

1 HB151
2 125534-1
3 By Representatives Hubbard (J), Harper, Robinson (J), Fincher,
4 Merrill, Henry, Hill, Burdine, Buskey, Chesteen, Long,
5 McCutcheon and Ball
6 RFD: Ethics and Campaign Finance
7 First Read: 03-MAR-11

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, the filing of campaign
9 finance disclosures is accomplished through the
10 filing of paper documents at a specified time.

11 This bill, beginning with the 2014 election
12 cycle, would require the Secretary of State to
13 maintain an electronic database, searchable by the
14 public, containing all election documents required
15 to be filed with the Secretary of State.

16 This bill would define a Section 527
17 organization as a political action committee for
18 purposes of all filings and disclosures required by
19 the Fair Campaign Practices Act.

20 This bill would require principal campaign
21 committees and political action committees to file
22 monthly reports of contributions and expenditures.

23 This bill would immediately disqualify any
24 candidate who does not comply with this requirement
25 of the Fair Campaign Practices Act.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To amend Sections 17-5-2, 17-5-8, and 17-5-18 of the
5 Code of Alabama 1975, relating to the Fair Campaign Practices
6 Act; to further define the term political action committee to
7 include Section 527 organizations; to require monthly reports
8 of contributions and expenditures; to immediately disqualify
9 any candidate that does not comply with the requirements of
10 the Fair Campaign Practices Act; and to require, commencing in
11 the 2014 election cycle, the Secretary of State to maintain an
12 electronic database, searchable by the public, of all
13 contributions and expenditures and filings required by the
14 act.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 17-5-2, 17-5-8, and 17-5-18 of
17 the Code of Alabama 1975, are amended to read as follows:

18 "§17-5-2.

19 "(a) For purposes of this chapter, the following
20 terms shall have the following meanings:

21 "(1) CANDIDATE. An individual who has done any of
22 the following:

23 "a. Taken the action necessary under the laws of the
24 state to qualify himself or herself for nomination or for
25 election to any state office or local office or in the case of
26 an independent seeking ballot access, on the date when he or
27 she files a petition with the judge of probate in the case of

1 county offices, with the appropriate qualifying municipal
2 official in the case of municipal offices, or the Secretary of
3 State in all other cases.

4 "b. Received contributions or made expenditures, or
5 given his or her consent for any other person or persons to
6 receive contributions or make expenditures, with a view to
7 bringing about his or her nomination or election to any state
8 office or local office. Notwithstanding the foregoing, no
9 person shall be considered a candidate within the meaning of
10 this subdivision until the time that he or she has either
11 received contributions or made expenditures as provided herein
12 in the following amounts:

13 "1. Twenty-five thousand dollars (\$25,000) or more,
14 with a view toward bringing about nomination or election to
15 any state office other than one filled by election of the
16 registered voters of any circuit or district within the state.

17 "2. Five thousand dollars (\$5,000) or more, with a
18 view toward bringing about nomination or election to any state
19 office, excluding legislative office, filled by election of
20 the registered voters of any circuit or district.

21 "3. Ten thousand dollars (\$10,000) or more, with a
22 view toward bringing about nomination or election to the
23 Alabama Senate and five thousand dollars (\$5,000) or more,
24 with a view toward bringing about nomination or election to
25 the Alabama House of Representatives.

1 "4. One thousand dollars (\$1,000) or more, with a
2 view toward bringing about nomination or election to any local
3 office.

4 "(2) CONTRIBUTION.

5 "a. Any of the following shall be considered a
6 contribution:

7 "1. A gift, subscription, loan, advance, deposit of
8 money or anything of value, a payment, a forgiveness of a
9 loan, or payment of a third party, made for the purpose of
10 influencing the result of an election.

11 "2. A contract or agreement to make a gift,
12 subscription, loan, advance, or deposit of money or anything
13 of value for the purpose of influencing the result of an
14 election.

15 "3. Any transfer of anything of value received by a
16 political committee from another political committee,
17 political party, or other source.

18 "4. The payment of compensation by any person for
19 the personal services or expenses of any other person if the
20 services are rendered or expenses incurred on behalf of a
21 candidate, political committee, or political party without
22 payment of full and adequate compensation by the candidate,
23 political committee, or political party. Provided, however,
24 that the payment of compensation by a corporation for the
25 purpose of establishing, administering, or soliciting
26 voluntary contributions to a separate, segregated fund as

1 permitted by Section 10-1-2, shall not constitute a
2 contribution.

3 "b. The term "contribution" does not include:

4 "1. The value of services provided without
5 compensation by individuals who volunteer a portion or all of
6 their time on behalf of a candidate or political committee.

7 "2. The use of real or personal property and the
8 cost of invitations, food, or beverages, voluntarily provided
9 by an individual to a candidate or political committee in
10 rendering voluntary personal services on the individual's
11 residential or business premises for election-related
12 activities.

13 "3. The sale of any food or beverage by a vendor for
14 use in an election campaign at a charge to a candidate or
15 political committee less than the normal comparable charge, if
16 the charge to the political committee for use in an election
17 campaign is at least equal to the cost of the food or beverage
18 to the vendor.

19 "4. Any unreimbursed payment for travel expenses
20 made by an individual who, on his or her own behalf,
21 volunteers personal services to a candidate or political
22 committee.

23 "5. The payment by a state or local committee of a
24 political party of the cost of preparation, display, or
25 mailing or other distribution incurred by the committee with
26 respect to a printed slate card or sample ballot, or other
27 printed listing of two or more candidates for any public

1 office for which an election is held in the state, except that
2 this subparagraph shall not apply in the case of costs
3 incurred by the committee with respect to a display of the
4 listing made on broadcasting stations, or in newspapers,
5 magazines, or other similar types of general public political
6 advertising.

7 "6. The value or cost of polling data and voter
8 preference data and information if provided to a candidate or
9 political committee, unless the information was compiled with
10 the advance knowledge of and approval of the candidate or the
11 political committee.

12 "(3) ELECTION. Unless otherwise specified, any
13 general, special, primary, or runoff election, or any
14 convention or caucus of a political party held to nominate a
15 candidate, or any election at which a constitutional amendment
16 or other proposition is submitted to the popular vote.

17 "(4) EXPENDITURE.

18 "a. The following shall be considered expenditures:

19 "1. A purchase, payment, distribution, loan,
20 advance, deposit, or gift of money or anything of value made
21 for the purpose of influencing the result of an election.

22 "2. A contract or agreement to make any purchase,
23 payment, distribution, loan, advance, deposit, or gift of
24 money or anything of value, for the purpose of influencing the
25 result of an election.

26 "3. The transfer, gift, or contribution of funds of
27 a political committee to another political committee.

1 "b. The term "expenditure" does not include:

2 "1. Any news story, commentary, or editorial
3 prepared by and distributed through the facilities of any
4 broadcasting station, newspaper, magazine, or other periodical
5 publication, unless the facilities are owned or controlled by
6 any political party or political committee.

7 "2. Nonpartisan activity designed to encourage
8 individuals to register to vote, or to vote.

9 "3. Any communication by any membership organization
10 to its members or by a corporation to its stockholders and
11 employees if the membership organization or corporation is not
12 organized primarily for the purpose of influencing the result
13 of an election.

14 "4. The use of real or personal property and the
15 cost of invitations, food, or beverages, voluntarily provided
16 by an individual in rendering voluntary personal services on
17 the individual's residential or business premises for
18 election-related activities.

19 "5. Any unreimbursed payment for travel expenses
20 made by an individual who, on his or her own behalf,
21 volunteers personal services to a candidate or political
22 committee.

23 "6. Any communication by any person which is not
24 made for the purposes of influencing the result of an
25 election.

26 "7. The payment by a state or local committee of a
27 political party of the cost of preparation, display, or

1 mailing or other distribution incurred by the committee with
2 respect to a printed slate card or sample ballot, or other
3 printed listing of two or more candidates for any public
4 office for which an election is held in the state, except that
5 this subparagraph shall not apply in the case of costs
6 incurred by the committee with respect to a display of the
7 listing made on broadcasting stations, or in newspapers,
8 magazines, or other similar types of general public political
9 advertising.

10 "(5) IDENTIFICATION. The full name and complete
11 address.

12 "(6) LOAN. A transfer of money, property, or
13 anything of value in consideration of a promise or obligation,
14 conditional or not, to repay in whole or part.

15 "(7) LOCAL OFFICE. Any office under the constitution
16 and laws of the state, except circuit, district, or
17 legislative offices, filled by election of the registered
18 voters of a single county or municipality, or by the voters of
19 a division contained within a county or municipality.

20 "(8) PERSON. An individual, partnership, committee,
21 association, corporation, labor organization, or any other
22 organization or group of persons.

23 "(9) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
24 Household supplies, personal clothing, tuition payments,
25 mortgage, rent, or utility payments for a personal residence;
26 admission to an entertainment event or fees for a country club
27 or social club, unless tied to a specific campaign event or

1 functions involving constituents; and any other expense,
2 excluding food and beverages, that would exist irrespective of
3 the candidate's campaign or duties as a legislator. Personal
4 and legislative living expenses shall not include expenses for
5 food, beverages, travel, or communications incurred by the
6 legislator in the performance of the office held.

7 "(10) POLITICAL ACTION COMMITTEE. a. Any political
8 action committee, club, association, political party, or other
9 group of one or more persons which receives or anticipates
10 receiving contributions or makes or anticipates making
11 expenditures to or on behalf of any elected official,
12 proposition, candidate, principal campaign committee or other
13 political action committee.

14 "b. For purposes of this chapter, a tax exempt
15 organization organized pursuant to 26 U.S.C. §527, commonly
16 referred to as a 527 organization, shall be considered a
17 political action committee and is subject to all disclosures
18 and filings required of a political action committee.

19 "c. For the purposes of this chapter, an individual
20 who makes a personal political contribution shall not be
21 considered a political action committee.

22 "(11) PRINCIPAL CAMPAIGN COMMITTEE. The principal
23 campaign committee designated by a candidate under Section
24 17-5-4. A political action committee established primarily to
25 benefit an individual candidate or an individual elected
26 official shall be considered a principal campaign committee
27 for purposes of this chapter.

1 "(12) PROPOSITION. Any proposal for submission to
2 the general public for its approval or rejection, including
3 proposed as well as qualified ballot questions.

4 "(13) PUBLIC OFFICIAL. Any person elected to public
5 office, whether or not that person has taken office, by the
6 vote of the people at the state, county, or municipal level of
7 government or their instrumentalities, including governmental
8 corporations, and any person appointed to a position at the
9 state, county, or municipal level of government or their
10 instrumentalities, including governmental corporations. For
11 purposes of this chapter, a public official includes the
12 chairs and vice chairs or the equivalent offices of each state
13 political party as defined in Section 17-13-40.

14 "(14) STATE. The State of Alabama.

15 "(15) STATE OFFICE. All offices under the
16 constitution and laws of the state filled by election of the
17 registered voters of the state or of any circuit or district
18 and shall include legislative offices.

19 "(b) The words and terms used in this chapter shall
20 have the same meanings respectively ascribed to them in
21 Section 36-25-1.

22 "§17-5-8.

23 "(a) Each principal campaign committee or political
24 action committee shall file with the Secretary of State or
25 judge of probate, as designated in Section 17-5-9, reports of
26 contributions and expenditures at the following times in any
27 year in which an election is held:

1 "(1) Regardless of whether the candidate has
2 opposition in any election, ~~between 50 and 45 days before~~ by
3 the 15th of each month and between 10 and five days before the
4 date of any primary, special, runoff, or general election for
5 which a political action committee or principal campaign
6 committee receives contributions or makes expenditures with a
7 view toward influencing such election's result.

8 "(2) Provided, however, that with regard to a runoff
9 election a report shall not be required except between five
10 and 10 days before the runoff election.

11 "(b) Each principal campaign committee, political
12 action committee, and elected state and local official covered
13 under the provisions of this chapter, shall annually file with
14 the Secretary of State or judge of probate, as designated in
15 Section 17-5-9, reports of contributions and expenditures made
16 during that year. The annual reports required under this
17 subsection shall be made on or before January 31 of the
18 succeeding year.

19 "(c) Each report under this section shall disclose:

20 "(1) The amount of cash or other assets on hand at
21 the beginning of the reporting period and forward until the
22 end of that reporting period and disbursements made from same.

23 "(2) The identification of each person who has made
24 contributions to such committee or candidate within the
25 calendar year in an aggregate amount greater than one hundred
26 dollars (\$100), together with the amount and date of all such
27 contributions; provided, however, in the case of a political

1 action committee identification shall mean the name and city
2 of residence of each person who has made contributions within
3 the calendar year in an aggregate amount greater than one
4 hundred dollars (\$100).

5 "(3) The total amount of other contributions
6 received during the calendar year but not reported under
7 subdivision (c) (2) of this section.

8 "(4) Each loan to or from any person within the
9 calendar year in an aggregate amount greater than one hundred
10 dollars (\$100), together with the identification of the
11 lender, the identification of the endorsers, or guarantors, if
12 any, and the date and amount of such loans.

13 "(5) The total amount of receipts from any other
14 source during such calendar year.

15 "(6) The grand total of all receipts by or for such
16 committee during the calendar year.

17 "(7) The identification of each person to whom
18 expenditures have been made by or on behalf of such committee
19 or elected official within the calendar year in an aggregate
20 amount greater than one hundred dollars (\$100), the amount,
21 date, and purpose of each such expenditure, and, if
22 applicable, the designation of each constitutional amendment
23 or other proposition with respect to which an expenditure was
24 made.

25 "(8) The identification of each person to whom an
26 expenditure for personal services, salaries, and reimbursed
27 expenses greater than one hundred dollars (\$100) has been

1 made, and which is not otherwise reported or exempted from the
2 provisions of this chapter, including the amount, date, and
3 purpose of such expenditure.

4 "(9) The grand total of all expenditures made by
5 such committee or elected official during the calendar year.

6 "(10) The amount and nature of debts and obligations
7 owed by or to the committee or elected official, together with
8 a statement as to the circumstances and conditions under which
9 any such debt or obligation was extinguished and the
10 consideration therefor.

11 "(d) Each report required by this section shall be
12 signed and filed by the elected official or on behalf of the
13 political action committee by its chair or treasurer and, if
14 filed on behalf of a principal campaign committee, by the
15 candidate represented by such committee. There shall be
16 attached to each such report an affidavit subscribed and sworn
17 to by the official or chair or treasurer and, if filed by a
18 principal campaign committee, the candidate represented by
19 such committee, setting forth in substance that such report is
20 to the best of his or her knowledge and belief in all respects
21 true and complete, and, if made by a candidate, that he or she
22 has not received any contributions or made any expenditures
23 which are not set forth and covered by such report.

24 "§17-5-18.

25 ~~"A certificate of election or nomination shall not~~
26 ~~be issued to any person elected or nominated to state or local~~
27 ~~office who shall fail to file any statement or report required~~

1 ~~by this chapter. A certificate of election or nomination~~
2 ~~already issued to any person elected or nominated to state or~~
3 ~~local office who fails to file any statement or report~~
4 ~~required by this chapter shall be revoked. A candidate that~~
5 ~~does not comply with the requirements of this chapter shall be~~
6 ~~immediately disqualified.~~"

7 Section 2. (a) Commencing with the 2014 election
8 cycle, all statements, reports of contributions and
9 expenditures, and other filings required to be filed pursuant
10 to Chapter 5, Title 17, Code of Alabama 1975, shall be
11 submitted electronically over the Internet by a computer file
12 containing the report information in a format and medium to be
13 prescribed by the Secretary of State.

14 (b) Commencing with the 2014 election cycle, the
15 Secretary of State shall implement and maintain an electronic
16 database accessible by the public through the Secretary of
17 State's website which provides the capability of search and
18 retrieval of all statements, reports, and other filings
19 required to be filed with the Secretary of State pursuant to
20 Chapter 5, Title 17, Code of Alabama 1975, searchable by the
21 name of the candidate to which it pertains.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.