

1 SB578
2 141272-3
3 By Senators Bedford, Fielding, Coleman, Beasley, Irons,
4 Smitherman, Figures, and Keahey
5 RFD: Constitution, Campaign Finance, Ethics, and Elections
6 First Read: 01-MAY-12

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8 SYNOPSIS: Existing law restricts the contributions
9 that a political action committee may make.

10 This bill would provide that each officer,
11 director, servant, or employee of a political
12 action committee is criminally liable for conduct
13 that is a violation of the Fair Campaign Practices
14 Act.

15 This bill would specifically make it
16 unlawful for a political action committee to accept
17 a contribution in violation of the Fair Campaign
18 Practices Act or to accept or use any contribution
19 in a political campaign within this state that was
20 obtained from another state and provide for
21 criminal penalties.

22 This bill would provide a procedure for the
23 use and processing of unsolicited or unwanted
24 contributions received by a political action
25 committee.

26 This bill would expand the duties of the
27 Alabama Secretary of State with regard to political

1 action committees by allowing the Secretary of
2 State to establish a division to investigate the
3 actions of a principal campaign committee, or its
4 officers, directors, servants, or employees, levy a
5 civil fine, and refer the committee, its officers,
6 directors, servants, or employees to the Attorney
7 General or the appropriate district attorney for
8 prosecution.

9 This bill would grant subpoena power to the
10 Secretary of State with regard to an investigation
11 of political action committees.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to the Alabama Fair Campaign Practices Act;
11 to amend Sections 17-5-11, as last amended by Act 2010-765,
12 2010 First Special Session, and 17-17-35, Code of Alabama
13 1975, and to add Sections 17-5-3.1, 17-5-8.1, and 17-5-17.1 to
14 the Code of Alabama 1975; to expand the duties of the Alabama
15 Secretary of State with regard to political action committees
16 by allowing the Secretary of State to establish a division to
17 investigate the actions of a principal campaign committee, its
18 officers, directors, servants, or employees, levy civil fines,
19 and refer the committee, its officers, directors, servants, or
20 employees to the Attorney General or the appropriate district
21 attorney for prosecution; to grant subpoena power to the
22 Secretary of State with regard to an investigation of a
23 political action committee; to supplement existing law to
24 provide that officers, directors, servants, and employees of a
25 political action committee are criminally liable for unlawful
26 conduct; to provide that it shall be unlawful for a political
27 action committee to accept a contribution in violation of the

1 Fair Campaign Practices Act or to accept or use any
2 contribution in a political campaign within this state that
3 was obtained from another state in violation of the Fair
4 Campaign Practices Act and provide for criminal penalties; to
5 provide a procedure for the use and processing of unsolicited
6 or unwanted contributions received by a political action
7 committee; and in connection therewith would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds within the meaning of Amendment 621
10 of the Constitution of Alabama of 1901, now appearing as
11 Section 111.05 of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 17-5-3.1, 17-5-8.1, and
15 17-5-17.1 are added to the Code of Alabama 1975, to read as
16 follows:

17 §17-5-3.1.

18 An officer, director, servant, or employee of a
19 political action committee shall be criminally liable for any
20 conduct that constitutes a violation of this chapter which he
21 or she performs or causes to be performed in the name of or on
22 behalf of the political action committee to the same extent as
23 if the conduct were performed in his or her own name or
24 behalf. For the purpose of this section, officer means an
25 individual who, at the time of the violation, is or was the
26 chair or treasurer of, or is or was authorized to make

1 financial decisions on behalf of, a political action
2 committee.

3 §17-5-8.1

4 A political action committee that receives an
5 unsolicited or unwanted contribution shall contact the donor
6 regarding the contribution and if a determination is made that
7 the contribution is not prohibited by law, the committee may
8 retain the contribution or return it to the donor within seven
9 business days. If the funds are returned within the seven-day
10 period, the returned amounts shall not be considered a
11 contribution. A contribution that is retained shall be
12 reported to the Alabama Secretary of State pursuant to this
13 chapter. If the political action committee finds that the
14 contribution is not prohibited, it, within seven business
15 days, shall return the contribution to the donor and file a
16 report of the return with the Alabama Secretary of State.

17 §17-5-17.1

18 It shall be unlawful for a person to solicit, offer,
19 make, or conceal an out of state contribution that was secured
20 in violation of this chapter to a political action committee
21 organized under the laws of this state.

22 Section 2. Sections 17-5-11 as last amended by Act
23 2010-765, 2010 First Special Session, and 17-17-35, Code of
24 Alabama 1975, are amended to read as follows:

25 "§17-5-11.

26 "The Secretary of State and the judge of probate
27 shall have the following duties:

1 "(1) To accept and file all reports and statements,
2 including amendments, required by the provisions of this
3 chapter to be filed with them and to accept any information
4 voluntarily supplied that exceeds the requirements of this
5 chapter.

6 "(2) To make each statement and report filed by any
7 principal campaign committee or political action committee or
8 elected official available for public inspection and copying
9 during regular office hours, any such copying to be at the
10 expense of the person requesting copies; except that any
11 information copied from such reports or statements may not be
12 sold or used by any political party, principal campaign
13 committee, or political action committee for the purposes of
14 soliciting contributions or for commercial purposes, without
15 the express written permission of the candidate or the
16 committee reporting such information.

17 "(3) To furnish any forms to be used in complying
18 with the provisions of this chapter. The expenses incurred by
19 the Secretary of State in furnishing forms, accepting
20 statements and reports, filing statements and reports, and
21 making such statements and reports available to the public
22 shall be paid from moneys designated to the distribution of
23 public documents.

24 "(4)a. The Secretary of State shall establish an
25 investigations division within his or her office.

26 b. The division shall monitor and review records
27 required to be filed by each political action committee and

1 investigate possible unlawful actions of political action
2 committees or their officers, directors, servants, or
3 employees.

4 "c. The Secretary of State shall have subpoena power
5 with regard to the investigation of a political action
6 committee."

7 "d. The Secretary of State may assess an
8 administrative fine in an amount not to exceed five thousand
9 dollars (\$5,000) against an officer, director, servant, or
10 employee of a political action committee who violates this
11 chapter or refer the violation to the Attorney General or to
12 the appropriate district attorney for prosecution.

13 "§17-17-35.

14 "(a) A person who violates any provision of Chapter
15 5, other than Section 17-5-7 or Section 17-5-17.1, or a
16 reporting requirement under Sections 17-5-4, 17-5-5, and
17 17-5-8, shall be guilty, upon conviction, of a Class A
18 misdemeanor.

19 "(b) A person who violates any reporting requirement
20 of Sections 17-5-4, 17-5-5, and 17-5-8 shall be guilty, upon
21 conviction, of a Class B misdemeanor.

22 "(c) Any person who intentionally violates Section
23 17-5-7 shall be guilty, upon conviction, of a Class B felony.

24 "(d) The Attorney General may prosecute violations
25 of Chapter 5. ~~Venue for cases involving violations of Chapter~~
26 ~~5 shall be in the county in which the alleged violator~~
27 ~~resides.~~

1 "(e) Any person who violates Section 17-5-17.1 shall
2 be guilty, upon conviction, of a Class C felony.

3 "~~(e)~~ (f) No prosecution for violation of Chapter 5
4 shall be commenced later than two years after the date of
5 violation. Notwithstanding the foregoing, a prosecution
6 brought pursuant to Section 17-5-7 shall be commenced within
7 four years after the commission of the offense. Additionally,
8 a prosecution brought pursuant to Section 17-5-7 shall be
9 prosecuted by the Attorney General or the district attorney
10 for the appropriate jurisdiction, and the venue for any action
11 pursuant to this section shall be in the county in which the
12 alleged violation occurred, or in those cases where the
13 violation or violations occurred outside the State of Alabama,
14 in Montgomery County."

15 Section 3. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

23 Section 4. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.