

1 HB140
2 105645-2
3 By Representative Hinshaw
4 RFD: Constitution and Elections
5 First Read: 03-FEB-09
6 PFD: 01/20/2009

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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 source of the funding of
17 the organization or entity.

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

23 To amend Sections 17-5-2, 17-5-8, and 17-5-12, Code
24 of Alabama 1975, relating to paid electioneering
25 communications and political advertising, to provide that
26 electioneering communications and paid political
27 advertisements paid for by an organization or entity shall

1 disclose the names of the source of the funding of the
2 organization or entity.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 17-5-2, 17-5-8, and 17-5-12,
5 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
26 received contributions or made expenditures as provided herein
27 in the following amounts:

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

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

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

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

17 "(2) CONTRIBUTION.

18 "a. Any of the following shall be considered a
19 contribution:

20 "1. A gift, subscription, loan, advance, deposit of
21 money or anything of value, a payment, a forgiveness of a
22 loan, or payment of a third party, made for the purpose of
23 influencing the result of an election.

24 "2. A contract or agreement to make a gift,
25 subscription, loan, advance, or deposit of money or anything
26 of value for the purpose of influencing the result of an
27 election.

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

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

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

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

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

25 "3. The sale of any food or beverage by a vendor for
26 use in an election campaign at a charge to a candidate or
27 political committee less than the normal comparable charge, if

1 the charge to the political committee for use in an election
2 campaign is at least equal to the cost of the food or beverage
3 to the vendor.

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

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

19 "6. The value or cost of polling data and voter
20 preference data and information if provided to a candidate or
21 political committee, unless the information was compiled with
22 the advance knowledge of and approval of the candidate or the
23 political committee.

24 "(3) ELECTION. Unless otherwise specified, any
25 general, special, primary, or runoff election, or any
26 convention or caucus of a political party held to nominate a

1 candidate, or any election at which a constitutional amendment
2 or other proposition is submitted to the popular vote.

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

17 "(4)(5) EXPENDITURE.

18 "a. The following shall be considered expenditures:

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

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

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

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

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

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

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

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

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

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

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

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

10 "~~(5)~~(6) IDENTIFICATION. The full name and complete
11 address.

12 "~~(6)~~(7) LOAN. A transfer of money, property, or
13 anything of value in consideration of a promise or obligation,
14 conditional or not, to repay in whole or part.

15 "~~(7)~~(8) LOCAL OFFICE. Any office under the
16 constitution and laws of the state, except circuit, district,
17 or legislative offices, filled by election of the registered
18 voters of a single county or municipality, or by the voters of
19 a division contained within a county or municipality.

20 "~~(8)~~(9) PERSON. An individual, partnership,
21 committee, association, corporation, labor organization, or
22 any other organization or group of persons.

23 "~~(9)~~(10) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
24 Household supplies, personal clothing, tuition payments,
25 mortgage, rent, or utility payments for a personal residence;
26 admission to an entertainment event or fees for a country club
27 or social club, unless tied to a specific campaign event or

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

7 "~~(10)~~ (11) POLITICAL ACTION COMMITTEE. Any political
8 action committee, club, association, political party, or other
9 group of one or more persons which receives or anticipates
10 receiving contributions or makes or anticipates making
11 expenditures to or on behalf of any elected official,
12 proposition, candidate, principal campaign committee or other
13 political action committee. For the purposes of this chapter,
14 an individual who makes a personal political contribution
15 shall not be considered a political action committee.

16 "~~(11)~~ (12) PRINCIPAL CAMPAIGN COMMITTEE. The
17 principal campaign committee designated by a candidate under
18 Section 17-5-4. A political action committee established
19 primarily to benefit an individual candidate or an individual
20 elected official shall be considered a principal campaign
21 committee for purposes of this chapter.

22 "~~(12)~~ (13) PROPOSITION. Any proposal for submission
23 to the general public for its approval or rejection, including
24 proposed as well as qualified ballot questions.

25 "~~(13)~~ (14) PUBLIC OFFICIAL. Any person elected to
26 public office, whether or not that person has taken office, by
27 the vote of the people at the state, county, or municipal

1 level of government or their instrumentalities, including
2 governmental corporations, and any person appointed to a
3 position at the state, county, or municipal level of
4 government or their instrumentalities, including governmental
5 corporations. For purposes of this chapter, a public official
6 includes the chairs and vice chairs or the equivalent offices
7 of each state political party as defined in Section 17-13-40.

8 ~~"(14)~~ (15) STATE. The State of Alabama.

9 ~~"(15)~~ (16) STATE OFFICE. All offices under the
10 constitution and laws of the state filled by election of the
11 registered voters of the state or of any circuit or district
12 and shall include legislative offices.

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

16 "§17-5-8.

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

22 "(1) Between 50 and 45 days before and between 10
23 and five days before the date of any election for which a
24 political action committee or principal campaign committee
25 receives contributions or makes expenditures with a view
26 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).

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

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

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

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

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

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

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

26 "(10) The amount and nature of debts and obligations
27 owed by or to the committee or elected official, together with

1 a statement as to the circumstances and conditions under which
2 any such debt or obligation was extinguished and the
3 consideration therefor.

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

17 "(e) In connection with any electioneering
18 communication paid for by a person, nonprofit corporation,
19 entity, principal campaign committee, or other political
20 committee or entity, the payor shall disclose its
21 contributions and expenditures in accordance with existing
22 law.

23 "(f) Nothing herein shall require a church to
24 disclose the identities, donations, or contributions of
25 members of the church. As used in this section, the term
26 "church" is defined in accordance with and recognized by
27 Internal Revenue Service guidelines and regulations.

1 "(g) Notwithstanding the disclosure requirements of
2 this section, the provisions of this section shall not be
3 interpreted to require any disclosure for expenses incurred
4 for any communication used by any membership or trade
5 organization to communicate with or inform its members, its
6 members' families, or its members' employees. The members of
7 any organization need not be disclosed unless membership dues
8 are used for electioneering communications.

9 "§17-5-12.

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

1 directly responsible for paying for the advertisement or
2 electioneering communication, and giving the identification of
3 the person, nonprofit corporation, entity, principal campaign
4 committee, or political action committee or entity that paid
5 for ~~or otherwise authorized~~ such communication.

6 "(b) For print media advertisements, the committee
7 or person(s) responsible for paying for the advertisements
8 shall use a minimum of a 10 point bold type font at the bottom
9 of the print ad for the identification required under
10 subsection (a)."

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