

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

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H2/28/17
A Bill

HOUSE BILL 1008

By: Representatives Tucker, V. Flowers, D. Ferguson, Leding, Sabin, D. Whitaker
By: Senator K. Ingram

For An Act To Be Entitled

AN ACT TO INCREASE THE PENALTY FOR TAKING CAMPAIGN FUNDS AS PERSONAL INCOME; TO AMEND PROVISIONS OF ARKANSAS LAW RESULTING FROM INITIATED ACT 1 OF 1990 AND INITIATED ACT 1 OF 1996; AND FOR OTHER PURPOSES.

Subtitle

TO INCREASE THE PENALTY FOR TAKING CAMPAIGN FUNDS AS PERSONAL INCOME; AND TO AMEND PROVISIONS OF ARKANSAS LAW RESULTING FROM INITIATED ACT 1 OF 1990 AND INITIATED ACT 1 OF 1996.

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

SECTION 1. Arkansas Code § 7-6-202, concerning penalties, is amended to read as follows:

7-6-202. Penalties.

A person who knowingly fails to comply with this subchapter shall upon conviction be guilty of a Class A misdemeanor unless a different penalty applies under this subchapter.

SECTION 2. Arkansas Code § 7-6-203(f), concerning use of campaign contributions and resulting from Initiated Act 1 of 1990 and Initiated Act 1 of 1996, is amended to add an additional subdivision to read as follows:

(f)(1) A candidate shall not take any campaign funds as personal income. ~~This subdivision (f)(1) shall not apply to campaign funds that were:~~



~~(A) Accumulated prior to the passage of Initiated Act 1 of 1990; or~~

~~(B) Disposed of prior to July 28, 1995.~~

(2) A candidate shall not take any campaign funds as income for his or her spouse or dependent children, except that:

(A) This subsection shall not prohibit a candidate who has an opponent from employing his or her spouse or dependent children as campaign workers; and

(B) Any candidate who has an opponent and who, during the campaign and before the election, takes a leave of absence without pay from his or her primary place of employment shall be authorized to take campaign funds during the campaign and before the election as personal income up to the amount of employment income lost as a result of such leave of absence.

(3) A candidate who takes campaign funds during the campaign and before the election under a leave of absence pursuant to the provisions of subdivision (f)(2) of this section may elect to treat the campaign funds as a loan from the campaign fund to the candidate to be paid back to the campaign fund by the candidate.

~~(4)(A) For purposes of this subsection, a candidate who uses campaign funds to fulfill any commitment, obligation, or expense that would exist regardless of the candidate's campaign shall be deemed to have taken campaign funds as personal income.~~

~~(B) The use of campaign funds to purchase a cake or other perishable item of food at a fund raising event held by a volunteer agency, as defined in § 16-6-103, shall not be considered a taking of campaign funds as personal income.~~

~~(C) The use of campaign funds to purchase advertising prior to the date the final report is due to be filed thanking voters for their support shall not be considered a taking of campaign funds as personal income.~~

~~(D) The use of campaign funds to pay a candidate's own personal expenses for food, lodging, or travel to attend a national presidential nominating convention shall not be considered a taking of campaign funds as personal income.~~

(4) A candidate or officeholder is deemed to have taken campaign or carryover funds as personal income under this section if the candidate or

officeholder uses the campaign or carryover funds for a reason unrelated to a legitimate campaign or officeholder activity, including without limitation:

(A) To fulfill any commitment, obligation, or expense that would exist regardless of the campaign of the candidate or duties of the officeholder while in office;

(B)(i) For household food items and supplies.

(ii) This prohibition under subdivision (f)(4)(B)(i) of this section applies to food purchased for day-to-day consumption in the personal residence and supplies purchased to maintain the personal residence.

(iii) This prohibition under subdivision (f)(4)(B)(i) of this section does not apply to food and supplies for fundraising activities, including a fundraising activity that takes place in the home of the candidate, or to food or refreshments for activities related to the campaign of the candidate or duties of the officeholder while in office;

(C)(i) For clothing.

(ii) This prohibition under subdivision (f)(4)(C)(i) of this section applies to all attire for political or personal functions.

(iii) This prohibition under subdivision (f)(4)(C)(i) of this section does not apply to clothing of nominal value such as t-shirts or caps imprinted with a campaign logo or slogan or the name of a candidate as such items may be purchased with campaign funds and are a legitimate campaign expense; and

(D)(i) To make mortgage, rent, or utility payments at the personal residence of the candidate or officeholder or his or her family, even if a portion of the residence is used by the campaign.

(ii) This prohibition under subdivision (f)(4)(D)(i) of this section does not apply to payments made by a:

(a) Candidate concerning other buildings or offices or office space used solely for campaign purposes, such as the headquarters of the campaign, even if the candidate owns the space used, so long as the space is not the personal residence of the candidate or his or her family and the campaign pays a fair market value for use of the space; or

(b) Member of the General Assembly concerning an apartment leased solely for use while in the capital so long as the

apartment is not maintained as the primary personal residence of the officeholder.

(5) A candidate or officeholder shall not be deemed to have taken campaign or carryover funds as personal income under this section if the candidate or officeholder uses the campaign or carryover funds:

(A) To purchase a cake or other perishable item of food at a fund-raising event held by a volunteer agency, as defined under § 16-6-103;

(B) To purchase advertising prior to the date the final report is due to be filed thanking voters for their support;

(C) To pay a candidate's own personal expenses for food, lodging, or travel to attend a national presidential nominating convention;

(D)(i) To reimburse himself or herself or otherwise pay for attendance to in-state or out-of-state conferences or seminars on general political issues.

(ii) During the campaign, funds may be used to reimburse campaign staff and spouses provided their attendance to these conferences relates to the campaign;

(E) In any manner permitted at the time by any rule of the Arkansas Ethics Commission; and

(F) In any way reasonably and legitimately related to campaign or officeholder activity.

(6) If a candidate loses an election or if an officeholder is no longer in office, and after disposing of surplus funds, has carryover funds remaining, personal use of funds remains prohibited by this section for expenses unless the expenses relate to a future candidacy and comply with subdivision (f)(5) of this section.

(7) Taking campaign funds as personal income is a:

(A) Class B felony if the value of the benefit is twenty-five thousand dollars (\$25,000) or more;

(B) Class C felony if the value of the benefit is five thousand dollars (\$5,000) or more but less than twenty-five thousand dollars (\$25,000);

(C) Class D felony if the value of the benefit is five hundred dollars (\$500) or more but less than five thousand dollars (\$5,000);

or

(D) Class A misdemeanor if the value of the benefit is less than five hundred dollars (\$500).

/s/Tucker