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3 SENATE GOVERMENTAL AFFAIRS COMMITTEE SUBSTITUTE FOR HB73
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8 SYNOPSIS: Under existing law, a political action
9 committee may make a contribution to another
10 political action committee.

11 This bill would provide further for
12 definition of political action committee, would
13 provide further for the reporting requirements by
14 political parties and legislative caucuses, and
15 would prohibit transfers between political action
16 committees.
17

18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Sections 17-5-2, 17-5-7, 17-5-8, and
23 17-5-15, Code of Alabama 1975, relating to campaign
24 contributions, to provide further for definition of political
25 action committee, to provide further for the reporting

1 requirements by political parties and legislative caucuses,
2 and to prohibit transfers between political action committees.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 17-5-2, 17-5-7, 17-5-8, and
5 17-5-15, Code of Alabama 1975, are amended to read as follows:

6 "§17-5-2.

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

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

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

19 "b. Received contributions or made expenditures, or
20 given his or her consent for any other person or persons to
21 receive contributions or make expenditures, with a view to
22 bringing about his or her nomination or election to any state
23 office or local office. Notwithstanding the foregoing, no
24 person shall be considered a candidate within the meaning of
25 this subdivision until the time that he or she has either

1 received contributions or made expenditures as provided herein
2 in the following amounts:

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

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

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

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

19 "(2) CONTRIBUTION.

20 "a. Any of the following shall be considered a
21 contribution:

22 "1. A gift, subscription, loan, advance, deposit of
23 money or anything of value, a payment, a forgiveness of a
24 loan, or payment of a third party, made for the purpose of
25 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) EXPENDITURE.

9 "a. The following shall be considered expenditures:

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

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

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

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

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

25 "2. Nonpartisan activity designed to encourage
26 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) IDENTIFICATION. The full name and complete
4 address.

5 "(6) 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) LOCAL OFFICE. Any office under the constitution
9 and laws of the state, except circuit, district, or
10 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) PERSON. An individual, partnership, committee,
14 association, corporation, labor organization, or any other
15 organization or group of persons.

16 "(9) 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) 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. Any~~
10 committee or political committee including, but not limited
11 to, those committees referenced in Section 17-5-3, which
12 receives contributions or makes expenditures to any principal
13 campaign committee, candidate, or proposition. A principal
14 campaign committee, a political party, as defined in Section
15 17-13-40, or a legislative caucus is not a political action
16 committee. A club, organization, association, or group whose
17 primary purpose is not to receive contributions or make
18 expenditures to a principal campaign committee, candidate, or
19 proposition is not a political action committee so long as the
20 club, organization, association, or group does not make a
21 contribution to a political action committee, a principal
22 campaign committee, or a candidate.

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

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

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

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

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

17 "(15) 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 "§17-5-7.

25 "(a) A candidate, public official, or principal
26 campaign committee as defined in this chapter, may only use

1 campaign contributions, and any proceeds from investing the
2 contributions that are in excess of any amount necessary to
3 defray expenditures of the candidate, public official, or
4 principal campaign committee, for the following purposes:

5 "(1) Necessary and ordinary expenditures of the
6 campaign.

7 "(2) Expenditures that are reasonably related to
8 performing the duties of the office held. For purposes of this
9 section, expenditures that are reasonably related to
10 performing the duties of the office held do not include
11 personal and legislative living expenses, as defined in this
12 chapter.

13 "(3) Donations to the State General Fund, the
14 Education Trust Fund, or equivalent county or municipal funds.
15 Donations to an organization to which a federal income tax
16 deduction is permitted under subparagraph (A) of paragraph (1)
17 of subsection (b) of Section 170 of the Internal Revenue Code
18 of 1986, as amended, or any other charitable, educational, or
19 eleemosynary cause of Section 501 of Title 26 of the U. S.
20 Code.

21 "(4) Transfers to another ~~political~~ principal
22 campaign committee as defined in this chapter, political party
23 as defined in Section 17-13-40, or legislative caucus.

24 "(5) Inaugural or transitional expenses.

25 "(b) Notwithstanding any other provision of law,
26 including, but not limited to, Section 13A-10-61, a candidate,

1 public official, or principal campaign committee may only
2 accept, solicit, or receive contributions:

3 "(1) To influence the outcome of an election.

4 "(2) For a period of 12 months before an election in
5 which the person intends to be a candidate. Provided, however,
6 candidates for state office and their principal campaign
7 committees may not accept, solicit, or receive contributions
8 during the period when the Legislature is convened in session.
9 For purposes of this section, the Legislature is convened in
10 session at any time from the opening day of the special or
11 regular session and continued through the day of adjournment
12 sine die for that session. However, this subdivision shall not
13 apply within 120 days of any primary, runoff, or general
14 election, and shall not apply to the candidates or their
15 principal campaign committees participating in any special
16 election as called by the Governor. This subdivision shall not
17 apply to a loan from a candidate to his or her own principal
18 campaign committee.

19 "(3) For a period of 120 days after the election in
20 which the person was a candidate, but only to the extent of
21 any campaign debt of the candidate or principal campaign
22 committee of the candidate as indicated on the campaign
23 financial disclosure form or to the extent of reaching the
24 threshold that is required for qualification as a candidate
25 for the office which he or she currently holds, or both.

1 "(4) For the purpose of paying all expenses
2 associated with an election challenge including, but not
3 limited to, quo warranto challenges.

4 "(c) Notwithstanding any other provision of law,
5 including, but not limited to, Section 13A-10-61, a candidate,
6 public official, or principal campaign committee shall not
7 accept, solicit, or receive contributions for any of the
8 following reasons:

9 "(1) As a bribe, as defined by Sections 13A-10-60 to
10 13A-10-63, inclusive.

11 "(2) For the intention of corruptly influencing the
12 official actions of the public official or candidate for
13 public office.

14 "§17-5-8.

15 "(a) Each principal campaign committee, political
16 party, as defined in Section 17-13-40, legislative caucus, or
17 political action committee shall file with the Secretary of
18 State or judge of probate, as designated in Section 17-5-9,
19 reports of contributions and expenditures at the following
20 times in any year in which an election is held:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 "§17-5-15.

22 "(a) It shall be unlawful for any person to make a
23 contribution in the name of another person, or knowingly
24 permit his or her name to be used to effect such a
25 contribution made by one person in the name of another person,
26 or for any candidate, principal campaign committee, or

1 political action committee to knowingly accept a contribution
2 made by one person in the name of another person; provided,
3 however, that nothing in this chapter would prohibit any
4 person from soliciting and receiving contributions from other
5 persons for the purpose of making expenditures to a candidate,
6 political campaign committee, political action committee, or
7 elected state or local official required to file reports
8 pursuant to Section 17-5-8.

9 "(b) It shall be unlawful for any political action
10 committee to make a contribution to any other political action
11 committee."

12 Section 2. This act shall become effective January
13 1, 2009, following its passage and approval by the Governor,
14 or its otherwise becoming law.