

1 HB129
2 116025-1
3 By Representative Hinshaw
4 RFD: Constitution and Elections
5 First Read: 12-JAN-10
6 PFD: 01/07/2010

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8 SYNOPSIS: Under existing law, paid political
9 advertising must contain the identification of the
10 person, principal campaign committee, or other
11 political action committee that paid for or
12 otherwise authorized the advertising.

13 This bill would provide that electioneering
14 communications and paid political advertisements
15 paid for by an organization or entity shall
16 disclose the names of the sources of the funding of
17 the organization or entity.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Section 17-5-2, Code of Alabama 1975,
24 Section 17-5-8, Code of Alabama 1975, as amended by Act No.
25 2009-751, 2009 Regular Session (Acts 2009, p. 2273), and
26 Section 17-5-12, Code of Alabama 1975, relating to paid
27 electioneering communications, to provide that electioneering

1 communications and paid political advertisements paid for by
2 an organization or entity shall disclose the names of the
3 sources of the funding of the organization or entity.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 17-5-2, Code of Alabama 1975,
6 Section 17-5-8, Code of Alabama 1975, as amended by Act No.
7 2009-751, 2009 Regular Session (Acts 2009, p. 2273), and
8 Section 17-5-12, Code of Alabama 1975, are amended to read as
9 follows:

10 "§17-5-2.

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

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

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

23 "b. Received contributions or made expenditures, or
24 given his or her consent for any other person or persons to
25 receive contributions or make expenditures, with a view to
26 bringing about his or her nomination or election to any state
27 office or local office. Notwithstanding the foregoing, no

1 person shall be considered a candidate within the meaning of
2 this subdivision until the time that he or she has either
3 received contributions or made expenditures as provided herein
4 in the following amounts:

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

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

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

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

21 "(2) CONTRIBUTION.

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

24 "1. A gift, subscription, loan, advance, deposit of
25 money or anything of value, a payment, a forgiveness of a
26 loan, or payment of a third party, made for the purpose of
27 influencing the result of an election.

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

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

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

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

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

23 "2. The use of real or personal property and the
24 cost of invitations, food, or beverages, voluntarily provided
25 by an individual to a candidate or political committee in
26 rendering voluntary personal services on the individual's

1 residential or business premises for election-related
2 activities.

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

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

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

24 "6. The value or cost of polling data and voter
25 preference data and information if provided to a candidate or
26 political committee, unless the information was compiled with

1 the advance knowledge of and approval of the candidate or the
2 political committee.

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

8 "(4) ELECTIONEERING COMMUNICATION. Any communication
9 disseminated through any federally regulated broadcast media,
10 any mailing, or other distributions, phone bank, or
11 publication which a. contains the name or image of a candidate
12 and is made within 90 days of an election in which the
13 candidate included in the electioneering communication will
14 appear on the ballot; b. the only reasonable conclusion to be
15 drawn from the presentation and content of the communication
16 is that it is intended to influence the outcome of an
17 election; and c. entails an expenditure in excess of one
18 thousand dollars (\$1,000) in connection with a local election
19 or an election for members of the Legislature or entails an
20 expenditure in excess of ten thousand dollars (\$10,000) in
21 connection with a state election.

22 "~~(4)~~(5) EXPENDITURE.

23 "a. The following shall be considered expenditures:

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

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

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

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

8 "1. Any news story, commentary, or editorial
9 prepared by and distributed through the facilities of any
10 broadcasting station, newspaper, magazine, or other periodical
11 publication, unless the facilities are owned or controlled by
12 any political party or political committee.

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

15 "3. Any communication by any membership organization
16 to its members or by a corporation to its stockholders and
17 employees if the membership organization or corporation is not
18 organized primarily for the purpose of influencing the result
19 of an election.

20 "4. The use of real or personal property and the
21 cost of invitations, food, or beverages, voluntarily provided
22 by an individual in rendering voluntary personal services on
23 the individual's residential or business premises for
24 election-related activities.

25 "5. Any unreimbursed payment for travel expenses
26 made by an individual who, on his or her own behalf,

1 volunteers personal services to a candidate or political
2 committee.

3 "6. Any communication by any person which is not
4 made for the purposes of influencing the result of an
5 election.

6 "7. The payment by a state or local committee of a
7 political party of the cost of preparation, display, or
8 mailing or other distribution incurred by the committee with
9 respect to a printed slate card or sample ballot, or other
10 printed listing of two or more candidates for any public
11 office for which an election is held in the state, except that
12 this subparagraph shall not apply in the case of costs
13 incurred by the committee with respect to a display of the
14 listing made on broadcasting stations, or in newspapers,
15 magazines, or other similar types of general public political
16 advertising.

17 "~~(5)~~ (6) IDENTIFICATION. The full name and complete
18 address.

19 "~~(6)~~ (7) LOAN. A transfer of money, property, or
20 anything of value in consideration of a promise or obligation,
21 conditional or not, to repay in whole or part.

22 "~~(7)~~ (8) LOCAL OFFICE. Any office under the
23 constitution and laws of the state, except circuit, district,
24 or legislative offices, filled by election of the registered
25 voters of a single county or municipality, or by the voters of
26 a division contained within a county or municipality.

1 "~~(8)~~(9) PERSON. An individual, partnership,
2 committee, association, corporation, labor organization, or
3 any other organization or group of persons.

4 "~~(9)~~(10) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
5 Household supplies, personal clothing, tuition payments,
6 mortgage, rent, or utility payments for a personal residence;
7 admission to an entertainment event or fees for a country club
8 or social club, unless tied to a specific campaign event or
9 functions involving constituents; and any other expense,
10 excluding food and beverages, that would exist irrespective of
11 the candidate's campaign or duties as a legislator. Personal
12 and legislative living expenses shall not include expenses for
13 food, beverages, travel, or communications incurred by the
14 legislator in the performance of the office held.

15 "~~(10)~~(11) POLITICAL ACTION COMMITTEE. Any political
16 action committee, club, association, political party, or other
17 group of one or more persons which receives or anticipates
18 receiving contributions or makes or anticipates making
19 expenditures to or on behalf of any elected official,
20 proposition, candidate, principal campaign committee or other
21 political action committee. For the purposes of this chapter,
22 an individual who makes a personal political contribution
23 shall not be considered a political action committee.

24 "~~(11)~~(12) PRINCIPAL CAMPAIGN COMMITTEE. The
25 principal campaign committee designated by a candidate under
26 Section 17-5-4. A political action committee established
27 primarily to benefit an individual candidate or an individual

1 elected official shall be considered a principal campaign
2 committee for purposes of this chapter.

3 "~~(12)~~(13) PROPOSITION. Any proposal for submission
4 to the general public for its approval or rejection, including
5 proposed as well as qualified ballot questions.

6 "~~(13)~~(14) PUBLIC OFFICIAL. Any person elected to
7 public office, whether or not that person has taken office, by
8 the vote of the people at the state, county, or municipal
9 level of government or their instrumentalities, including
10 governmental corporations, and any person appointed to a
11 position at the state, county, or municipal level of
12 government or their instrumentalities, including governmental
13 corporations. For purposes of this chapter, a public official
14 includes the chairs and vice chairs or the equivalent offices
15 of each state political party as defined in Section 17-13-40.

16 "~~(14)~~(15) STATE. The State of Alabama.

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

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

24 "§17-5-8.

25 "(a) Each principal campaign committee or political
26 action committee shall file with the Secretary of State or
27 judge of probate, as designated in Section 17-5-9, reports of

1 contributions and expenditures at the following times in any
2 year in which an election is held:

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

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

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

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

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

25 "(2) The identification of each person who has made
26 contributions to such committee or candidate within the
27 calendar year in an aggregate amount greater than one hundred

1 dollars (\$100), together with the amount and date of all such
2 contributions; provided, however, in the case of a political
3 action committee identification shall mean the name and city
4 of residence of each person who has made contributions within
5 the calendar year in an aggregate amount greater than one
6 hundred dollars (\$100).

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

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

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

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

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

1 "(8) The identification of each person to whom an
2 expenditure for personal services, salaries, and reimbursed
3 expenses greater than one hundred dollars (\$100) has been
4 made, and which is not otherwise reported or exempted from the
5 provisions of this chapter, including the amount, date, and
6 purpose of such expenditure.

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

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

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

1 "(e) In connection with any electioneering
2 communication paid for by a person, nonprofit corporation,
3 entity, principal campaign committee, or other political
4 committee or entity, the payor shall disclose its
5 contributions and expenditures in accordance with existing
6 law.

7 "(f) Nothing herein shall require a church to
8 disclose the identities, donations, or contributions of
9 members of the church. As used in this section, the term
10 "church" is defined in accordance with and recognized by
11 Internal Revenue Service guidelines and regulations.

12 "(g) Notwithstanding the disclosure requirements of
13 this section, the provisions of this section shall not be
14 interpreted to require any disclosure for expenses incurred
15 for any communication used by any membership or trade
16 organization to communicate with or inform its members, its
17 members' families, or its members' employees. The members of
18 any organization need not be disclosed unless membership dues
19 are used for electioneering communications.

20 "§17-5-12.

21 "(a) Any paid political advertisement or
22 electioneering communication appearing in any print media or
23 broadcast on any electronic media shall be clearly identified
24 or marked as a paid political advertisement clearly and
25 distinctly identify the entity responsible for paying for the
26 advertisement or electioneering communication and provide the
27 identification required by Section 17-5-2(a) ~~(5)~~(6). It shall

1 be unlawful for any person, nonprofit corporation, entity,
2 candidate, principal campaign committee, or political action
3 committee to broadcast, publish, or circulate any campaign
4 literature, ~~or~~ political advertisement, or electioneering
5 communication without a notice appearing on the ~~face or front~~
6 ~~page of any~~ printed matter with a clear and unmistakable
7 identification of the entity responsible for directly paying
8 for the advertisement or electioneering communication, or on
9 the broadcast at the beginning, during, or end of a radio or
10 television spot, stating that the communication was a paid
11 political advertisement, clearly identifying the entity
12 directly responsible for paying for the advertisement or
13 electioneering communication, and giving the identification of
14 the person, nonprofit corporation, entity, principal campaign
15 committee, or political action committee or entity that paid
16 for ~~or otherwise~~ authorized such communication.

17 "(b) For print media advertisements, the committee
18 or person(s) responsible for paying for the advertisements
19 shall use a minimum of a 10 point bold type font at the bottom
20 of the print ad for the identification required under
21 subsection (a)."

22 Section 2. This act shall become effective July 1,
23 2010, following its passage and approval by the Governor, or
24 its otherwise becoming law.