

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1493

By: Ritze

4
5
6 AS INTRODUCED

7 An Act relating to officers; amending 51 O.S. 2011,
8 Sections 303, 305, 307 and 315, which relate to the
9 Political Subdivisions Ethics Act; modifying
10 administration of the act; authorizing Commission to
11 administer act for candidates for school district
12 office; modifying duties of the Commission; modifying
13 filing of complaints; modifying the filing of certain
14 reports; and providing an effective date.

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

16 SECTION 1. AMENDATORY 51 O.S. 2011, Section 303, is
17 amended to read as follows:

18 Section 303. A. The provisions of the Political Subdivisions
19 Ethics Act shall be administered as follows:

20 1. The Ethics Commission created in Section 1 of Article XXIX
21 of the Oklahoma Constitution shall administer the Political
22 Subdivisions Ethics Act with respect to candidates or candidate
23 committees for county office, campaigns for or against county ballot
24 measures and public officials and public employees elected or
appointed to serve in county government;

1 2. The municipal clerk shall administer the Political
2 Subdivisions Ethics Act with respect to candidates or candidate
3 committees for municipal office, committees supporting or opposing
4 candidates for municipal office and campaigns for or against
5 municipal ballot measures other than those involving utility
6 franchises; and

7 3. ~~The clerk of the board of education~~ Ethics Commission shall
8 administer the Political Subdivisions Ethics Act with respect to
9 candidates or candidate committees for school district office or
10 committees supporting or opposing candidates for school district
11 office.

12 B. ~~The municipal clerk and the clerk of the board of education~~
13 Ethics Commission shall ~~not~~ receive any complaints of violations of
14 the Political Subdivisions Ethics Act ~~and shall be limited to the~~
15 ~~duties prescribed in paragraphs 1, 2, 3, 4 and 5 of subsection A of~~
16 ~~Section 19 of this act.~~

17 SECTION 2. AMENDATORY 51 O.S. 2011, Section 305, is
18 amended to read as follows:

19 Section 305. The Ethics Commission shall:

20 1. Serve as the official repository for financial disclosure
21 statements, campaign contributions and expenditures reports and such
22 other documents filed by candidates or candidate committees for
23 county office or school district office and public officials and
24

1 public employees of county government or school district office as
2 pertain to its duties;

3 2. Accept and file any information voluntarily supplied that
4 exceeds the requirements of the Political Subdivisions Ethics Act;
5 provided, the Commission shall not require the disclosure of any
6 information other than as specifically provided by the Political
7 Subdivisions Ethics Act;

8 3. Make available from its website forms upon which information
9 shall be provided as required by the Political Subdivisions Ethics
10 Act and copies of the Political Subdivisions Ethics Act for all
11 candidates, committees, officials, and employees required to submit
12 such forms;

13 4. Make campaign contributions and expenditures reports,
14 political action committees' registrations and financial disclosure
15 statements filed with it available during regular business hours to
16 the public subject to the Oklahoma Open Records Act, Section 24A.1
17 et seq. of this title. No original or record copies of reports,
18 registrations and statements shall be removed from the office of the
19 Commission. No records or materials of the Commission shall be
20 subject to the Oklahoma Open Records Act unless expressly provided
21 for in this act;

22 5. Preserve such reports, registrations and statements in
23 accordance with the Records Management Act, Section 201 et seq. of
24

1 Title 67 of the Oklahoma Statutes, or for a period of at least two
2 (2) years from date of receipt;

3 6. Issue ethics interpretations pertaining to the provisions of
4 the Political Subdivisions Ethics Act when requested by any person
5 or committee under the jurisdiction of the Commission and publish
6 its ethics interpretations annually; provided, that failure of a
7 person to request an ethics interpretation shall have no relevance
8 in any subsequent proceeding under the Political Subdivisions Ethics
9 Act. Provided further, such interpretation shall be binding on the
10 Commission in any subsequent proceeding under the Political
11 Subdivisions Ethics Act. Sufficient deletions shall be made by the
12 Commission in published ethics interpretations to prevent the
13 disclosure of the identity of the persons involved in the situations
14 presented in the ethical interpretations;

15 7. Pursuant to a complaint filed under the provisions of
16 Section 307 of this title and as specifically authorized by law,
17 hold hearings, subpoena witnesses upon a vote of a majority of the
18 members of the Commission, and compel their attendance and
19 testimony, administer oaths and affirmations, take evidence, and
20 require by subpoena the production of any books, papers, records, or
21 other items relevant to the performance of the Commission's duties
22 or exercise of its powers;

23 8. Enforce and collect such late filing fees as provided for by
24 the Political Subdivisions Ethics Act. The Commission shall

1 establish a procedure by which an employee of or person contracting
2 with the Commission shall conduct a hearing regarding any late
3 filing fee imposed upon written request. The hearing shall be
4 conducted within thirty (30) days of the request. The decision of
5 the person conducting the hearing may be appealed to the Commission
6 upon written request; and

7 9. Initiate and continue programs for the purpose of educating
8 officials, employees and citizens of political subdivisions of this
9 state on matters of ethics and government service.

10 SECTION 3. AMENDATORY 51 O.S. 2011, Section 307, is
11 amended to read as follows:

12 Section 307. A. Except as otherwise provided in this section,
13 complaints alleging violations of the provisions of this act by
14 persons, committees, candidates for county office or school district
15 office, public officials or public employees of county government or
16 school district office shall be filed with the Ethics Commission.

17 The Commission shall not accept a complaint alleging a violation by
18 a candidate for local office other than county office or school
19 district office. Such complaint must be filed by the complainant
20 with the district attorney of the county in which the violation is
21 alleged to have occurred.

22 B. The Commission shall not initiate any investigation or other
23 proceedings except:

24

1 1. Pursuant to a complaint which meets the requirements of this
2 section; or

3 2. Pursuant to the provisions of Section ~~23~~ 309 of this ~~act~~
4 title.

5 C. Complaints shall be made in writing and signed by the person
6 making the complaint and shall be verified and notarized. Each
7 complaint shall state specifically the sections of the Political
8 Subdivisions Ethics Act that the person named in the complaint is
9 alleged to have violated and the date of the alleged violation,
10 which shall not be more than two (2) years before the date the
11 complaint is filed. The Executive Director shall be authorized,
12 without action of the Commission, to refuse to accept any complaint
13 which does not meet the requirements of this section and shall
14 notify the person filing the complaint of the reasons for such
15 refusal. The Executive Director shall, without action of the
16 Commission, forward any complaint filed with the Commission, over
17 which the Court on the Judiciary has jurisdiction to the Court on
18 the Judiciary. The Executive Director shall forward any complaint
19 alleging a violation by a member of the Commission to the Council on
20 Judicial Complaints, which shall be authorized to refer the
21 complaint to the district attorney of the county in which the
22 alleged violation occurred.

23 D. No person shall disclose the contents of a complaint, his or
24 her intention to file a complaint, the fact that a complaint has

1 | been filed or his or her knowledge of another person's intention to
2 | file a complaint; provided, the respondent may disclose the entire
3 | contents of a complaint and any related materials at any time in the
4 | proceedings. If the respondent so discloses, any provisions of this
5 | act prohibiting disclosure of information shall be waived and the
6 | complaint and all records and materials related thereto shall be
7 | open for public inspection.

8 | E. No complaint alleging any violation of the provisions of
9 | Sections ~~24~~ 310 through ~~31~~ 317 of this ~~act~~ title by a candidate or
10 | by any person in connection with a campaign for county office may be
11 | filed with, received by or initiated by the Commission during the
12 | period beginning on the first day of the period for filing
13 | declarations of candidacy for the office and ending on the day after
14 | certification of the results of the election at which the office is
15 | filled.

16 | F. A copy of any complaint filed with the Commission that meets
17 | the requirements of subsection C of this section, and a general
18 | statement of the applicable laws with respect to the complaint,
19 | shall be sent by certified mail to the person named in the
20 | complaint. Such person shall have twenty (20) days from the day of
21 | receipt of the copy of the complaint to file a written response to
22 | the complaint. Upon written request by the person, the chairman of
23 | the Commission may extend the time for response an additional twenty
24 | (20) days.

1 G. A complaint may be withdrawn by the complainant at any time
2 during the proceedings outlined in this section with the consent of
3 the Commission and the respondent.

4 H. Upon the filing of a complaint, the Commission shall
5 determine if the complaint may be resolved by action on the part of
6 either party or by a conciliation agreement pursuant to the
7 provisions of subsection Q of this section or if the complaint
8 should be dismissed. If not, the Commission may cause an
9 investigation to be conducted and may order a hearing to be held
10 pursuant to the provisions of Article II of the Administrative
11 Procedures Act. The respondent shall have the right to be present
12 during any of the proceedings except the final deliberations and the
13 right to appear with counsel and shall be notified that the
14 investigation and hearing may result in a referral of the complaint
15 to the appropriate authority for prosecution if a criminal penalty
16 is provided in this act for the violation cited in the complaint.
17 The complainant shall not be present except at such times as he may
18 be required to provide testimony.

19 I. The rules of evidence shall apply to any hearings held
20 pursuant to the provisions of this section.

21 J. All proceedings held pursuant to the provisions of this
22 section shall be conducted in executive sessions. All records
23 relating to any such complaint, review or investigation shall be
24 confidential and not open for public inspection.

1 K. The Commission shall cause a record to be made of such
2 proceedings and shall request a hearing officer to conduct the
3 proceedings and advise the Commission as necessary. The hearing
4 officer shall be an attorney licensed to practice law in this state.
5 The Court Administrator shall designate hearing officers. The
6 Executive Director or designee shall present the complaint and any
7 evidence supporting the complaint. The Commission shall determine:

8 1. The order of the proceedings;

9 2. The order in which the Executive Director or designee and
10 the respondent and his or her counsel are to put on testimony and
11 evidence, cross-examine witnesses and present arguments; and

12 3. Such other matters as may be necessary to ensure orderly
13 proceedings. The Commission may request the assistance of the
14 hearing officer in making such determinations.

15 L. At the conclusion of the hearing, the Commission shall
16 conduct final deliberations and shall determine if the complaint may
17 be resolved by a conciliation agreement. No other person shall be
18 present at such deliberations; provided, after such determination,
19 the Commission may request the assistance of the Executive Director.

20 M. At the conclusion of final deliberations, the Commission
21 shall set forth its determination in writing with findings of fact
22 and conclusions of law. Such written decision with findings of fact
23 and conclusions of law must contain one of the following orders:

24 1. A dismissal of the complaint;

1 2. An order reflecting the terms of a conciliation agreement
2 with the respondent pursuant to the provisions of subsection Q of
3 this section; or

4 3. For complaints alleging a violation of this act for which a
5 criminal penalty is provided, an order referring the complaint and
6 all material gathered by the Commission concerning the alleged
7 violation to the appropriate authority for prosecution or action;
8 provided, such referral shall only be made upon the affirmative vote
9 of a majority of the members serving that there is probable cause to
10 believe that the respondent committed a knowing and willful
11 violation of the sections of the Political Subdivisions Ethics Act
12 cited in the complaint. If the Commission refers the complaint for
13 prosecution or action, the records of any proceedings held pursuant
14 to the complaint shall be transcribed.

15 As used in this section, "appropriate authority" means the
16 district attorney of the county in which the violation occurred. If
17 uncertainty exists as to the county in which the violation occurred,
18 the Commission may prosecute in, or refer complaints to the district
19 attorney of, any county in which the evidence indicates the
20 violation might have been committed.

21 N. If the appropriate authority declines to prosecute or take
22 action, the investigation and order and all materials related
23 thereto shall remain confidential. If the appropriate authority
24 decides to prosecute or take action, the respondent shall be

1 entitled to a copy of any report prepared by the Commission
2 concerning the complaint and only that material presented at trial
3 shall become open for public inspection. If the Commission
4 dismisses the complaint, all materials related to the investigation
5 shall be destroyed by the Commission six (6) months after the date
6 of dismissal unless such materials are required for prosecution of
7 filing a frivolous complaint pursuant to the provisions of Section
8 ~~22~~ 308 of this ~~act~~ title.

9 O. In making a determination pursuant to the provisions of
10 subsection M of this section, the Commission may exercise such
11 discretion as it deems necessary to provide fairness to the accused
12 and to maintain confidence in the public officials and employees who
13 are subject to the provisions of this act.

14 P. Any person disclosing any material made confidential
15 pursuant to the provisions of this section, upon conviction, shall
16 be guilty of a misdemeanor and shall be punished by a fine not
17 exceeding Ten Thousand Dollars (\$10,000.00). If the Commission upon
18 a vote of a majority of the members serving determines that
19 confidential information has been disclosed, it shall forward any
20 materials related to such disclosure, along with any information it
21 deems necessary, to the appropriate district attorney.

22 Q. A conciliation agreement to resolve any complaint filed may
23 be entered into by the Commission and the respondent at any time
24 during the proceedings provided for in this section. A conciliation

1 agreement, unless violated, shall be a bar to any other action by
2 the Commission or the district attorney. A conciliation agreement
3 shall not be made public unless such disclosure is made part of the
4 agreement. A conciliation agreement may include a requirement that
5 the respondent pay a civil penalty of up to Two Thousand Five
6 Hundred Dollars (\$2,500.00).

7 Such penalties shall be deposited with the State Treasurer to
8 the credit of the General Revenue Fund. If the Commission finds, or
9 either party alleges, that a conciliation agreement has been
10 violated, the Commission shall conduct a hearing under the
11 procedures specified in this section to determine if the
12 conciliation agreement has been violated and, if so, if the
13 complaint should be referred to the appropriate authority for
14 prosecution. A conciliation agreement may be amended by the
15 Commission.

16 SECTION 4. AMENDATORY 51 O.S. 2011, Section 315, is
17 amended to read as follows:

18 Section 315. A. The reports of contributions and expenditures
19 or statements of inactivity shall be filed with the Ethics
20 Commission for candidates or candidate committees for county office
21 and committees supporting or opposing county candidates and
22 organizations, ~~or with the clerk of the appropriate political~~
23 ~~subdivision for municipal or school board candidates, candidate~~

24

1 ~~committees, and committees supporting or opposing municipal or~~
2 ~~school board candidates, as follows:~~

3 ~~1. The reports of a candidate or committee as herein defined~~
4 ~~shall be filed on or before the tenth day preceding the date of the~~
5 ~~Primary Election and shall include all contributions accepted and~~
6 ~~all expenditures made from the date on which the earliest~~
7 ~~contribution was received or expenditure was made, whichever was~~
8 ~~earlier, through a period of time ending fifteen (15) days preceding~~
9 ~~the date of the Primary Election;~~

10 ~~2. A further report of a candidate or committee, as herein~~
11 ~~defined, shall be filed on or before the tenth day preceding the~~
12 ~~date of the Runoff Primary Election and shall include all~~
13 ~~contributions accepted and all expenditures made from the close of~~
14 ~~the reporting period required by paragraph 1 of this section through~~
15 ~~the fifteenth day preceding the date of the Runoff Primary Election;~~

16 ~~3. A further report of a candidate or committee, as herein~~
17 ~~defined, shall be filed on or before the tenth day preceding the~~
18 ~~date of the General Election and shall include all contributions~~
19 ~~accepted and all expenditures made from the close of the reporting~~
20 ~~period required by paragraph 2 of this section through the fifteenth~~
21 ~~day preceding the date of the General Election;~~

22 ~~4. A further report of a candidate or committee, as herein~~
23 ~~defined, shall be filed on or before the fortieth day after the date~~
24 ~~of the General Election, and shall include all contributions~~

1 ~~accepted and all expenditures made from the close of the reporting~~
2 ~~period required by paragraph 3 of this section through the thirtieth~~
3 ~~day after the date of the General Election; and~~

4 5. ~~If any contributions are accepted or any expenditures made~~
5 ~~within six (6) months after the close of the reporting period~~
6 ~~required by paragraph 4 of this section, the candidate or committee,~~
7 ~~as herein defined, shall file a supplemental report within six (6)~~
8 ~~months and ten (10) days after the date of the General Election,~~
9 ~~together with the names of the contributors and the purpose for~~
10 ~~which the expenditures were made. Such report shall include all~~
11 ~~contributions accepted and expenditures made from the close of the~~
12 ~~reporting period required by paragraph 4 of this section, through~~
13 ~~six (6) months after the date of the General Election. Provided~~
14 ~~further, that if any contributions are accepted or expenditures are~~
15 ~~made in connection with such campaign after said six-month period~~
16 ~~same shall also be fully reported not later than January 15 of each~~
17 ~~year thereafter. Such reports shall include all contributions~~
18 ~~accepted and expenditures made from the close of the reporting~~
19 ~~period of the report most recently filed through December 31 of the~~
20 ~~previous year in the same manner and time prescribed in Rules~~
21 ~~257:10-1-13, 257:10-1-15 and 257:10-1-16 of the Rules of the Ethics~~
22 ~~Commission.~~

23 B. The reports of contributions and expenditures or statements
24 of inactivity of committees accepting contributions or making

1 expenditures for or against a proposition or measure submitted to
2 voters at a county election or a municipal election other than one
3 involving utility franchises shall be filed with the appropriate
4 administering entity as provided by Section ~~17~~ 303 of this ~~act~~ title
5 as follows:

6 1. A report shall be filed on or before the tenth day preceding
7 the date of the election and shall include all contributions
8 accepted and all expenditures made from the date on which the
9 earliest contribution was accepted or expenditure was made,
10 whichever was earlier, through a period of time ending fifteen (15)
11 days preceding the date of the election;

12 2. A final report shall be filed on or before the fortieth day
13 after the date of election wherein the proposition or measure was
14 voted upon, and shall include all contributions accepted and all
15 expenditures made from the close of the reporting period required by
16 paragraph 1 of this subsection through the thirtieth day after the
17 date of the election; and

18 3. If any contributions are accepted or any expenditures are
19 made within six (6) months after the date of the election wherein
20 the proposition or measure was voted upon, the committee shall file
21 a supplemental report within six (6) months and ten (10) days after
22 the election at which the proposition or measure was voted upon,
23 together with the names of the contributors and the purpose for
24 which the expenditures were made. Such report shall include all

1 contributions accepted and expenditures made from the date of the
2 election wherein the proposition or measure was voted upon through
3 six (6) months after the date of the election wherein the
4 proposition or measure was voted upon. Provided, further, that if
5 any contributions are accepted or expenditures are made in
6 connection with such campaign after said six-month period, same
7 shall also be fully reported not later than January 15 of each year
8 thereafter. Such reports shall include all contributions accepted
9 and expenditures made from the close of the reporting period of the
10 report most recently filed through December 31 of the previous year.

11 C. Reports may be filed by mail or delivered to the Commission
12 ~~or the clerk of the appropriate political subdivision but the same~~
13 ~~must~~ and shall be received by the Commission ~~or the clerk of the~~
14 ~~appropriate political subdivision~~ not later than 4:30 p.m. of the
15 day specified for filing in order to be deemed timely filed.

16 SECTION 5. This act shall become effective November 1, 2013.

17
18 54-1-5981 LRB 12/26/12
19
20
21
22
23
24