

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1490

By: Brown

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6 AS INTRODUCED

7 An Act relating to ethics and elections; amending
8 Rule 1-1-11 of the Rules of the Ethics Commission;
9 imposing certain additional penalties; making certain
10 recommendations mandatory; requiring forfeiture of
11 state position under certain circumstances; amending
12 26 O.S. 2001, Section 16-119, which relates to
13 expenditure of funds in support of or opposition to
14 ballot measures; providing additional penalties;
15 providing for codification; providing an effective
16 date; and declaring an emergency.

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

SECTION 1. AMENDATORY Rule 1-1-11 of the Rules of the
Ethics Commission, is amended to read as follows:

Rule 257:1-1-11. Miscellaneous civil penalty provisions.

(a) Civil penalties for violations of title. The Commission
may recommend to the district court, and the district court, upon
finding that a respondent has violated a provision of this title,
may assess one of the following penalties:

(1) Civil penalties for non-willful violations. A person who
violates a provision of this title shall be liable for a civil
penalty:

1 (A) not to exceed one thousand dollars (\$1,000) per
2 violation for inadvertent disclosure violations in
3 registrations, reports or statements filed under
4 Chapters 10, 15, 20 and 23;

5 (B) not to exceed two thousand dollars (\$2,000) per
6 violation,

7 (i) for inadvertent failure to file registrations,
8 reports, statements or changes in information
9 relating to committee officer vacancies, or

10 (ii) for inadvertent non-disclosure violations;

11 (C) for inadvertent violations not included in
12 Subparagraphs (A) or (B), not to exceed:

13 (i) fifteen thousand dollars (\$15,000) per violation,
14 or

15 (ii) an amount up to three (3) times the amount of the
16 total amount of an unlawful contribution or
17 expenditure, whichever is greater; and

18 (2) Civil penalties for willful violations. A person who
19 willfully violates a provision of this title shall be liable for one
20 or more of the following civil penalties:

21 (A) Fine. A fine not to exceed fifty thousand dollars
22 (\$50,000); provided, in addition to such fine or any
23 other penalty provided by law, in the event of a
24 violation of the provisions of Section 3 of Chapter 10

1 of this title by a state officer or state employee, if
2 the governmental entity served by such state officer
3 or employing such state employee willfully allowed the
4 violation to occur, such governmental entity shall be
5 liable for a civil penalty not to exceed one hundred
6 thousand dollars (\$100,000);

7 (B) Administrative debarment. In the case of a state
8 officer or state employee who has violated Chapter 20
9 of this title, the person may be prohibited, for not
10 more than five (5) years, from making an oral or
11 written communication or appearance before, with the
12 intent to influence, the governmental entity in which
13 the former officer or employee served;

14 (C) Censure, suspension or removal from office. In the
15 case of a:

16 (i) state officer liable to impeachment, a
17 recommendation to the House of Representatives
18 that the officer be removed from office.

19 (ii) state officer not subject to impeachment or a
20 state employee in the classified or unclassified
21 service, a recommendation to the appropriate
22 appointing authority that the state officer or
23 state employee be censured, suspended, or removed
24 from office or employment.

1 (iii) member of the state legislature, a recommendation
2 to the presiding officer of the appropriate
3 chamber of the legislature that the legislator be
4 censured or subject to expulsion from office.

5 (iv) judge not subject to impeachment, a
6 recommendation to the Oklahoma Supreme Court that
7 the judge be censured or removed from office.

8 In the event of a violation of the provisions of
9 Section 3 of Chapter 10 of this title, such
10 recommendation shall be mandatory.

11 (3) Third and subsequent violations. A person who violates a
12 provision of this title three or more times shall be liable for a
13 fine not to exceed:

14 (A) twenty-five thousand dollars (\$25,000) per violation
15 for inadvertent violations or fifty thousand dollars
16 (\$50,000) for willful violations, or

17 (B) an amount up to three (3) times the amount of the
18 total amount of an unlawful contribution or
19 expenditure, whichever is greater.

20 (4) For violations relating to or arising out of a candidacy.
21 The Commission may recommend and the district court may, upon
22 determination of a violation of a provision of Chapter 10 of this
23 title, require the candidate, elective officer, or committee to:
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1 (A) forfeit a prohibited contribution or the excessive
2 portion of a contribution to be deposited with the
3 State Treasurer to the credit of the General Revenue
4 Fund; or

5 (B) return a prohibited contribution or the excessive
6 portion of a contribution to the original contributor.

7 (5) For violations of Chapter 20 or 23. The Commission may
8 recommend and the district court may, upon determination of a
9 violation of a provision of Chapter 20 or 23 of this title, subject
10 the officer, employee, or lobbyist to the following:

11 (A) forfeiture of gifts, receipts or profits obtained
12 through a violation of Chapter 20 or 23 of this title;

13 (B) voiding of a state action obtained through a violation
14 of the Commission's rules;

15 (C) civil penalties as set forth in this subsection; or

16 (D) a combination of the penalties provided for in this
17 paragraph.

18 (b) Action by other governmental entities. Nothing in this
19 section shall prevent a governmental entity from conducting its own
20 investigation or taking its own disciplinary action as provided by
21 law with respect to a violation committed by an officer or employee
22 of such governmental entity.

23 (c) Penalties to General Revenue Fund. A forfeiture, fine,
24 reimbursement, penalty, fee, or other property collected by the

1 Commission as a penalty or assessment under this title shall be
2 deposited with the State Treasurer to the credit of the General
3 Revenue Fund. Tangible personal property other than money collected
4 as a penalty or assessment under this title shall be deposited with
5 and liquidated by the State Treasurer and the proceeds thereof
6 deposited to the credit of the General Revenue Fund.

7 (d) Liability. If two (2) or more persons are responsible for
8 an inadvertent violation, they shall be equally liable for a
9 proportionate share of the penalty. If two (2) or more persons are
10 responsible for a willful violation, they shall be jointly and
11 severally liable for said penalty.

12 SECTION 2. AMENDATORY 26 O.S. 2001, Section 16-119, is
13 amended to read as follows:

14 Section 16-119. Any official in this state or state employee
15 who shall direct or authorize the expenditure of any public funds
16 under his or her care, except as specifically authorized by law, to
17 be used either in support of, or in opposition to, any measure which
18 is being referred to a vote of the people by means of the initiative
19 or referendum, or which citizens of this state are attempting to
20 have referred to a vote of the people by the initiative or
21 referendum, shall be deemed guilty of a misdemeanor, and shall be
22 subject to a fine not to exceed One Hundred Thousand Dollars
23 (\$100,000.00). In addition to such penalty, if a violation of this
24 section is committed by a state employee, the employee shall forfeit

1 his or her position, and if a violation of this section is committed
2 by a state official, the office held by such party shall be adjudged
3 vacant and shall be filled in the manner prescribed by law.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4260 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 In the event of a violation of the provisions of Section 3 of
8 Chapter 10 of the Rules of the Ethics Commission by a state
9 employee, in addition to any other penalty provided for by law, the
10 state employee shall forfeit his or her position.

11 SECTION 4. This act shall become effective July 1, 2008.

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

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