

1 HB656
2 118763-1
3 By Representatives Black and Wren
4 RFD: Constitution and Elections
5 First Read: 02-MAR-10

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8 SYNOPSIS: Under existing law, the Fair Campaign
9 Practices Act governs the giving and making of
10 campaign contributions or expenditures.

11 Also under existing law, the treasurer of a
12 political action committee is required to maintain
13 a record of expenditures over \$100.

14 This bill would require the treasurer of a
15 political action committee to maintain records of
16 expenditures greater than the amount allowed by
17 federal law.

18 This bill would require a candidate to file
19 a statement of Economic Interests with the State
20 Ethics Commission. This bill would impose a fine
21 for failure to timely file.

22 This bill would require the Ethics
23 Commission to provide a candidate a receipt as
24 proof of filing.

25 Under existing law, principal campaign
26 committees and political action committees must
27 file reports of contributions and expenditures.

1 This bill would require timely filing by an
2 unopposed candidate's political campaign committee.

3 This bill would exempt nonpublic political
4 party positions from this filing requirement.

5 Under existing law, an annual report filed
6 by the principal campaign committee, political
7 action committee, and elected officials requires,
8 among other things, the identity of each person who
9 has contributed, loaned, or made an expenditure
10 over \$100.

11 This bill would require the annual reports
12 to identify contributors, loans, and expenditures
13 that are greater than the amount allowed by federal
14 law. This bill would impose a fine on a candidate
15 who failed to timely file a finance report.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 To amend Sections 17-5-2, 17-5-3, 17-5-4, and
22 17-5-8, as last amended by Act 2009-751 of the 2009 Regular
23 Session (Acts 2009, p. 2273), of the Code of Alabama 1975,
24 relating to the Fair Campaign Practices Act; to provide that
25 candidates timely file the appropriate ethics forms with the
26 State Ethics Commission upon becoming a candidate; to provide
27 that each candidate must file a finance report with the

1 Secretary of State or local election officials, as applicable,
2 whether or not the candidate has opposition; to provide for
3 fines for the failure to timely file a finance report; and to
4 provide for the failure to timely file a campaign finance or
5 Ethics Commission report by a candidate.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 17-5-2, 17-5-3, 17-5-4, and
8 17-5-8, as last amended by Act 2009-751 of the 2009 Regular
9 Session (Acts 2009, p. 2273), of the Code of Alabama 1975, are
10 amended to read as follows:

11 "§17-5-2.

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

14 "(1) CANDIDATE. An individual who has done ~~any~~
15 either of the following:

16 a. Taken the action necessary under the laws of the
17 state to qualify himself or herself for nomination or for
18 election to any state office or local office or in the case of
19 an independent seeking ballot access, on the date when he or
20 she files a petition with the judge of probate in the case of
21 county offices, with the appropriate qualifying municipal
22 official in the case of municipal offices, or the Secretary of
23 State in all other cases~~;~~ or

24 "b. Received contributions or made expenditures, or
25 given his or her consent for any other person or persons to
26 receive contributions or make expenditures, with a view to
27 bringing about his or her nomination or election to any state

1 office or local office. ~~Notwithstanding the foregoing, no~~
2 ~~person shall be considered a candidate within the meaning of~~
3 ~~this subdivision until the time that he or she has either~~
4 ~~received contributions or made expenditures as provided herein~~
5 in the following amounts:

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

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

14 "3. Ten thousand dollars (\$10,000) or more, with a
15 view toward bringing about nomination or election to the
16 Alabama Senate and five thousand dollars (\$5,000) or more,
17 with a view toward bringing about nomination or election to
18 the Alabama House of Representatives.

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

22 "(2) CONTRIBUTION.

23 "a. Any of the following shall be considered a
24 contribution:

25 "1. A gift, subscription, loan, advance, deposit of
26 money or anything of value, a payment, a forgiveness of a

1 loan, or payment of a third party, made for the purpose of
2 influencing the result of an election.

3 "2. A contract or agreement to make a gift,
4 subscription, loan, advance, or deposit of money or anything
5 of value for the purpose of influencing the result of an
6 election.

7 "3. Any transfer of anything of value received by a
8 political action committee from another political action
9 committee, political party, or other source.

10 "4. The payment of compensation by any person for
11 the personal services or expenses of any other person if the
12 services are rendered or expenses incurred on behalf of a
13 candidate, political action committee, or political party
14 without payment of full and adequate compensation by the
15 candidate, political action committee, or political party.
16 Provided, however, that the payment of compensation by a
17 corporation for the purpose of establishing, administering, or
18 soliciting voluntary contributions to a separate, segregated
19 fund as permitted by Section 10-1-2, shall not constitute a
20 contribution.

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

22 "1. The value of services provided without
23 compensation by individuals who volunteer a portion or all of
24 their time on behalf of a candidate or political action
25 committee.

26 "2. The use of real or personal property and the
27 cost of invitations, food, or beverages, voluntarily provided

1 by an individual to a candidate or political action committee
2 in rendering voluntary personal services on the individual's
3 residential or business premises for election-related
4 activities.

5 "3. The sale of any food or beverage by a vendor for
6 use in an election campaign at a charge to a candidate or
7 political action committee less than the normal comparable
8 charge, if the charge to the political action committee for
9 use in an election campaign is at least equal to the cost of
10 the food or beverage to the vendor.

11 "4. Any unreimbursed payment for travel expenses
12 made by an individual who, on his or her own behalf,
13 volunteers personal services to a candidate or political
14 action committee.

15 "5. The payment by a state or local committee of a
16 political party of the cost of preparation, display, or
17 mailing or other distribution incurred by the committee with
18 respect to a printed slate card or sample ballot, or other
19 printed listing of two or more candidates for any public
20 office for which an election is held in the state, except that
21 this subparagraph shall not apply in the case of costs
22 incurred by the committee with respect to a display of the
23 listing made on broadcasting stations, or in newspapers,
24 magazines, or other similar types of general public political
25 advertising.

26 "6. The value or cost of polling data and voter
27 preference data and information if provided to a candidate or

1 political action committee, unless the information was
2 compiled with the advance knowledge of and approval of the
3 candidate or the political action committee.

4 "(3) ELECTION. Unless otherwise specified, any
5 general, special, primary, or runoff election, or any
6 convention or caucus of a political party held to nominate a
7 candidate, or any election at which a constitutional amendment
8 or other proposition is submitted to the popular vote.

9 "(4) EXPENDITURE.

10 "a. The following shall be considered expenditures:

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

14 "2. A contract or agreement to make any purchase,
15 payment, distribution, loan, advance, deposit, or gift of
16 money or anything of value, for the purpose of influencing the
17 result of an election.

18 "3. The transfer, gift, or contribution of funds of
19 a political action committee to another political action
20 committee.

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

22 "1. Any news story, commentary, or editorial
23 prepared by and distributed through the facilities of any
24 broadcasting station, newspaper, magazine, or other periodical
25 publication, unless the facilities are owned or controlled by
26 any political party or political action committee.

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

3 "3. Any communication by any membership organization
4 to its members or by a corporation to its stockholders and
5 employees if the membership organization or corporation is not
6 organized primarily for the purpose of influencing the result
7 of an election.

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

13 "5. Any unreimbursed payment for travel expenses
14 made by an individual who, on his or her own behalf,
15 volunteers personal services to a candidate or political
16 action committee.

17 "6. Any communication by any person which is not
18 made for the purposes of influencing the result of an
19 election.

20 "7. The payment by a state or local committee of a
21 political party of the cost of preparation, display, or
22 mailing or other distribution incurred by the committee with
23 respect to a printed slate card or sample ballot, or other
24 printed listing of two or more candidates for any public
25 office for which an election is held in the state, except that
26 this subparagraph shall not apply in the case of costs
27 incurred by the committee with respect to a display of the

1 listing made on broadcasting stations, or in newspapers,
2 magazines, or other similar types of general public political
3 advertising.

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

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

9 "(7) LOCAL OFFICE. Any office under the constitution
10 and laws of the state, except circuit, district, or
11 legislative offices, filled by election of the registered
12 voters of a single county or municipality, or by the voters of
13 a division contained within a county or municipality.

14 "(8) PERSON. An individual, partnership, committee,
15 association, corporation, labor organization, or any other
16 organization or group of persons.

17 "(9) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
18 Household supplies, personal clothing, tuition payments,
19 mortgage, rent, or utility payments for a personal residence;
20 admission to an entertainment event or fees for a country club
21 or social club, unless tied to a specific campaign event or
22 functions involving constituents; and any other expense,
23 excluding food and beverages, that would exist irrespective of
24 the candidate's campaign or duties as a legislator. Personal
25 and legislative living expenses shall not include expenses for
26 food, beverages, travel, or communications incurred by the
27 legislator in the performance of the office held.

1 "(10) POLITICAL ACTION COMMITTEE. Any political
2 action committee, club, association, political party, or other
3 group of one or more persons which receives or anticipates
4 receiving contributions or makes or anticipates making
5 expenditures to or on behalf of any elected official,
6 proposition, candidate, principal campaign committee or other
7 political action committee. For the purposes of this chapter,
8 an individual who makes a personal political contribution
9 shall not be considered a political action committee.

10 "(11) PRINCIPAL CAMPAIGN COMMITTEE. The principal
11 campaign committee designated by a candidate under Section
12 17-5-4. A political action committee established primarily to
13 benefit an individual candidate or an individual elected
14 official shall be considered a principal campaign committee
15 for purposes of this chapter.

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

19 "(13) PUBLIC OFFICIAL. Any person elected to public
20 office, whether or not that person has taken office, by the
21 vote of the people at the state, county, or municipal level of
22 government or their instrumentalities, including governmental
23 corporations, and any person appointed to a position at the
24 state, county, or municipal level of government or their
25 instrumentalities, including governmental corporations. For
26 purposes of this chapter, a public official includes the

1 chairs and vice chairs or the equivalent offices of each state
2 political party as defined in Section 17-13-40.

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

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

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

11 "§17-5-3.

12 "(a) Every political action committee shall have a
13 chair and a treasurer.

14 "(b) All funds of a political action committee shall
15 be segregated from, and shall not be commingled with, any
16 personal funds of officers, members, or associates of such
17 committee.

18 "(c) It shall be the duty of the treasurer of a
19 political action committee to keep a detailed, exact account
20 of:

21 "(1) All contributions made to or for such
22 committee.

23 "(2) All expenditures made by or on behalf of such
24 committee.

25 "(3) The identification of every person to whom an
26 expenditure is made, the date and amount thereof, and the name
27 of each candidate on whose behalf such expenditure was made or

1 a designation of the election proposition the result of which
2 the political action committee will attempt to influence by
3 making expenditures or receiving contributions.

4 "(d) It shall be the duty of the treasurer to obtain
5 and keep a receipted bill or cancelled check, stating the
6 particulars for every expenditure made by or on behalf of a
7 political action committee greater than ~~one hundred dollars~~
8 ~~(\$100)~~ the amount allowed by federal law for a federal
9 political action committee, and for any such expenditure in a
10 lesser amount, if the aggregate amount of such expenditures to
11 the same person during a calendar year is greater than ~~one~~
12 ~~hundred dollars~~ ~~(\$100)~~ the amount allowed by federal law for a
13 federal political action committee. Provided, however, the
14 treasurer of a political action committee shall not be
15 required under this chapter to report any expenditure not
16 related to political contributions or expenditures or made as
17 an administrative expense. The treasurer shall preserve all
18 receipted bills and accounts required to be kept by this
19 section for a period of two years from the date of any such
20 expenditure.

21 "§17-5-4.

22 "(a) Within ~~five~~ 10 days after any person becomes a
23 candidate for office, such person shall file with the
24 Secretary of State or judge of probate, as provided in Section
25 17-5-9, a statement showing the name of not less than two nor
26 more than five persons elected to serve as the principal
27 campaign committee for such candidate, together with a written

1 acceptance or consent by such committee, but any candidate may
2 declare himself or herself as the person chosen to serve as
3 the principal campaign committee, in which case such candidate
4 shall perform the duties of chair and treasurer of such
5 committee prescribed by this chapter. If any vacancies be
6 created by death or resignation or any other cause, such
7 candidate may fill such vacancy, or the remaining members
8 shall discharge and complete the duties required of such
9 committee as if such vacancy had not been created. The
10 principal campaign committee, or its treasurer, shall have
11 exclusive custody of all moneys contributed, donated,
12 subscribed or in any manner furnished to or for the candidate
13 represented by such committee, and shall account for and
14 disburse the same. No candidate shall expend any money in aid
15 of his or her nomination or election except by contributing to
16 the principal campaign committee designated by the candidate.

17 "(b) After a candidate files his or her qualifying
18 form with a political party, he or she shall also properly
19 complete, sign, and file with the State Ethics Commission the
20 required "statement of economic interests" within 10 calendar
21 days. Failure to file the required form with the State Ethics
22 Commission in a timely manner shall have all of the following
23 consequences:

24 "(1) The name of the candidate shall not appear on
25 the ballot unless and until the form is filed.

1 "(2) A fine shall be imposed in the following
2 amounts on the candidate for failure to timely file a
3 statement of economic interests as applicable:

4 "a. Twenty thousand dollars (\$20,000) for statewide
5 offices.

6 "b. Five thousand dollars (\$5,000) for the office of
7 state senator.

8 "c. Five thousand dollars (\$5,000) for the office of
9 state representative.

10 "d. Four thousand dollars (\$4,000) for the office of
11 any circuit or district.

12 "e. One thousand dollars (\$1,000) for county and
13 municipal offices.

14 "(c) The State Ethics Commission shall give a
15 receipt to the candidate as proof that a statement of economic
16 interests has been timely filed with the commission. The
17 receipt shall be retained by the candidate at least through
18 the general election. Any fine levied for failure to file
19 shall inure to the State General Fund.

20 "§17-5-8.

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

26 "(1) Regardless of whether the candidate has
27 opposition in any election, between 50 and 45 days before and

1 between 10 and five days before the date of any primary,
2 special, runoff, or general election for which a political
3 action committee or principal campaign committee receives
4 contributions or makes expenditures with a view toward
5 influencing such election's result.

6 "a. This filing shall be timely made by the
7 principal campaign committee of candidates that are unopposed
8 and whose names will appear on the general election ballot.

9 "b. Nonpublic political party positions such as
10 executive committee membership and national political delegate
11 positions are exempt from this filing requirement.

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

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

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

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

1 "(2) The identification of each person who has made
2 contributions to such committee or candidate within the
3 calendar year, or since the last report was filed, in an
4 aggregate amount greater than ~~one hundred dollars (\$100)~~ the
5 amount allowed by federal law for a federal political action
6 committee, together with the amount and date of all such
7 contributions; provided, however, in the case of a political
8 action committee identification shall mean the name and city
9 of residence of each person who has made contributions within
10 the calendar year, or since the last report was filed, in an
11 aggregate amount greater than ~~one hundred dollars (\$100)~~ the
12 amount allowed by federal law for a federal political action
13 committee.

14 "(3) The total amount of other contributions
15 received during the calendar year ~~but~~ and not reported under
16 subdivision (c) (2) of this section.

17 "(4) Each loan to or from any person within the
18 calendar year in an aggregate amount greater than ~~one hundred~~
19 ~~dollars (\$100)~~ the amount allowed by federal law for a federal
20 political action committee, together with the identification
21 of the lender, the identification of the endorsers, or
22 guarantors, if any, and the date and amount of such loans.

23 "(5) The total amount of receipts from any other
24 source during such calendar year, or received since the last
25 report was filed.

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

1 "(7) The identification of each person to whom
2 expenditures have been made by or on behalf of such committee
3 or elected official within the calendar year in an aggregate
4 amount greater than ~~one hundred dollars (\$100)~~ the amount
5 allowed by federal law for a federal political action
6 committee, the amount, date, and purpose of each such
7 expenditure, and, if applicable, the designation of each
8 constitutional amendment or other proposition with respect to
9 which an expenditure was made with the purpose of influencing
10 the outcome of an election or proposition.

11 "(8) The identification of each person to whom an
12 expenditure for personal services, salaries, and reimbursed
13 expenses greater than ~~one hundred dollars (\$100)~~ the amount
14 allowed by federal law for a federal political action
15 committee has been made, and which is not otherwise reported
16 or exempted from the provisions of this chapter, including the
17 amount, date, and purpose of such expenditure.

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

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

25 "(d) Each report required by this section shall be
26 signed and filed by the elected official or on behalf of the
27 political action committee by its chair or treasurer and, if

1 filed on behalf of a principal campaign committee, by the
2 candidate represented by such committee. There shall be
3 attached to each such report an affidavit subscribed and sworn
4 to by the official or chair or treasurer and, if filed by a
5 principal campaign committee, the candidate represented by
6 such committee, setting forth in substance that such report is
7 to the best of his or her knowledge and belief in all respects
8 true and complete, and, if made by a candidate, that he or she
9 has not received any contributions or made any expenditures
10 which are not set forth and covered by such report.

11 "(e) Failure to timely file a finance report by a
12 candidate shall result in a fine being levied and paid by the
13 candidate's principal campaign committee in the amount which
14 the candidate failed to timely disclose. The fine shall not
15 exceed the following amounts in any calendar year:

16 "a. Twenty thousand dollars (\$20,000) for statewide
17 offices.

18 "b. Five thousand dollars (\$5,000) for the office of
19 state senator.

20 "c. Five thousand dollars (\$5,000) for the office of
21 state representative.

22 "d. Four thousand dollars (\$4,000) for the office of
23 any circuit or district.

24 "e. One thousand dollars (\$1,000) for county and
25 municipal offices.

26 "(f) The fine shall be collected by the political
27 party for primaries and runoffs, and by the Secretary of State

1 for general elections. The fine levied by a political party
2 shall inure to the political party levying the fine for
3 noncompliance, and the fine levied by the Secretary of State
4 shall inure to the State General Fund. Failure to pay the fine
5 shall result in the disqualification of the candidate and his
6 or her name shall not be certified to appear on the
7 appropriate ballot.

8 "(g) In addition to any other provision of this
9 chapter, any candidate who fails to file a finance report or
10 fails to pay a fine due under this chapter before the day of
11 the primary or runoff election, as applicable, shall be
12 disqualified from receiving the nomination or from taking
13 office. Additionally, the certification of any candidate who
14 fails to timely file a campaign finance report at least five
15 days before a general election or fails to pay any campaign
16 finances levied pursuant to this chapter shall be rescinded by
17 the Secretary of State and the candidate may not assume
18 office.

19 "(h) In addition to the filing of statements and
20 reports pursuant to this chapter, campaign contributions and
21 expenditures may be submitted over the Internet by computer
22 file containing the reporting information in a format and
23 medium to be presented by the Secretary of State. The
24 Secretary of State shall provide, without charge, the software
25 necessary to comply with the electronic reporting requirement.
26 The Secretary of State shall take such reasonable actions as
27 necessary to ensure the security and protection of any data

1 submitted and shall provide automatic email verification in
2 response to the submission of any documents over the
3 Internet."

4 Section 2. Any other provision of law to the
5 contrary notwithstanding, only a United States citizen, a
6 lawful permanent resident of the United States, or a domestic
7 corporation may contribute to a political action committee or
8 a principal campaign committee.

9 Section 3. The provisions of this act are
10 supplemental. It shall be construed in pari materia with other
11 laws regulating political contributions; however, those laws
12 or parts of laws which are in direct conflict or inconsistent
13 with the provisions are repealed.

14 Section 4. This act shall become effective on August
15 1, 2010, following its passage and approval by the Governor,
16 or its otherwise becoming law.