

1 88434-2 : n : 03/07/2007 : House Constitution and Elections  
2 Committee / mbh

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4 HB118 HOUSE CONSTITUTION AND ELECTIONS COMMITTEE ENGROSSED  
5 SUBSITUTE

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11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
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15 To amend Sections 17-5-2, 17-5-8, and 17-5-12, Code  
16 of Alabama 1975, relating to paid electioneering  
17 communications and political advertising, to provide that  
18 electioneering communications and paid political  
19 advertisements paid for by an organization or entity shall  
20 disclose the names of the source of the funding of the  
21 organization or entity.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 17-5-2, 17-5-8, and 17-5-12,  
24 Code of Alabama 1975, are amended to read as follows:

25 "§17-5-2.

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

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

3           "a. Taken the action necessary under the laws of the  
4 state to qualify himself or herself for nomination or for  
5 election to any state office or local office or in the case of  
6 an independent seeking ballot access, on the date when he or  
7 she files a petition with the judge of probate in the case of  
8 county offices, with the appropriate qualifying municipal  
9 official in the case of municipal offices, or the Secretary of  
10 State in all other cases.

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

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

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

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

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

9           "(2) CONTRIBUTION.

10          "a. Any of the following shall be considered a  
11 contribution:

12           "1. A gift, subscription, loan, advance, deposit of  
13 money or anything of value, a payment, a forgiveness of a  
14 loan, or payment of a third party, made for the purpose of  
15 influencing the result of an election.

16           "2. A contract or agreement to make a gift,  
17 subscription, loan, advance, or deposit of money or anything  
18 of value for the purpose of influencing the result of an  
19 election.

20           "3. Any transfer of anything of value received by a  
21 political committee from another political committee,  
22 political party, or other source.

23           "4. The payment of compensation by any person for  
24 the personal services or expenses of any other person if the  
25 services are rendered or expenses incurred on behalf of a  
26 candidate, political committee, or political party without  
27 payment of full and adequate compensation by the candidate,

1 political committee, or political party. Provided, however,  
2 that the payment of compensation by a corporation for the  
3 purpose of establishing, administering, or soliciting  
4 voluntary contributions to a separate, segregated fund as  
5 permitted by Section 10-1-2, shall not constitute a  
6 contribution.

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

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

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

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

23 "4. Any unreimbursed payment for travel expenses  
24 made by an individual who, on his or her own behalf,  
25 volunteers personal services to a candidate or political  
26 committee.

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

12           "6. The value or cost of polling data and voter  
13 preference data and information if provided to a candidate or  
14 political committee, unless the information was compiled with  
15 the advance knowledge of and approval of the candidate or the  
16 political committee.

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

22           "(4) ELECTIONEERING COMMUNICATION. Any communication  
23 disseminated through any federally regulated broadcast media,  
24 any mailing, or other distributions, phone bank, or  
25 publication which (i) contains the name or image of a  
26 candidate and is made within 90 days of an election in which  
27 the candidate included in the electioneering communication

1 will appear on the ballot; (ii) the only reasonable conclusion  
2 to be drawn from the presentation and content of the  
3 communication is that it is intended to influence the outcome  
4 of an election; and (iii) entails an expenditure in excess of  
5 one thousand dollars (\$1,000) in connection with a local  
6 election or an election for members of the Alabama Legislature  
7 or entails an expenditure in excess of ten thousand dollars  
8 (\$10,000) in connection with a state election.

9 ~~"(4)~~ (5) 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 committee to another political committee.

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

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

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

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

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

11           "5. 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 committee.

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

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

1 magazines, or other similar types of general public political  
2 advertising.

3 ~~"(5)~~ (6) IDENTIFICATION. The full name and complete  
4 address.

5 ~~"(6)~~ (7) LOAN. A transfer of money, property, or  
6 anything of value in consideration of a promise or obligation,  
7 conditional or not, to repay in whole or part.

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

13 ~~"(8)~~ (9) PERSON. An individual, partnership,  
14 committee, association, corporation, labor organization, or  
15 any other organization or group of persons.

16 ~~"(9)~~ (10) PERSONAL AND LEGISLATIVE LIVING EXPENSES.  
17 Household supplies, personal clothing, tuition payments,  
18 mortgage, rent, or utility payments for a personal residence;  
19 admission to an entertainment event or fees for a country club  
20 or social club, unless tied to a specific campaign event or  
21 functions involving constituents; and any other expense,  
22 excluding food and beverages, that would exist irrespective of  
23 the candidate's campaign or duties as a legislator. Personal  
24 and legislative living expenses shall not include expenses for  
25 food, beverages, travel, or communications incurred by the  
26 legislator in the performance of the office held.

1           "~~(10)~~ (11) 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)~~ (12) PRINCIPAL CAMPAIGN COMMITTEE. The  
11 principal campaign committee designated by a candidate under  
12 Section 17-5-4. A political action committee established  
13 primarily to benefit an individual candidate or an individual  
14 elected official shall be considered a principal campaign  
15 committee for purposes of this chapter.

16           "~~(12)~~ (13) PROPOSITION. Any proposal for submission  
17 to the general public for its approval or rejection, including  
18 proposed as well as qualified ballot questions.

19           "~~(13)~~ (14) PUBLIC OFFICIAL. Any person elected to  
20 public office, whether or not that person has taken office, by  
21 the vote of the people at the state, county, or municipal  
22 level of government or their instrumentalities, including  
23 governmental corporations, and any person appointed to a  
24 position at the state, county, or municipal level of  
25 government or their instrumentalities, including governmental  
26 corporations. For purposes of this chapter, a public official

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

3 "~~(14)~~ (15) STATE. The State of Alabama.

4 "~~(15)~~ (16) 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 "§17-5-8.

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

17 "(1) Between 50 and 45 days before and between 10  
18 and five days before the date of any election for which a  
19 political action committee or principal campaign committee  
20 receives contributions or makes expenditures with a view  
21 toward influencing such election's result.

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

25 "(b) Each principal campaign committee, political  
26 action committee, and elected state and local official covered  
27 under the provisions of this chapter, shall annually file with

1 the Secretary of State or judge of probate, as designated in  
2 Section 17-5-9, reports of contributions and expenditures made  
3 during that year. The annual reports required under this  
4 subsection shall be made on or before January 31 of the  
5 succeeding year.

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

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

10 "(2) The identification of each person who has made  
11 contributions to such committee or candidate within the  
12 calendar year in an aggregate amount greater than one hundred  
13 dollars (\$100), together with the amount and date of all such  
14 contributions; provided, however, in the case of a political  
15 action committee identification shall mean the name and city  
16 of residence of each person who has made contributions within  
17 the calendar year in an aggregate amount greater than one  
18 hundred dollars (\$100).

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

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

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

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

5           "(7) The identification of each person to whom  
6 expenditures have been made by or on behalf of such committee  
7 or elected official within the calendar year in an aggregate  
8 amount greater than one hundred dollars (\$100), the amount,  
9 date, and purpose of each such expenditure, and, if  
10 applicable, the designation of each constitutional amendment  
11 or other proposition with respect to which an expenditure was  
12 made.

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

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

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

26           "(d) Each report required by this section shall be  
27 signed and filed by the elected official or on behalf of the

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

12 "(e) In connection with any electioneering  
13 communication paid for by a person, nonprofit corporation,  
14 entity, principal campaign committee, or other political  
15 committee or entity, the payor shall disclose its  
16 contributions and expenditures in accordance with existing  
17 law.

18 "(f) Nothing herein shall require a church to  
19 disclose the identities, donations, or contributions of  
20 members of the church. As used in this section, the term  
21 "church" is defined in accordance with and recognized by  
22 Internal Revenue Service guidelines and regulations.

23 "(g) Notwithstanding the disclosure requirements of  
24 this section, the provisions of this section shall not be  
25 interpreted to require any disclosure for expenses incurred  
26 for any **electioneering** communication used by any membership or  
27 trade organization to communicate with or inform its members,

1 its members' families, or its members' employees. The members  
2 of any organization need not be disclosed unless membership  
3 dues are used for electioneering communications.

4 "§17-5-12.

5 "Any paid political advertisement or electioneering  
6 communication appearing in any print media or broadcast on any  
7 electronic media shall ~~be clearly identified or marked as a~~  
8 ~~paid political advertisement~~ clearly and distinctly identify  
9 the entity responsible for paying for the advertisement or  
10 electioneering communication and provide the identification  
11 required by Section 17-5-2(a) ~~(5)~~ (6). It shall be unlawful for  
12 any person, nonprofit corporation, entity, candidate,  
13 principal campaign committee, or political action committee to  
14 broadcast, publish, or circulate any campaign literature, ~~or~~  
15 political advertisement, or electioneering communication  
16 without a notice appearing on the ~~face or front page of any~~  
17 printed matter with a clear and unmistakable identification of  
18 the entity responsible for directly paying for the  
19 advertisement or electioneering communication, or on the  
20 broadcast at the beginning, during, or end of a radio or  
21 television spot, stating that the communication was a paid  
22 political advertisement, clearly identifying the entity  
23 directly responsible for paying for the advertisement or  
24 electioneering communication, and giving the identification of  
25 the person, nonprofit corporation, entity, principal campaign  
26 committee, or political action committee or entity that paid  
27 for ~~or otherwise authorized~~ such communication."

1                    For newspaper or direct mail advertisements, the  
2                    committee or person(s) responsible for paying for the  
3                    advertisements shall use a minimum of a 10 point bold type  
4                    font at the bottom of the print ad.

5                    Section 2. This act shall become effective July 1,  
6                    2007, following its passage and approval by the Governor, or  
7                    its otherwise becoming law.