

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 163

By: Senator D. Sanders

For An Act To Be Entitled

AN ACT TO MAKE REVISIONS TO THE ETHICS LAWS OF
ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE REVISIONS TO THE ETHICS LAWS OF
ARKANSAS.

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

SECTION 1. Arkansas Code § 3-8-702 is amended to read as follows:
3-8-702. Definitions.

As used in this subchapter:

(1)(A) "Contribution" means, whether direct or indirect, advances, deposits, transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payments for services, dues, advancements, forbearance, loans, pledges, or promises of money or anything of value, whether or not legally enforceable, to a person for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question.

(B) "Contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events and the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all persons for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question.

(C) "Contribution" does not include:

(i) Noncompensated, nonreimbursed volunteer personal



services or travel;

(ii) Activities designed solely to encourage individuals to vote or to register to vote; or

(iii) Any communication by a bona fide church or religious denomination to its own members or adherents for the sole purpose of protecting the right to practice the religious tenets of the church or religious denomination;

(2) "Disqualification of a local-option ballot question" means any action or process, legal or otherwise, that seeks to prevent a local-option ballot question from being on the ballot at an election;

(3) "Elected official" means any person holding an elective office of any governmental body, whether elected or appointed to the office;

~~(3)(A)~~(4)(A) "Expenditure" means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract, promise, or agreement to make an expenditure for goods, services, materials, or facilities for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question.

(B) "Expenditure" does not include an expenditure made for communication by a person strictly with the person's paid members or shareholders;

(5) "Governmental body" means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

~~(4)~~(6) "Local-option ballot question" means a question in the form of a local-option initiative that is submitted or intended to be submitted to a popular vote at an election, whether or not it qualifies for the ballot;

~~(5)(A)~~(7)(A) "Local-option ballot question committee" means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question or any person, other than ~~a public servant, a governmental body~~ an elected official expending public funds, or an individual, located within or outside Arkansas, that

makes expenditures for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question.

(B) A person other than an individual or an approved political action committee as defined in § 7-6-201, located within or outside Arkansas, also qualifies as a local-option ballot question committee if two percent (2%) or more of the committee's annual revenues, operating expenses, or funds are used to make a contribution or contributions to another ballot question committee and if the contribution or contributions exceed ten thousand dollars (\$10,000) in value;

~~(6)(A)(8)(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 using public funds to expressly advocate the qualification, disqualification, passage, or defeat of a local-option ballot question; and

~~(7)(9)~~ "Qualification of a local-option ballot question" means any action or process, legal or otherwise, through which a local-option ballot question obtains certification to be on the ballot at an election.

SECTION 2. Arkansas Code § 3-8-703, concerning the filing deadlines for initiative proceedings, is amended to add an additional subsection to read as follows:

(d)(1) Upon dissolution, a local-option ballot question committee shall notify the commission of the dissolution in writing.

(2) Any remaining funds on hand at the time of dissolution shall be turned over to:

(A) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund;

(B) An organized political party as defined in § 7-1-101 or a political party caucus of the General Assembly, the Senate, or the House of Representatives;

(C) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;

(D) Cities of the first class, cities of the second class, or incorporated towns; or

(E) The contributors to the local-option ballot question committee.

SECTION 3. Arkansas Code § 3-8-705 is amended to read as follows:

3-8-705. Financial reports – Requirement.

(a) A local-option ballot question committee that either receives contributions or makes expenditures in excess of five hundred dollars (\$500) for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question shall file with the Arkansas Ethics Commission a Ballot Question Committee Financial Report as required by §§ 7-9-407 – 7-9-409.

(b) An individual person who on his or her own behalf expends in excess of five hundred dollars (\$500), excluding contributions, for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of a local-option ballot question shall file with the commission financial reports as required by §§ 7-9-407 - 7-9-409.

~~(b)(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 local-option ballot question shall file with the commission financial reports as required by §§ 7-9-407 – 7-9-409.

~~(e)(d)~~ Except as provided in subsection ~~(d)(e)~~ of this section, a report required by this subchapter shall be deemed timely filed if it is:

(1) Hand-delivered to the commission on or before the date due;
 (2) Mailed to the commission, properly addressed, postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on or before the date due;

(3) Received via facsimile by the commission on or before the date due, provided that the original is received by the commission within ten (10) days of the transmission; or

(4) Received by the commission in a readable electronic format that is approved by the commission.

~~(d)(e)~~ Whenever a report under this subchapter becomes due on a day that is a Saturday, Sunday, or legal holiday, the report shall be due the next day that is not a Saturday, Sunday, or legal holiday.

~~(e)(f)~~ A preelection report is timely filed if it is received by the

commission no later than seven (7) days prior to the election for which it is filed.

SECTION 4. Arkansas Code § 3-8-706 is amended to read as follows:

3-8-706. Financial report – Information.

In addition to the information required under §§ 7-9-407 – 7-9-409, a financial report of a local-option ballot question committee, individual person, or elected official shall contain the following information:

(1) The name, address, and telephone number of the committee, individual person, or elected official filing the report;

(2)(A) For a local-option ballot question committee:

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

~~(B)(ii)~~ The total amount of expenditures made by the committee or on behalf of the committee by an advertising agency, public relations firm, or political consultant during the period covered by the financial report;

~~(C)(iii)~~ The cumulative amount of contributions and expenditures reported under subdivision (2)(A) of this section for each local-option ballot question committee;

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

~~(E)(v)~~ The total amount of contributions received during the period covered by the financial report from persons who contributed less than fifty dollars (\$50.00) and the cumulative amount of that total for each local-option ballot question committee;

~~(F)(vi)~~ The total amount of contributions received during the period covered by the financial report from persons who contributed fifty dollars (\$50.00) or more and the cumulative amount of that total for each local-option ballot question committee;

~~(G)(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 local-option ballot question committee;

~~(H)(viii)~~ For each person listed under subdivision (2)(A) of this section, the contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the local-option ballot question committee, and the cumulative amount contributed for each local-option ballot question;

~~(I)(ix)~~ 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;

~~(J)(x)~~ A list of all paid canvassers, officers, and directors and the amount each person was paid;

~~(K)(xi)~~ A list of all expenditures by category, including without limitation the following:

- ~~(i)(a)~~ Advertising;
- ~~(ii)(b)~~ Direct mail;
- ~~(iii)(c)~~ Office supplies;
- ~~(iv)(d)~~ Travel;
- ~~(v)(e)~~ Expenses; and
- ~~(vi)(f)~~ Telephone; and

~~(L)(xii)~~ The total amount of nonitemized expenditures made during the period covered by the financial report; and

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

(B) For an individual person:

(i) The total amount of expenditures made by the individual person or on behalf of the individual person by an advertising agency, public relations firm, or political consultant during the period covered by the financial report; and

(ii) The cumulative amount of expenditures for each local-option ballot question; and

(C) For an elected official using public funds:

(i) The total amount of expenditures made by the elected official using public funds or on behalf of the elected official

using public funds by an advertising agency, public relations firm, or political consultant during the period covered by the financial report; and

(ii) The cumulative amount of expenditures for each local-option ballot question; and

(3) The name and street address of each person to whom expenditures totaling one hundred dollars (\$100) or more were made by the committee, individual person, or elected official using public funds or on behalf of the committee, individual person, or elected official using public funds by an advertising agency, public relations firm, or political consultant, 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 each expenditure.

SECTION 5. Arkansas Code § 3-8-708(b), concerning financial reports of local-option ballot question committees, is amended to read as follows:

(b) A local-option ballot question committee, ~~or~~ individual person, or elected official who files a late financial report shall be subject to a late filing fee not to exceed fifty dollars (\$50.00) for each day the report remains unfiled.

SECTION 6. Arkansas Code § 7-9-402 is amended to read as follows:
7-9-402. Definitions.

As used in this subchapter:

(1) "Ballot question" means a question in the form of a statewide, county, municipal, or school district initiative or referendum which is submitted or intended to be submitted to a popular vote at an election, whether or not it qualifies for the ballot;

(2)(A) "Ballot question committee" means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question, or any person, other than ~~a public servant~~ an elected official expending public funds, ~~a governmental body expending public funds,~~ or an individual, located within or outside Arkansas, who makes expenditures for the purpose of expressly advocating the qualification, disqualification, passage, or defeat of any ballot question.

(B) A person other than an individual or an approved

political action committee as defined in § 7-6-201, located within or outside Arkansas, also qualifies as a ballot question committee if two percent (2%) or more of its annual revenues, operating expenses, or funds are used to make a contribution or contributions to another ballot question committee and if the contribution or contributions exceed ten thousand dollars (\$10,000) in value;

(3)(A) "Contribution" means, whether direct or indirect, advances, deposits, transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, pledges, or promises of money or anything of value, whether or not legally enforceable, to a person 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.

(B) "Contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, and the granting of discounts or rebates by television and radio stations and newspapers, not extended on an equal basis to all persons seeking to expressly advocate the qualification, disqualification, passage, or defeat of a ballot question or the passage or defeat of a legislative question.

(C) "Contribution" shall not include noncompensated, nonreimbursed volunteer personal services or travel;

(4) "Contribution and expenditure" shall not include activities designed solely to encourage individuals to register to vote or to vote, or any communication by a bona fide church or religious denomination to its own members or adherents for the sole purpose of protecting the right to practice the religious tenets of the church or religious denomination, and "expenditure" shall not include one made for communication by a person strictly with the person's paid members or shareholders;

(5) "Disqualification of a ballot question" means any action or process, legal or otherwise, which seeks to prevent a ballot question from being on the ballot at an election;

(6) "Elected official" means any person holding an elective office of any governmental body, whether elected or appointed to the office;

~~(6)(7)~~ "Expenditure" means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract,

promise, or agreement to make an expenditure, for goods, services, materials, or facilities 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;

(8) "Governmental body" means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

~~(7)~~(9) "Legislative question" means a question in the form of a measure referred by the General Assembly, a quorum court, a municipality, or a school district to a popular vote at an election;

~~(8)(A)~~(10)(A) "Legislative question committee" means any person, located within or outside Arkansas, that receives contributions for the purpose of expressly advocating the passage or defeat of any legislative question or any person, other than ~~a public servant expending public funds, a governmental body~~ an elected official expending public funds, or an individual, located within or outside Arkansas, who makes expenditures for the purpose of expressly advocating the passage or defeat of any legislative question.

(B) A person other than an individual or an approved political action committee as defined in § 7-6-201, located within or outside Arkansas, also qualifies as a legislative question committee if two percent (2%) or more of its annual revenues, operating expenses, or funds are used to make a contribution or contributions to another legislative question committee and if the contribution or contributions exceed ten thousand dollars (\$10,000) in value;

~~(9)(A)~~(11)(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 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

~~(10)~~(12) "Qualification of a ballot question" means any action

or process, legal or otherwise, through which a ballot question obtains certification to be on the ballot at an election.

SECTION 7. Arkansas Code § 7-9-404(d), concerning filing deadlines for ballot question committees and legislative question committees, is amended to read as follows:

(d) Upon dissolution, a ballot question committee or a legislative question committee shall so notify the commission in writing. Any remaining funds on hand at the time of dissolution shall be turned over to either:

- (1) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund;
- (2) An organized political party as defined in § 7-1-101 or a political party caucus of the General Assembly, the Senate, or House of Representatives;
- (3) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; ~~or~~

(4) Cities of the first class, cities of the second class, or incorporated towns; or

~~(4)(5)~~ The contributors to the ballot or legislative question committee.

SECTION 8. Arkansas Code § 7-9-406(g), concerning financial reports of ballot question committees and legislative question committees, is amended to read as follows:

(g) A final financial report as described in § 7-9-409(a)(3) is required regardless of whether a ballot question committee, individual, ~~public servant, or governmental body~~ elected official received contributions or made expenditures in excess of five hundred dollars (\$500).

SECTION 9. 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, or 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, or elected official filing the report;

(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 by the committee or on behalf of the committee by an advertising agency, public relations firm, or political consultant during the period covered by the financial report;

(iii) The cumulative amount of contributions and expenditures reported under subdivisions (2)(A)(i) and (ii) of this section 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 report 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 report 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;

(viii) For each person listed under subdivision (2)(A)(vii) of this section, the contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the committee, and the cumulative amount contributed for each ballot question or legislative question;

(ix) 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;

(x) A list of all paid canvassers, officers, and

directors and the amount each person was paid;

(xi) A list of all expenditures by category, including without limitation the following:

- (a) Advertising;
- (b) Direct mail;
- (c) Office supplies;
- (d) Travel;
- (e) Expenses; and
- (f) Telephone; and

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

(B) For an individual person:

(i) The total amount of expenditures made by the individual person or on behalf of the individual person by an advertising agency, public relations firm, or political consultant during the period covered by the financial report; and

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

(C) For a ~~public servant~~ an elected official using public funds ~~or governmental body using public funds~~:

(i) The total amount of expenditures made by the ~~public servant~~ elected official using public funds ~~or governmental body using public funds~~ or on behalf of the ~~public servant~~ elected official using public funds ~~or governmental body using public funds~~ by an advertising agency, public relations firm, or political consultant during the period covered by the financial report; and

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

(3) The name and street address of each person to whom expenditures totaling one hundred dollars (\$100) or more were made by the committee, individual person, ~~public servant~~ or elected official using public funds, ~~or governmental body using public funds~~ or on behalf of the committee, individual person, ~~public servant~~ or elected official using public funds, ~~or governmental body using public funds~~ by an advertising agency, public relations firm, or political consultant, 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 each expenditure.

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