

THE STATE SENATE
Monday, February 22, 2010

Committee Substitute for
Senate Bill No. 1741

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1741 - By: Coffee of the Senate and Bengel of the House.

An Act relating to campaign finance; amending 21 O.S. 2001, Sections 187 and 187.2, which relate to corporate contributions; modifying definitions; deleting prohibition on certain corporate expenditures; amending 51 O.S. 2001, Section 304, which relates to the Political Subdivisions Ethics Act; modifying definitions; 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 ~~1 through 3 of this act~~ 187 through 187.2 of this 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;

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

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

- 11 a. has filed a declaration of candidacy for any state
12 office with the Secretary of the State Election Board,
- 13 b. has filed a declaration of candidacy for any local
14 office with the secretary of any county election
15 board,
- 16 c. has filed a declaration of candidacy with the
17 Secretary of State and has drawn active opposition,
- 18 d. is nominated as a "substitute candidate" pursuant to
19 Section 1-105 of Title 26 of the Oklahoma Statutes, or
- 20 e. solicits or accepts contributions, makes expenditures
21 or gives consent to an individual, organization, party
22 committee, or other committee to solicit or accept
23 contributions or make expenditures to secure election

1 to any state or local office at any time, whether or
2 not the office for which the individual will seek
3 nomination or election is known when the:

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

7 The term "candidate" shall include a person whose candidacy is
8 unopposed;

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

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

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

- 17 (1) a gift, subscription, loan, guarantee or
18 forgiveness of a loan, conveyance, advance,
19 payment, distribution, or deposit of money or
20 anything of value made to and with the knowledge
21 and for the benefit of a committee for use in a
22 campaign, or for reducing the debt of a
23 committee,

- 1 (2) an expenditure made by a person or committee,
2 other than a candidate committee, with the
3 cooperation of, or in consultation with, a
4 committee, a candidate, candidate committee, or
5 candidate's agent or that is made in concert
6 with, or at the request or suggestion of, a
7 candidate, candidate committee, or candidate's
8 agent,
- 9 (3) the difference between the payment to a person,
10 other than a candidate or committee, of
11 compensation for personal services or products to
12 the candidate or committee, and the reasonable
13 and customary rate charged by the person for like
14 services or products in like quantities when the
15 candidate or committee has knowledge of the
16 discounted services or products,
- 17 (4) anything of value received by a committee that is
18 transferred from another committee or other
19 source,
- 20 (5) sums paid for tickets for a political event such
21 as a reception, rally, or a similar fundraising
22 event; however, the amount of any such
23 contribution may be reduced for the purpose of

1 complying with the reporting and contribution
2 limitations requirements of Section ~~2 of this act~~
3 187.1 of this title, by the actual cost of
4 consumables furnished by the committee in
5 connection with the purchase of the tickets, and
6 only the excess over the actual cost of the
7 consumables shall be deemed a contribution,

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

10 (7) the difference between the open market value and
11 a discount or rebate:

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

13 (b) by a television or radio station not
14 extended equally to all candidates for the
15 same office.

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

17 (1) the value of services provided without
18 compensation by any individual who volunteers on
19 behalf of a candidate or committee,

20 (2) for purposes of the contribution limits set forth
21 in Section ~~2 of this act~~ 187.1 of this title, the
22 transfer of any funds by a political action
23 committee to another political action committee,

1 provided the committees have been established as
2 provided by law and the transferring committee
3 and the receiving committee have been
4 established, directly or indirectly, and are
5 administered or financially supported, directly
6 or indirectly, by a common entity,

7 (3) any payment or obligation incurred by a
8 corporation, labor organization, membership
9 organization, cooperative or corporation without
10 capital stock for the establishment,
11 administration, and solicitation of contributions
12 to a separate segregated fund or political action
13 committee to be utilized for political purposes,

14 (4) a nonreimbursed payment made by an individual for
15 the individual's own travel expenses on behalf of
16 a committee,

17 (5) a payment made by an occupant of a residence or
18 office for costs related to a meeting or
19 fundraising event held in the occupant's
20 residence or office if the costs for the meeting
21 or fundraising event do not exceed Five Hundred
22 Dollars (\$500.00). However, if the occupant
23 hosts more than one event in an election cycle

1 for the same beneficiary, all subsequent payments
2 that exceed Five Hundred Dollars (\$500.00) in the
3 aggregate are contributions,

4 (6) a loan of money made in the ordinary course of
5 business by a financial institution authorized to
6 transact business in this state at terms and
7 interest rates generally available to a member of
8 the public without regard to that person's status
9 as a state or local officer or state or local
10 employee or a candidate for state or local office
11 by the institution,

12 (7) a communication by a corporation, labor
13 organization, or association aimed at its
14 employees, members, owners, stockholders,
15 directors, executive administrative personnel, or
16 their families that is not coordinated with a
17 candidate committee or a party committee, or

18 (8) a tender of a contribution if the tender is not
19 accepted, including use as collateral, or is
20 transferred to the state as provided in Rule 10-
21 1-2 of the Rules of the Ethics Commission,~~74~~
22 ~~O.S. Supp. 1994, Chapter 62, App.;~~

1 8. "Expenditure" means a purchase, payment, distribution, loan,
2 advance, compensation, reimbursement, fee deposit, transfer of funds
3 between committees, or a gift made by a committee. An expenditure
4 does not include the following:

- 5 a. a loan of money, made in the ordinary course of
6 business, by a financial institution authorized to
7 transact business in this state,
- 8 b. a communication by a corporation, labor organization,
9 or association aimed at its employees, members,
10 owners, stockholders, executive administrative
11 personnel, or their families, ~~except a communication~~
12 ~~by the corporation's political action committee~~
13 ~~promoting or opposing a candidate or candidates,~~
- 14 c. uncompensated services provided by an individual
15 volunteering the individual's time, or
- 16 d. a transfer of funds to another committee if such
17 transfer is not accepted;

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

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

1 11. "Party committee" means a political party or any affiliated
2 or connected entity;

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

8 13. "Political action committee":

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

11 (1) with the primary purpose of:

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

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

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

21 b. does not include:

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

- 1 (2) a person other than an individual, when that
2 person makes an expenditure or expenditures from
3 an account to which contributions have not been
4 solicited or accepted from any other persons or
5 individuals; and the expenditure or expenditures
6 are required by law or by Chapter 10 of the Rules
7 of the Ethics Commission to be reported by the
8 recipient committee or committees as a
9 contribution or contributions, ~~and~~
- 10 (3) a combination of individuals, or a person other
11 than an individual, if the combination of
12 individuals, or a person other than an
13 individual, solicits contributions on behalf of a
14 committee, and any contributions received as a
15 result of the solicitation are forwarded to the
16 committee without being deposited in any account;
17 and the contributions are required by law or by
18 Chapter 10 of the Rules of the Ethics Commission
19 to be reported by the committee that receives the
20 contributions,
- 21 (4) a corporation, or
- 22 (5) a labor union;

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

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

6 SECTION 2. AMENDATORY 21 O.S. 2001, Section 187.2, is
7 amended to read as follows:

8 Section 187.2 A. No corporation shall contribute to any
9 campaign fund of any party committee of this state or to any other
10 person for the benefit of such party committee or its candidates,
11 nor shall it, through any agent, officer, representative, employee,
12 attorney, or any other person or persons, so contribute. Nor shall
13 any such corporation, directly or through such other person, make
14 any loan of money or anything of value, or give or furnish any
15 privilege, favor or other thing of value to any party committee, or
16 to any representative of a party committee, or to any other person
17 for it, or to any candidate upon the ticket of any political party.

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

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

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

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

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

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

19 F. Any person who knowingly and willfully violates any
20 provision of this section where the aggregate amount contributed is
21 Five Thousand Dollars (\$5,000.00) or less, upon conviction, shall be
22 guilty of a misdemeanor punishable by a fine of not more than three
23 times the amount of the prohibited contribution or One Thousand

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

4 SECTION 3. AMENDATORY 51 O.S. 2001, Section 304, is
5 amended to read as follows:

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

7 1. "Business" means any corporation, partnership, sole
8 proprietorship, firm, enterprise, franchise, association,
9 organization, self-employed individual, holding company, joint stock
10 company, receivership, trust, or any legal entity through which
11 business is conducted for profit;

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

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

21 4. "Candidate" means a person who has filed a notification and
22 declaration of candidacy for any public office with the secretary of
23 any county election board. The term "candidate" shall include a

1 person whose candidacy is unopposed, but shall not include any
2 person who has withdrawn such notification and declaration of
3 candidacy;

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

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

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

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

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

19 10. "Contribution" means and includes any money, property, or
20 in-kind services, including but not limited to, printing or
21 engraving, radio or television time, billboards, advertising,
22 subscription, forgiveness of indebtedness, personal or professional
23 services or any other thing of value whatsoever which is given or

1 loaned to be used in a campaign. The term "contribution" shall not
2 include:

3 a. money loaned to a candidate in connection with his own
4 campaign by a bank, savings and loan association or
5 credit union which is to be repaid with interest at a
6 rate comparable to that of loans for equivalent
7 amounts for other purposes,

8 b. the value of services provided without compensation by
9 individuals volunteering a portion or all of their
10 time on behalf of a candidate, organization, political
11 action committee or political party,

12 c. for purposes of the contribution limits set forth in
13 ~~Section 2 of this act~~ 187.1 of Title 21 of the
14 Oklahoma Statutes, the transfer of any funds by a
15 political action committee to another political action
16 committee, provided the committee has been established
17 as provided by law if the transferring committee and
18 the receiving committee have been established,
19 directly or indirectly, and are administered or
20 financially supported, directly or indirectly, by a
21 common organization, or

22 d. any payment or obligation incurred by a corporation,
23 labor organization, membership organization,

1 cooperative or corporation without capital stock for
2 the establishment, administration, and solicitation of
3 contributions to a separate segregated fund or
4 political action committee to be utilized for
5 political purposes;

6 11. "Commission" means the Ethics Commission;

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

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

12 14. "Expenditure" means a payment, distribution, contribution,
13 loan, advance, compensation, reimbursement, fee deposit or gift of
14 money securement, or any other thing of value, or services including
15 but not limited to postage, telephone, telegraph, printing,
16 advertising, travel, lodging, meals or entertainment for which
17 payment is made with private or public funds, and includes a
18 contract, promise or agreement to make an expenditure, whether or
19 not legally enforceable;

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

1 16. "Governmental entity" means any department, commission,
2 authority, council, board, bureau, committee, legislative body,
3 agency, public trust, or other establishment of a political
4 subdivision of this state;

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

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

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

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

21 21. "Person" means an individual, corporation, association,
22 firm, partnership, labor union or labor organization, committee,

1 club or other organization, or a group of persons who are
2 voluntarily acting in concert;

3 22. "Political action committee" means a combination of at least
4 two individuals, or a person other than an individual, except a
5 corporation or labor union:

- 6 a. with the primary or incidental purpose of supporting
7 or opposing a candidate or political party, except
8 those required to file with the Federal Election
9 Commission or the Ethics Commission, and
10 b. which accepts contributions or makes expenditures
11 aggregating at least Two Hundred Dollars (\$200.00)
12 during a calendar year;

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

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

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

21 26. "Represent" or "representation" means any formal or informal
22 attendance before, or any written or oral communication with, or the

1 filing of documents with any governmental entity on behalf of a
2 person or organization;

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

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

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

14 SECTION 4. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 2-17-10 - DO PASS, As
19 Amended and Coauthored.