

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2726

By: Adair

AS INTRODUCED

An Act relating to ethics; amending 21 O.S. 2001, Section 187, which relates to definitions relating to campaign contributions; modifying definitions relating to campaign contributions and crimes against the elective franchise; amending 51 O.S. 2001, Section 304, which relates to definitions under the Political Subdivisions Ethics Act; modifying definitions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 187, is amended to read as follows:

Section 187. As used in Sections ~~±~~ 187 through ~~∓~~ 187.2 of this ~~act~~ title:

1. "Accept", with reference to a contribution, means failure by a candidate, treasurer, deputy 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 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 office with the Secretary of the State Election Board,
- b. has filed a declaration of candidacy for any local office with the secretary of any county election board,
- c. has filed a declaration of candidacy with the Secretary of State and has drawn active opposition,
- d. is nominated as a "substitute candidate" pursuant to Section 1-105 of Title 26 of the Oklahoma Statutes, or
- e. 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;

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. a. "Contribution" 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~~, which expressly advocates the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures, or for reducing the debt of a such committee,
- (2) an expenditure expressly advocating the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures made by a person or committee, other than a candidate 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, or a similar fundraising event; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting and contribution limitations requirements of Section ~~2~~ 187.1 of this ~~act~~ title, 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:
 - (a) not extended to the public generally, or
 - (b) by a television or radio station not extended equally to all candidates for the same office.

b. The term "contribution" shall not include:

- (1) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or committee,
- (2) for purposes of the contribution limits set forth in Section ~~2~~ 187.1 of this ~~act~~ title, 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 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, directors, 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 as provided in Rule 10-1-2 of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Chapter 62, App., or
- (9) a communication which does not expressly advocate the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures;

8. "Expenditure" means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee deposit, transfer of funds between committees, or a gift made by a committee which is used to expressly advocate the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures. An expenditure does not include the following:

- a. a loan of money, made in the ordinary course of business, by a financial institution authorized to transact business in this state,
- b. 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,
- c. uncompensated services provided by an individual volunteering the individual's time, or

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

12. "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;

13. "Political action committee":

a. means a combination of at least two individuals, or a person other than an individual:

(1) with the primary purpose of:

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

(b) supporting or opposing a ballot measure, and

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

b. does not include:

(1) a party committee or a candidate committee,

- (2) a person other than an individual, when that person makes an expenditure or expenditures from an account to which contributions have not been solicited or accepted from any other persons or individuals; and the expenditure or expenditures are required by law or by Chapter 10 of the Rules of the Ethics Commission to be reported by the recipient committee or committees as a contribution or contributions, and
- (3) a combination of individuals, or a person other than an individual, if the combination of individuals, or a person other than an individual, solicits contributions on behalf of a committee, and any contributions received as a result of the solicitation are forwarded to the committee without being deposited in any account; and the contributions are required by law or by Chapter 10 of the Rules of the Ethics Commission to be reported by the committee that receives the contributions;

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

15. "State office" means all elective offices for which declarations of candidacy are filed with the Secretary of the State Election Board.

SECTION 2. AMENDATORY 51 O.S. 2001, Section 304, is amended to read as follows:

Section 304. As used in the Political Subdivisions Ethics Act:

1. "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock

company, receivership, trust, or any legal entity through which business is conducted for profit;

2. "Calendar quarter" means each three-month period of a calendar year, beginning on January 1, April 1, July 1 and October 1 of each year;

3. "Campaign" means and includes all activities for or against the election of a candidate to a specific local office for a specific term from the date of the first contribution, the making of the first expenditure, the filing of a declaration of candidacy or a public announcement of intent to seek such election, whichever is first;

4. "Candidate" means a person who has filed a notification and declaration of candidacy for any public office with the secretary of any county election board. The term "candidate" shall include a person whose candidacy is unopposed, but shall not include any person who has withdrawn such notification and 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, political party, or organization;

7. "Compensation" means money, service, facility or thing of value or financial benefit which is received or is to be received in return for or in connection with services rendered or to be rendered;

8. "Complainant" means a person filing a complaint pursuant to the provisions of Section ~~21~~ 307 of this ~~act~~ title;

9. "Contributor" means and includes every person or committee who makes a contribution;

10. "Contribution" means and includes any money, property, or in-kind services, including, but not limited to, printing or engraving, radio or television time, billboards, advertising, subscription, forgiveness of indebtedness, personal or professional services or any other thing of value whatsoever which is given or loaned to ~~be used in a campaign~~ a committee which expressly advocates the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a proposition or measure submitted to voters at a county or municipal election. The term "contribution" shall not include:

- a. money loaned to a candidate in connection with his own campaign by a bank, savings and loan association or credit union which is to be repaid with interest at a rate comparable to that of loans for equivalent amounts for other purposes,
- b. the value of services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, organization, political action committee or political party,
- c. for purposes of the contribution limits set forth in Section ~~2~~ 187.1 of ~~this act~~ Title 21 of the Oklahoma Statutes, the transfer of any funds by a political action committee to another political action committee, provided the committee has been established as provided by law if 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 organization, ~~or~~
- d. 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, or

e. a communication which does not expressly advocate the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a proposition or measure submitted to voters at a county or municipal election;

11. "Commission" means the Ethics Commission;

12. "Election" means a Primary, Run-off Primary, General, or Special Election in which a candidate is on the ballot;

13. "Election board" means the appropriate county election board in reference to candidates who file a declaration of candidacy with the county election board;

14. "Expenditure" means a payment, distribution, contribution, loan, advance, compensation, reimbursement, fee deposit or gift of money securement, or any other thing of value, or services including but not limited to postage, telephone, telegraph, printing, advertising, travel, lodging, meals or entertainment for which payment is made with private or public funds, and includes a contract, promise or agreement to make an expenditure, whether or not legally enforceable, which is used to expressly advocate the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a proposition or measure submitted to voters at a county or municipal election;

15. "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;

16. "Governmental entity" means any department, commission, authority, council, board, bureau, committee, legislative body,

agency, public trust, or other establishment of a political subdivision of this state;

17. "Income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, gift, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof; provided, the term "income" shall not include campaign contributions;

18. "Local office" means all elective offices for which declarations of candidacy are filed with the secretary of any county election board;

19. "Ministerial action" means an action that a person performs in a prescribed manner which involves no discretionary judgment;

20. "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, union, education or action group or committee or entity with two or more persons having a joint or common political interest;

21. "Person" means an individual, corporation, association, firm, partnership, labor union or labor organization, committee, club or other organization, or a group of persons who are voluntarily acting in concert;

22. "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 expressly supporting or opposing a clearly identified candidate or candidates, a proposition or measure submitted to voters at a county or municipal election, or a political party, except those required to file with the Federal Election Commission or the Ethics Commission, and

b. which accepts contributions or makes expenditures aggregating at least Two Hundred Dollars (\$200.00) during a calendar year;

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

24. "Public employee" means any person who is employed by and receives compensation from any governmental entity, but shall not mean independent contractors or public officials;

25. "Public official" means an elected or appointed official in the executive or legislative branch of a political subdivision of the state;

26. "Represent" or "representation" means any formal or informal attendance before, or any written or oral communication with, or the filing of documents with any governmental entity on behalf of a person or organization;

27. "Respondent" means a person named in a complaint filed pursuant to the provisions of Section ~~21~~ 307 of this ~~act~~ title;

28. "Source" means the name, address, and description of the principal business activity of a person or organization; and

29. "Substantial financial interest" means an interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity or other compensation or remuneration from any person, partnership, organization or association.

SECTION 3. This act shall become effective July 1, 2002.

SECTION 4. 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.

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