

Stricken language would be deleted from and underlined language would be added to present law.
Act 312 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H2/14/13
A Bill

HOUSE BILL 1187

By: Representatives Bell, Deffenbaugh, C. Douglas, Eubanks, Harris, Hobbs, Lea, S. Meeks, Westerman,
Wright

By: Senators J. English, A. Clark, Rapert, D. Sanders

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING THE USE OF
PUBLIC FUNDS TO SUPPORT OR OPPOSE BALLOT MEASURES;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING THE USE
OF PUBLIC FUNDS TO SUPPORT OR OPPOSE
BALLOT MEASURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-1-103(a)(3), concerning certain
misdemeanor offenses, is amended to read as follows:

(3)(A) It shall be unlawful for any public servant, as defined
in § 21-8-402, to use any office or room furnished at public expense to
distribute any letters, circulars, or other campaign materials unless such
office or room is regularly used by members of the public for such purposes
without regard to political affiliation. It shall further be unlawful for any
public servant to use for campaign purposes any item of personal property
provided with public funds.

(B) As used in subdivision (a)(3)(A) of this section,
“campaign materials” and “campaign purposes” refer to:

(i) ~~the~~ The campaign of a candidate for public
office; and

(ii) ~~not-efforts~~ Efforts to support or oppose a



ballot measure, except as provided in § 7-1-111;

SECTION 2. Arkansas Code Title 7, Chapter 1, Subchapter 1 is amended to add an additional section to read as follows:

7-1-111. Use of public funds to support or oppose ballot measure.

(a) As used in this section:

(1) "Governmental body" means the same as defined in § 21-8-402;

(2) "Public funds" means funds, moneys, receivables, grants, investments, instruments, real or personal property, or other assets, liabilities, equities, revenues, receipts, or disbursements belonging to, held by, or passed through a governmental body; and

(3)(A) Except as provided in subdivision (a)(3)(B) of this section, "public servant" means an individual who is:

(i) Employed by a governmental body;

(ii) Appointed to serve a governmental body; or

(iii) Appointed to a governmental body.

(B) "Public servant" does not include:

(i) An elected official; or

(ii) A person appointed to an elective office.

(b) It is unlawful for a public servant or a governmental body to expend or permit the expenditure of public funds to support or oppose a ballot measure.

(c) This section does not:

(1) Limit the freedom of speech of a public servant or government body, including without limitation verbal expressions of views supporting or opposing a ballot measure;

(2) Prohibit a governmental body from expressing an opinion on a ballot measure through the passage of a resolution or proclamation;

(3) Prohibit the incidental use of state resources by a public servant, including without limitation travel costs, when speaking at an event in which a ballot measure is discussed if the subject matter of the speaking engagement is within the scope of the official duties and responsibilities of the public servant; or

(4) Prohibit the dissemination of public information at a speaking engagement and the incidental use of state resources in the analysis and preparation of that public information if the subject matter of the

public information is within the scope of the official duties and responsibilities of the public servant.

(d)(1) Except as provided under subdivision (d)(2) of this section, a violation of this section is a Class A misdemeanor.

(2)(A) A public servant who is found guilty or pleads guilty or nolo contendere to a violation under this section is ineligible to hold any office, employment, or appointment in a governmental body.

(B) If a public servant is found guilty or pleads guilty or nolo contendere to a violation under this section while employed by a governmental body, he or she shall be removed from employment immediately.

SECTION 3. Arkansas Code § 7-9-402(9), concerning the definition of "person" applicable to disclosure for matters referred to voters, is amended to read as follows:

(9)(A) "Person" means any individual, business, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting in concert.

(B) "Person" includes ~~a public servant or governmental body~~ an elected official using public funds to expressly advocate the qualification, disqualification, passage, or defeat of any ballot question or the passage or defeat of any legislative question; and

SECTION 4. Arkansas Code § 7-9-406(c), concerning financial reports or contributions and expenditures, is amended to read as follows:

(c) ~~A public servant or governmental body~~ An elected official expending public funds in excess of five hundred dollars (\$500) for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question shall file with the commission financial reports as required by §§ 7-9-407 – 7-9-409.

SECTION 5. Arkansas Code § 7-9-407 is amended to read as follows:
7-9-407. Financial report – Information.

A financial report of a ballot question committee, a legislative question committee, an individual person, ~~a public servant, or a governmental~~

~~body~~ an elected official, as required by § 7-9-406, shall contain the following information:

(1) The name, address, and telephone number of the committee, individual person, ~~public servant, or governmental body~~ elected official filing the statement;

(2)(A) For a committee:

(i) The total amount of contributions received during the period covered by the financial report;

(ii) The total amount of expenditures made during the period covered by the financial report;

(iii) The cumulative amount of those totals for each ballot question or legislative question;

(iv) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the financial report;

(v) The total amount of contributions received during the period covered by the financial statement from persons who contributed less than fifty dollars (\$50.00), and the cumulative amount of that total for each ballot question or legislative question;

(vi) The total amount of contributions received during the period covered by the financial statement from persons who contributed fifty dollars (\$50.00) or more, and the cumulative amount of that total for each ballot question or legislative question;

(vii) The name and street address of each person who contributed fifty dollars (\$50.00) or more during the period covered by the financial report, together with the amount contributed, the date of receipt, and the cumulative amount contributed by that person for each ballot question or legislative question; and

(viii) The name and address of each person who contributed a nonmoney item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals.

(B) For an individual person:

(i) The total amount of expenditures made during the period covered by the financial report; and

(ii) The cumulative amount of that total for each ballot question or legislative question.

(C) For a public servant or governmental body using public funds:

(i) The total amount of expenditures made during the period covered by the financial report; and

(ii) The cumulative amount of that total for each ballot question or legislative question; and

(3) The name and street address of each person to whom expenditures totalling one hundred dollars (\$100) or more were made, together with the date and amount of each separate expenditure to each person during the period covered by the financial report and the purpose of the expenditure.

SECTION 6. Arkansas Code §§ 7-9-412 – 7-9-414 are repealed.

~~7-9-412. Reporting the use of state funds to oppose or support a ballot measure.~~

~~Any funds appropriated to any state agency, board, or commission that are expended, as prescribed in § 7-9-413, for the purpose of opposing or supporting any initiative, referendum, proposed constitutional amendment, or other measure which is submitted or intended to be submitted to a popular vote at an election, whether or not it qualifies for the ballot, shall be reported to the Legislative Council if the amount exceeds one hundred dollars (\$100).~~

~~7-9-413. Use of state funds to oppose or support a ballot measure.~~

~~The use of state funds under § 7-9-412 includes:~~

~~(1) Newspaper, television, radio, and other forms of communication;~~

~~(2) Publication materials;~~

~~(3) Travel expenses relative to reimbursement;~~

~~(4) Surveys;~~

~~(5) Private contracts; and~~

~~(6) Postage.~~

~~7-9-414. Applicability of §§ 7-9-412 and 7-9-413.~~

~~This act does not apply to state funds appropriated to any elected officials.~~

/s/Bell

APPROVED: 03/11/2013