

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H3/6/15 H3/19/15 H3/26/15 S3/31/15*

90th General Assembly

A Bill

Regular Session, 2015

HOUSE BILL 1425

By: Representative Tucker

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CAMPAIGN FINANCE CONTRIBUTIONS; TO REQUIRE COORDINATED COMMUNICATIONS TO BE SUBJECT TO THE CONTRIBUTION LIMITS OF ARKANSAS LAW; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CAMPAIGN FINANCE CONTRIBUTIONS; AND TO REQUIRE COORDINATED COMMUNICATIONS TO BE SUBJECT TO THE CONTRIBUTION LIMITS OF ARKANSAS LAW.

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

SECTION 1. Arkansas Code § 7-6-201 is amended to add additional subdivisions to read as follows:

(19) "Broadcast, cable, or satellite communication" means a communication that is publicly distributed by a broadcast, cable, or satellite radio or television station;

(20)(A) "Electioneering communication" means any broadcast, cable, or satellite communication that:

(i) Refers to a clearly identified candidate for public office;

(ii) Is publicly distributed within:

(a) Ninety (90) days before a general election for the office sought by the candidate; or

(b) Sixty (60) days before a primary election



for the office sought by the candidate;

(iii) Is targeted to the relevant electorate for that candidate; and

(iv) The only reasonable interpretation of the communication is that it is an appeal to vote for or against a specific candidate or specific set of candidates.

(B) "Electioneering communication" does not include any communication that:

(i) Is publicly disseminated through a means of communication other than a broadcast, cable, or satellite communication such as:

(a) Communications appearing in print media, including a newspaper, magazine, handbill, brochure, bumper sticker, yard sign, poster, billboard, and other written materials, including mailings;

(b) Communications over the Internet, including electronic mail; or

(c) Telephone communications;

(ii) Appears in a news story, commentary, or editorial distributed through the facilities of any broadcast, cable, or satellite communication, unless the facilities are owned or controlled by any political party, political committee, or candidate;

(iii) Constitutes an expenditure that is reported as required under this subchapter, including without limitation expenditures reported by candidates, political action committees, and political parties;

(iv) Constitutes an independent expenditure that is reported as required under this subchapter; or

(v) Constitutes a candidate debate or forum conducted, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

(21) "Refers to a clearly identified candidate" means that the candidate's name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as "the Governor", "your county judge", or "the incumbent", or through an unambiguous reference to his or her status as a candidate such as "the Republican nominee for Governor" or "the Democratic candidate for Secretary of State in the State of Arkansas";

(22) "Publicly distributed" means aired, broadcast, cablecast, or otherwise disseminated through the facilities of a broadcast, cable, or satellite radio or television station; and

(23) "Targeted to the relevant electorate" means the communication can be seen or heard:

(A) By at least twenty-five thousand (25,000) viewers or listeners in the state, in the case of a candidate for statewide office;

(B) By at least ten percent (10%) of the county, municipality, or district population, in the case of a candidate for a county office, municipal office, school district board of directors, or other district office that is not the Senate or the House of Representatives; or

(C) By at least two thousand five hundred (2,500) viewers or listeners in the district, in the case of a candidate for the Senate or the House of Representatives.

SECTION 2. Arkansas Code Title 7, Chapter 6, Subchapter 2, is amended to add additional sections to read as follows:

7-6-228. Coordinated communications.

(a)(1) A coordinated communication is an in-kind contribution to the candidate or political party who or to the candidate or political party whose authorized committee or agent cooperated, consulted, requested, suggested, or acted in concert with:

(A) The person making the coordinated communication or his or her authorized agent; or

(B) The person making the expenditure for the coordinated communication or his or her authorized agent.

(2) The in-kind contribution under subdivision (a)(1) of this section shall be subject to the contribution limits set forth under § 7-6-203.

(b)(1) As used in this section coordinated communication means an electioneering communication or communication funded by expenditures that contain express advocacy made:

(A) In cooperation or consultation between:

(i) A candidate or his or her authorized committee or agent; and

(ii) The person making the:

(a) Communication or his or her authorized agent; or

(b) Expenditure for the communication or his or her authorized agent;

(B) In cooperation or consultation between:

(i) A political party or its authorized agent; and

(ii) The person making the:

(a) Communication or his or her authorized agent; or

(b) Expenditure for the communication or his or her authorized agent;

(C) In concert with or at the request or suggestion of a candidate or his or her authorized committee or agent; or

(D) In concert with or at the request or suggestion of a political party or its authorized agent.

(2) "Coordinated communication" does not include:

(A) A candidate's or a political party committee's response to an inquiry about that candidate's or that political party committee's positions on legislative or policy issues, unless the response or the inquiry concerns the plans, projects, activities, or needs of the campaign;

(B) Unless the public communication promotes, supports, attacks, or opposes the endorsing candidate or another candidate who seeks election to the same office the endorsing candidate is seeking, a public communication:

(i) In which a candidate endorses another candidate;
and

(ii) That is made by the endorsing candidate;

(C) Unless the public communication promotes, supports, attacks, or opposes the soliciting candidate or another candidate who seeks election to the same office the soliciting candidate is seeking, a public communication:

(i) In which a candidate solicits funds:

(a) For another candidate;

(b) For a political committee; or

(c) On behalf of an organization concerning a

state or local election in a manner corresponding to the circumstances set forth in 11 CFR § 300.65; and

(ii) That is made by the soliciting candidate; or

(D) A public communication in which a candidate is clearly identified only in his or her capacity as the owner or operator of a business that existed prior to the candidacy if:

(i) The medium, timing, content, and geographic distribution of the public communication are consistent with public communications made prior to the candidacy; and

(ii) The public communication does not promote, support, attack, or oppose the communicating candidate or another candidate who seeks election to the same office the communicating candidate is seeking.

(c) In making a determination as to whether a communication is a coordinated communication, the Arkansas Ethics Commission shall consider:

(1) Whether the coordinated communication was paid for, in whole or in part, by someone other than the candidate or his or her agent, the candidate's authorized committee or its agent, or a political party or its agent;

(2) Whether the content of the coordinated communication:

(A) Expressly advocates the election or defeat of a clearly identified candidate for office;

(B) Meets the definition of electioneering communication;

or

(C) Is a public communication that republishes, disseminates, or distributes, in whole, campaign materials prepared by a candidate or a candidate's campaign committee; and

(3) Whether the conduct of the coordinated communication meets one of the following standards:

(A) The coordinated communication was created, produced, or distributed at the request or suggestion of the candidate or his or her agent, candidate's committee or its agent, or political party or its agent;

(B) The coordinated communication was created, produced, or distributed at the suggestion of the person paying for the communication, and the candidate or his or her agent, candidate's committee or its agent, or political party or its agent approves the suggestion;

(C) The candidate or his or her agent, the candidate's

committee or its agent, or the political party or its agent was materially involved in decisions regarding the content, intended audience, means or mode of the coordinated communication, specific media outlet used, timing or frequency, or size or prominence of the coordinated communication; or

(D) The coordinated communication was created, produced, or distributed after one or more substantial discussions about the communication between the person paying for the communication or the employees or agents of that person and the candidate or his or her agent, candidate's committee or its agent, candidate's opponent or his or her agent, candidate's opponent's committee or its agent, or political party or its agent.

(d)(1) A person or an entity is an authorized agent of a candidate, candidate's committee, or political party under this section if the person or entity:

(A) Has actual authorization, either expressed or implied, from a specific principal to engage in specific activities; and

(B) Engages in the activities on behalf of that specific principal.

(2) If the activities carried out by an authorized agent would result in a coordinated communication if carried out directly by the candidate, authorized committee staff, or a political party official, the activities of the authorized agent result in a coordinated communication.

SECTION 3. DO NOT CODIFY. Severability.

If any provision of this act is held invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall not be affected or impaired.

/s/Tucker