

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2196

By: Dank

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5
6 AS INTRODUCED

7 An Act relating to campaigns; creating the Oklahoma
8 Clean Campaigns Act of 2008; providing short title;
9 stating legislative intent; amending 21 O.S. 2001,
10 Section 187, which relates to the definitions of
11 crimes relating to elections; adding definition;
12 amending 21 O.S. 2001, Section 187.1, which relates
13 to limits on contributions to candidates; modifying
14 contribution limits; prohibiting certain acts;
15 restricting use of contributions; providing reporting
16 requirements; providing criminal penalties; mandating
17 funding; providing funding for professional auditors;
18 providing for codification; providing for
19 noncodification; and declaring an emergency.

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

24 SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma
Clean Campaigns Act of 2008".

B. This act is intended to provide ethics laws in addition to
the rules promulgated by the Ethics Commission.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 187, is
amended to read as follows:

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

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

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

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

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

22 a. has filed a declaration of candidacy for any state
23 office with the Secretary of the State Election Board,
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- 1 b. has filed a declaration of candidacy for any local
2 office with the secretary of any county election
3 board,
- 4 c. has filed a declaration of candidacy with the
5 Secretary of State and has drawn active opposition,
- 6 d. is nominated as a "substitute candidate" pursuant to
7 Section 1-105 of Title 26 of the Oklahoma Statutes, or
- 8 e. solicits or accepts contributions, makes expenditures
9 or gives consent to an individual, organization, party
10 committee, or other committee to solicit or accept
11 contributions or make expenditures to secure election
12 to any state or local office at any time, whether or
13 not the office for which the individual will seek
14 nomination or election is known when the:
- 15 (1) solicitation is made,
16 (2) contribution is accepted, or
17 (3) expenditure is made.

18 The term "candidate" shall include a person whose candidacy is
19 unopposed;

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

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

3 7. a. "Contribution" means and includes:

4 (1) a gift, subscription, loan, guarantee or
5 forgiveness of a loan, conveyance, advance,
6 payment, distribution, or deposit of money or
7 anything of value made to and with the knowledge
8 and for the benefit of a committee for use in a
9 campaign, or for reducing the debt of a
10 committee,

11 (2) an expenditure made by a person or committee,
12 other than a candidate committee, with the
13 cooperation of, or in consultation with, a
14 committee, a candidate, candidate committee, or
15 candidate's agent or that is made in concert
16 with, or at the request or suggestion of, a
17 candidate, candidate committee, or candidate's
18 agent,

19 (3) the difference between the payment to a person,
20 other than a candidate or committee, of
21 compensation for personal services or products to
22 the candidate or committee, and the reasonable
23 and customary rate charged by the person for like
24 services or products in like quantities when the

1 candidate or committee has knowledge of the
2 discounted services or products,

3 (4) anything of value received by a committee that is
4 transferred from another committee or other
5 source,

6 (5) sums paid for tickets for a political event such
7 as a reception, rally, or a similar fundraising
8 event; however, the amount of any such
9 contribution may be reduced for the purpose of
10 complying with the reporting and contribution
11 limitations requirements of Section ~~2~~ 187.1 of
12 this ~~act~~ title, by the actual cost of consumables
13 furnished by the committee in connection with the
14 purchase of the tickets, and only the excess over
15 the actual cost of the consumables shall be
16 deemed a contribution,

17 (6) the candidate's own money used on behalf of that
18 candidate's candidacy, and

19 (7) the difference between the open market value and
20 a discount or rebate:

21 (a) not extended to the public generally, or

22 (b) by a television or radio station not
23 extended equally to all candidates for the
24 same office.

1 b. The term "contribution" shall not include:

2 (1) the value of services provided without
3 compensation by any individual who volunteers on
4 behalf of a candidate or committee,

5 (2) for purposes of the contribution limits set forth
6 in Section ~~2~~ 187.1 of this ~~act~~ title, the
7 transfer of any funds by a political action
8 committee to another political action committee,
9 provided the committees have been established as
10 provided by law and the transferring committee
11 and the receiving committee have been
12 established, directly or indirectly, and are
13 administered or financially supported, directly
14 or indirectly, by a common entity,

15 (3) any payment or obligation incurred by a
16 corporation, labor organization, membership
17 organization, cooperative or corporation without
18 capital stock for the establishment,

19 administration, and solicitation of contributions
20 to a separate segregated fund or political action
21 committee to be utilized for political purposes,

22 (4) a nonreimbursed payment made by an individual for
23 the individual's own travel expenses on behalf of
24 a committee,

1 (5) a payment made by an occupant of a residence or
2 office for costs related to a meeting or
3 fundraising event held in the occupant's
4 residence or office if the costs for the meeting
5 or fundraising event do not exceed Five Hundred
6 Dollars (\$500.00). However, if the occupant
7 hosts more than one event in an election cycle
8 for the same beneficiary, all subsequent payments
9 that exceed Five Hundred Dollars (\$500.00) in the
10 aggregate are contributions,

11 (6) a loan of money made in the ordinary course of
12 business by a financial institution authorized to
13 transact business in this state at terms and
14 interest rates generally available to a member of
15 the public without regard to that person's status
16 as a state or local officer or state or local
17 employee or a candidate for state or local office
18 by the institution,

19 (7) a communication by a corporation, labor
20 organization, or association aimed at its
21 members, owners, stockholders, directors,
22 executive administrative personnel, or their
23 families, or
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1 (8) a tender of a contribution if the tender is not
2 accepted, including use as collateral, or is
3 transferred to the state as provided in Rule 257-
4 10-1-2 of the Rules of the Ethics Commission, 74
5 O.S. Supp. ~~1994~~ 2007, Chapter 62, App.;

6 8. "Election cycle" means the period beginning the day after
7 the General Election, up to and including the following General
8 Election, including a Primary, Special Primary and the following
9 Special General Election;

10 9. "Expenditure" means a purchase, payment, distribution, loan,
11 advance, compensation, reimbursement, fee deposit, transfer of funds
12 between committees, or a gift made by a committee. An expenditure
13 does not include the following:

- 14 a. a loan of money, made in the ordinary course of
15 business, by a financial institution authorized to
16 transact business in this state,
- 17 b. a communication by a corporation, labor organization,
18 or association aimed at its members, owners,
19 stockholders, executive administrative personnel, or
20 their families, except a communication by the
21 corporation's political action committee promoting or
22 opposing a candidate or candidates,
- 23 c. uncompensated services provided by an individual
24 volunteering the individual's time, or

1 d. a transfer of funds to another committee if such
2 transfer is not accepted;

3 ~~9.~~ 10. "Family" means an individual, his or her spouse, if any,
4 and all children under the age of eighteen (18) years residing in
5 the same household;

6 ~~10.~~ 11. "Local office" means all elective offices for which a
7 declaration of candidacy is filed with the secretary of any county
8 election board;

9 ~~11.~~ 12. "Party committee" means a political party or any
10 affiliated or connected entity;

11 ~~12.~~ 13. "Person" means an individual, corporation, association,
12 proprietorship, firm, partnership, limited partnership, joint
13 venture, joint stock company, syndicate, business trust, estate,
14 trust, company, organization, committee, or club, or a group of
15 persons who are voluntarily acting in concert;

16 ~~13.~~ 14. "Political action committee":

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

19 (1) with the primary purpose of:

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

24 (b) supporting or opposing a ballot measure, and

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

5 b. does not include:

6 (1) a party committee or a candidate committee,

7 (2) a person other than an individual, when that
8 person makes an expenditure or expenditures from
9 an account to which contributions have not been
10 solicited or accepted from any other persons or
11 individuals; and the expenditure or expenditures
12 are required by law or by Chapter 10 of the Rules
13 of the Ethics Commission to be reported by the
14 recipient committee or committees as a
15 contribution or contributions, and

16 (3) a combination of individuals, or a person other
17 than an individual, if the combination of
18 individuals, or a person other than an
19 individual, solicits contributions on behalf of a
20 committee, and any contributions received as a
21 result of the solicitation are forwarded to the
22 committee without being deposited in any account;
23 and the contributions are required by law or by
24 Chapter 10 of the Rules of the Ethics Commission

1 to be reported by the committee that receives the
2 contributions;

3 ~~14.~~ 15. "Political party" means any political party so
4 recognized for the purpose of having candidates appear on the
5 ballot; and

6 ~~15.~~ 16. "State office" means all elective offices for which
7 declarations of candidacy are filed with the Secretary of the State
8 Election Board.

9 SECTION 3. AMENDATORY 21 O.S. 2001, Section 187.1, is
10 amended to read as follows:

11 Section 187.1 A. No ~~person~~ individual or family may contribute
12 more than:

13 1. Five Thousand Dollars (\$5,000.00) in any ~~calendar year~~
14 election cycle to a political action committee or party committee
15 ~~other than a candidate committee;~~

16 2. Five Thousand Dollars (\$5,000.00) to a candidate for state
17 office, to a candidate for municipal office in a municipality with a
18 population of over two hundred fifty thousand (250,000) persons,
19 according to the most recent Federal Decennial Census, to a
20 candidate for county office in a county with a population of over
21 two hundred fifty thousand (250,000) persons, according to the most
22 recent Federal Decennial Census, or to a candidate committee
23 authorized by such a candidate to receive contributions or make
24 expenditures on his or her behalf, for any campaign; or

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

5 B. No individual or family may make contributions aggregating
6 more than Forty Thousand Dollars (\$40,000.00) to candidates for the
7 State Legislature or their authorized committees during an election
8 cycle.

9 C. Contributions made by a committee to a candidate for state
10 or local office shall be limited to the same amounts that apply to
11 an individual or family.

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

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

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

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

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

5 Any person making a contribution in violation of ~~this subsection~~
6 subsections A and B of this section or serving as an intermediary or
7 conduit for such a contribution, upon conviction, shall be subject
8 to the penalties prescribed in subsections ~~C~~ G and ~~D~~ H of this
9 section.

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

18 ~~D~~ H. Any person who knowingly and willfully violates any
19 provision of this section where the aggregate amount contributed is
20 less than Five Thousand Dollars (\$5,000.00) in excess of the
21 contribution limitation specified in ~~subsection~~ subsections A and B
22 of this section, upon conviction, shall be guilty of a misdemeanor
23 punishable by a fine of not more than three times the amount
24 exceeding the contribution limitation or One Thousand Dollars

1 (\$1,000.00), whichever is greater, or by imprisonment in the county
2 jail for up to one (1) year, or by both such fine and imprisonment.

3 I. Contributions shall not be made to, nor solicited or
4 accepted by, a member of the Oklahoma Legislature or a candidate for
5 a state legislative office fifteen (15) days prior to, fifteen (15)
6 days after, or during any regular legislative session.

7 J. Contributions accepted by a candidate or a committee may not
8 be converted by any person to any personal use, but shall be used,
9 together with any interest income earned on such contributions, for
10 campaign purposes only. Any funds not used for campaign purposes
11 may:

12 1. Be deposited with the State Treasurer to the credit of the
13 General Revenue Fund;

14 2. Be returned to the contributors pursuant to any formula
15 approved by the candidate; provided, any amount returned to a
16 contributor shall not exceed the amount of the original
17 contribution;

18 3. Be contributed to a charitable organization;

19 4. Be retained by the candidate or candidate committee for use
20 in a future election for a four-year period following the General
21 Election for the same office;

22 5. Be used to defend legal actions or proceedings arising out
23 of the campaign, election, or the performance of the candidate's
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1 official duties as a state officer; provided, that such funds shall
2 not be used to defend criminal charges;

3 6. Be transferred to the state or local central committee of a
4 political party; or

5 7. Be distributed using a combination of these options.

6 K. All campaign contributions and expenditures shall be
7 reported in compliance with the rules established under the Oklahoma
8 Ethics Act and shall include the name and address of each person to
9 whom an expenditure in an aggregate amount or value in excess of
10 Fifty Dollars (\$50.00) during the reporting period is made by the
11 reporting committee to meet a candidate or committee operating
12 expense, together with the date, amount, and purpose of such
13 operating expenditure.

14 L. Contributions made to a candidate for a state or local
15 office shall not be used by such candidate in a campaign for another
16 office.

17 M. Contributions made to a political action committee shall not
18 be contributed or transferred to another political action committee.

19 N. Any person who knowingly and willfully violates any
20 provision of subsection I, J, K, L or M of this section, upon
21 conviction, shall be guilty of a misdemeanor punishable by a fine of
22 not more than One Thousand Dollars (\$1,000.00), or by imprisonment
23 in the county jail for up to one (1) year, or by both such fine and
24 imprisonment.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 187.3 of Title 21, unless there
3 is created a duplication in numbering, reads as follows:

4 The Ethics Commission shall be fully funded to allow it to
5 enforce the Oklahoma Clean Campaigns Act of 2008. The funding shall
6 include the creation of at least three professional auditor
7 positions who shall have the power and duty of conducting random and
8 specific audits of campaign finance reports.

9 SECTION 5. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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