

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

State of Arkansas      *As Engrossed: S2/14/19 S3/14/19 S3/25/19*  
92nd General Assembly      **A Bill**  
Regular Session, 2019

SENATE BILL 258

By: Senators Bond, K. Ingram, Hester, J. Hendren

*By: Representatives Maddox, Shepherd*

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

*(ii) Candidates or officeholders may use campaign funds or carryover funds to fulfill any commitment, obligation, or expense authorized by law, or permitted by an Arkansas Ethics Commission rule or opinion at the time of the expenditure, or reasonably and legitimately related to a campaign or officeholder activity.*

(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.*

(5) 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)(4) of this section.

(6) Knowingly 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 two thousand five hundred dollars (\$2,500) or more but less than five thousand dollars (\$5,000); or

(D) Class A misdemeanor if the value of the benefit is less than two thousand five hundred dollars (\$2,500).

(7) It is an affirmative defense to a prosecution for taking campaign funds as personal income if the candidate or officeholder shows by a preponderance of the evidence that:

(A) If the personal property was retained as carryover funds, that the candidate or officeholder:

(i) Reported the personal property as carryover funds; and

(ii) Retained or disposed of the personal property in the manner that is required by law for carryover funds; or

(B) If the personal property was retained as surplus funds, that the candidate or officeholder:

(i) Reported the personal property as surplus funds; and

(ii) Retained or disposed of the personal property in the manner that is required by law for surplus funds.

*/s/Bond*