions must obtain from each contributor a statement which shall include:

(1) the date the contribution was given;

(2) the name and address, occupation [e.g. "retail sales clerk"] and employer [e.g. "Dillard"], or principal business activity of the contributor; a contribution from a person other than an individual or a committee shall be reported by the name of the person or committee and not the individual who signed the check;

(3) the amount; if in-kind, a description of the contribution and a good faith estimate of its fair market value;

(4) a declaration that the contribution is freely and voluntarily given from the contributor's personal property, if an individual, or the person or committee's property, if other than an individual;

(5) a declaration that the contributor has not been directly or indirectly compensated or reimbursed for the contribution, if an individual, and, if a person other than an individual or a committee, that the person or committee has not been compensated or reimbursed for the contribution by persons:

(A) other than those from whom contributor statements have been received and of whom disclosure has or will be made; or

(B) if from persons exempted from the definition of political action committee, by other persons; and

(6) the signature of the contributor, or in the case of a committee, the treasurer or, in the treasurer's absence, the deputy treasurer of the committee.

Persons accepting contributions from contributors who contribute by payroll deduction, dues check-off, or similar process shall be required to obtain only one contributor statement annually or at such other times as a change is made in the deduction, check-off, or similar process.

(c) Prohibitions and exceptions to corporate contributions.

(1) 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.

(2) 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:

(A) a campaign or committee solely for or against a ballot measure or local question; or

(B) the establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation.

(3) No candidate, candidate committee or other committee shall knowingly accept contributions given in violation of the provisions of Paragraphs (1) and (2) of this subsection.

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

(d) Prohibitions relating to committee solicitations and funds. It shall be prohibited for:

(1) a political action committee to accept a contribution or make an expenditure by using anything of value secured:

(A) by physical force, job discrimination, financial reprisals, or threat of the same; or

(B) by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, unless the making of such contributions is authorized by the organization's members;

(2) a person to solicit a contribution from an employee in exchange for any advantage or promise of an advantage conditioned

upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution;

(3) a corporation or political action committee of a corporation to solicit contributions to the political action committee from a person other than its members, shareholders, directors, executive and administrative personnel, and their families; and

(4) corporate contributions to a committee or person for or against a ballot measure to be commingled with a fund established by such person or committee to contribute to candidate committees or committees which support or oppose candidates.

(e) Prohibition on transfer of funds between committees.

(1) A candidate committee shall not make a contribution to another candidate or make an independent expenditure on behalf of another candidate.

(2) This subsection shall not prohibit a candidate from making a contribution from the candidate's personal funds to his or her own candidate committee or on behalf of his or her own candidacy or to the committee of another candidate for a different office.

(3) This subsection shall not prohibit a candidate committee from providing its surplus funds or material assets to the state or local central committee of a political party in accordance with the procedures for dissolution of a candidate committee under Sections 19 and 20 of this chapter.

(f) Aggregation of contributions. For purposes of the contribution limitations, the following apply:

(1) Two (2) or more political action committees are treated as a single entity if the committees:

(A) share the majority of members on their boards of directors;

(B) are owned or controlled by the same majority shareholder or shareholders;

(C) are in a parent-subsidiary relationship; or

(D) have by-laws so stating.

(2) A candidate committee and a committee other than a candidate committee are treated as a single committee if the committees both have the candidate or a member of the candidate's immediate family as an officer.

(g) Attribution and aggregation of family contributions.

(1) Contributions by a husband and wife are aggregated.

(2) Contributions by children under eighteen (18) years of age shall be considered to be contributions made by their parent, parents or legal guardian and shall be attributed to the family limit specified in Subsection (a) of this section. In the case of a single custodial parent, the total amount of such a contribution shall be considered to be a contribution made by the single custodial parent.

(h) Restrictions on loans.

(1) A loan is considered a contribution from the lender, guarantor, and endorser of the loan and is subject to the contribution limitations of this section.

(2) A loan to a candidate or the candidate committee shall be by written agreement.

(3) The proceeds of a loan, regardless of the amount, made to a candidate:

(A) by a commercial lending institution;

(B) made in the regular course of business;

(C) on the same terms ordinarily available to members of the public; and

(D) which is secured or guaranteed solely by the candidate;

are not subject to the contribution limits of this section.

(i) Anonymous and earmarked contributions.

(1) A person shall not make to a committee and a committee shall not accept an anonymous contribution in excess of fifty dollars ($50). The recipient of an anonymous contribution in excess of fifty dollars ($50) shall, within two (2) business days, remit the contribution to the Commission to be deposited with the State Treasurer to the credit of the General Revenue Fund.

(2) For purposes of the contribution limitations imposed by this section, all contributions made by a person, either directly or indirectly, to or for the benefit of a particular candidate committee, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate committee, shall be treated as contributions from such person to such candidate committee. It shall be prohibited for an intermediary or a conduit to make a contribution to a committee in his or her own name rather than the name of the original source of such contribution. For purposes of this paragraph, an intermediary or conduit means a person, who is not the treasurer, deputy treasurer or agent of a committee, but who is given a contribution by another with the understanding that it will be contributed to that committee. The reports shall show the correct name of the person actually making the contribution.

(j) Reimbursement for contribution prohibited. A person shall not, directly or indirectly, reimburse a person for a contribution to a candidate or committee.

(k) Cash contributions.

(1) An individual shall not make to a candidate committee or a committee supporting or opposing a ballot measure and a candidate committee or a committee supporting or opposing a ballot measure shall not accept a contribution of more than fifty dollars ($50) in cash during a campaign as defined in Chapter 1, Section 2. Agents accepting and delivering cash shall deliver contributor statements

disclosing cash contributions equal to the aggregate amount of cash delivered.

(2) A committee, or a person other than an individual, shall not make a contribution in cash.

(l) Certain contributions required to be by written instrument.

(1) An individual shall not make a contribution of more than fifty dollars ($50), other than an in-kind contribution, except by written instrument containing the name of the contributor and the name of the payee during a campaign as defined in Chapter 1, Section 2.

(2) A committee, or a person other than an individual, shall not make a contribution, other than in-kind, except by written instrument containing the name of the contributor and the name of the payee.

(m) Use of other funds.

(1) Anything of value which is solicited from the public in the name of or for the benefit of an elective officer or candidate, and which is accepted by an elective officer or candidate, shall be subject to the reporting requirements of this chapter. This would include, but not be limited to, things of value given for an inauguration or renovation of public property. Anything of value accepted by an agent or representative of an elective officer or candidate or by a committee established by, in the name of, or for the benefit of, an elective officer or candidate shall be deemed to be accepted by such elective officer or candidate for purposes of this section.

(2) The use of such things of value shall be limited to the stated purpose or purposes for which such things of value were solicited.

(3) Any surplus things of value which are not needed for the stated purpose or purposes shall be returned to the donors pursuant to a formula by which no donor receives more than his or her

original donation or deposited with the State Treasurer to the credit of the General Revenue Fund.

(n) Auctions. When an auction is held by a committee as a fundraiser, a contributor statement shall be required with respect to each person donating an item to be auctioned and shall include the fair market value of each item donated.

(1) If an item is sold for a price in excess of the established fair market value, the buyer thereof shall be deemed to have made a contribution in the amount of the price paid in excess of the established fair market value and the donor thereof shall be deemed to have made an in-kind contribution in the amount of the established fair market value.

(2) If an item is sold at the established fair market value, the donor thereof shall be deemed to have made an in-kind contribution in the amount of the established fair market value and the buyer thereof shall not be deemed to have made a contribution.

(3) If an item is sold at less than the established fair market value, the fair market value shall be reduced to the actual sale price and the donor thereof shall be deemed to have made an in-kind contribution in the amount of the sale price and the buyer thereof shall not be deemed to have made a contribution.

SECTION 3. This act shall become effective November 1, 1997.

46-1-5035 JAK