

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

*As Engrossed: H3/6/15*

# A Bill

HOUSE BILL 1425

5 By: Representative Tucker  
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## For An Act To Be Entitled

8 AN ACT TO REQUIRE REPORTING AND DISCLOSURE OF  
9 ELECTIONEERING COMMUNICATIONS; AND FOR OTHER  
10 PURPOSES.  
11

## Subtitle

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14 TO REQUIRE REPORTING AND DISCLOSURE OF  
15 ELECTIONEERING COMMUNICATIONS.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 7-6-201 is amended to add additional  
21 subdivisions to read as follows:

22 (19) "Broadcast, cable, or satellite communication" means a  
23 communication that is publicly distributed by a broadcast, cable, or  
24 satellite radio or television station;

25 (20)(A) "Electioneering communication" means any broadcast,  
26 cable, or satellite communication that:

27 (i) Refers to a clearly identified candidate for  
28 public office;

29 (ii) Is publicly distributed within:

30 (a) Ninety (90) days before a general election  
31 for the office sought by the candidate; or

32 (b) Sixty (60) days before a primary election  
33 for the office sought by the candidate; and

34 (iii) Is targeted to the relevant electorate for  
35 that candidate.

36 (B) "Electioneering communication" does not include any



1 communication that:

2 (i) Is publicly disseminated through a means of  
3 communication other than a broadcast, cable, or satellite communication such  
4 as:

5 (a) Communications appearing in print media,  
6 including a newspaper, magazine, handbill, brochure, bumper sticker, yard  
7 sign, poster, billboard, and other written materials, including mailings;

8 (b) Communications over the Internet,  
9 including electronic mail; or

10 (c) Telephone communications;

11 (ii) Appears in a news story, commentary, or  
12 editorial distributed through the facilities of any broadcast, cable, or  
13 satellite communication, unless the facilities are owned or controlled by any  
14 political party, political committee, or candidate;

15 (iii) Constitutes an expenditure that is reported as  
16 required under this subchapter;

17 (iv) Constitutes an independent expenditure that is  
18 reported as required under this subchapter; or

19 (v) Constitutes a candidate debate or forum  
20 conducted, or that solely promotes such a debate or forum and is made by or  
21 on behalf of the person sponsoring the debate or forum;

22 (21) "Refers to a clearly identified candidate" means that the  
23 candidate's name, nickname, photograph, or drawing appears, or the identity  
24 of the candidate is otherwise apparent through an unambiguous reference such  
25 as "the Governor", "your county judge", or "the incumbent", or through an  
26 unambiguous reference to his or her status as a candidate such as "the  
27 Republican nominee for Governor" or "the Democratic candidate for Secretary  
28 of State in the State of Arkansas";

29 (22) "Publicly distributed" means aired, broadcast, cablecast,  
30 or otherwise disseminated through the facilities of a broadcast, cable, or  
31 satellite radio or television station; and

32 (23) "Targeted to the relevant electorate" means the  
33 communication can be seen or heard:

34 (A) In the district the candidate seeks to represent, in  
35 the case of a candidate for district office;

36 (B) In the county, municipality, or school district in the

1 case of candidates for county office, municipal office, or school board; or  
2 (C) Anywhere in the State of Arkansas, in the case of a  
3 candidate for statewide office.  
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5 SECTION 2. Arkansas Code Title 7, Chapter 6, Subchapter 2, is amended  
6 to add additional sections to read as follows:

7 7-6-228. Coordinated electioneering communications.

8 (a)(1) A coordinated electioneering communication is an in-kind  
9 contribution to the candidate or political party who or to the candidate or  
10 political party whose authorized committee or agent cooperated, consulted,  
11 requested, suggested, or acted in concert with the person making the  
12 electioneering communication or his or her authorized agent.

13 (2) The in-kind contribution under subdivision (a)(1) of this  
14 section shall be subject to the contribution limits set forth under § 7-6-  
15 203.

16 (b) As used in this section "coordinated electioneering communication"  
17 means an electioneering communication made:

18 (1) In cooperation or consultation between:

19 (A) A candidate or his or her authorized committee or  
20 agent; and

21 (B) The person making the electioneering communication or  
22 his or her authorized agent;

23 (2) In cooperation or consultation between:

24 (A) A political party or its authorized agent; and

25 (B) The person making the electioneering communication or  
26 his or her authorized agent;

27 (3) In concert with or at the request or suggestion of a  
28 candidate or his or her authorized committee or agent; or

29 (4) In concert with or at the request or suggestion of a  
30 political party or its authorized agent.

31 (c) In making a determination as to whether an electioneering  
32 communication is a coordinated electioneering communication, the Arkansas  
33 Ethics Commission shall consider:

34 (1) Whether the electioneering communication was paid for, in  
35 whole or in part, by someone other than the candidate or his or her agent,  
36 the candidate's authorized committee or its agent, or a political party or

1 its agent;

2 (2) Whether the content of the electioneering communication:

3 (A) Expressly advocates the election or defeat of a  
4 clearly identified candidate for office;

5 (B) Meets the definition of electioneering communication;  
6 or

7 (C) Is a public communication that republishes,  
8 disseminates, or distributes, in whole or in part, campaign materials  
9 prepared by a candidate or a candidate's campaign committee; and

10 (3) Whether the conduct of the electioneering communication  
11 meets one of the following standards:

12 (A) The electioneering communication was created,  
13 produced, or distributed at the request or suggestion of the candidate or his  
14 or her agent, candidate's committee or its agent, or political party or its  
15 agent;

16 (B) The electioneering communication was created,  
17 produced, or distributed at the suggestion of the person paying for the  
18 communication, and the candidate or his or her agent, candidate's committee  
19 or its agent, or political party or its agent assents to the suggestion;

20 (C) The candidate or his or her agent, the candidate's  
21 committee or its agent, or the political party or its agent was materially  
22 involved in decisions regarding the content, intended audience, means or mode  
23 of the electioneering communication, specific media outlet used, timing or  
24 frequency, or size or prominence of the electioneering communication; or

25 (D) The electioneering communication was created,  
26 produced, or distributed after one or more substantial discussions about the  
27 communication between the person paying for the communication or the  
28 employees or agents of that person and the candidate or his or her agent,  
29 candidate's committee or its agent, candidate's opponent or his or her agent,  
30 candidate's opponent's committee or its agent, or political party or its  
31 agent.

32 (d)(1) A person or an entity is an authorized agent of a candidate,  
33 candidate's committee, or political party under this section if the person or  
34 entity:

35 (A) Has actual authorization, either expressed or implied,  
36 from a specific principal to engage in specific activities; and

1 (B) Engages in the activities on behalf of that specific  
2 principal.

3 (2) If the activities carried out by an authorized agent would  
4 result in a coordinated electioneering communication if carried out directly  
5 by the candidate, authorized committee staff, or a political party official,  
6 the activities of the authorized agent result in a coordinated electioneering  
7 communication.

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9 7-6-229. Reporting and disclosure of electioneering communication.

10 (a)(1) A person who has made an electioneering communication using an  
11 aggregate amount exceeding five thousand dollars (\$5,000) in one (1) calendar  
12 year shall file a statement with the Secretary of State within three (3) days  
13 of the disclosure date but no later than the close of business on the day  
14 before the election.

15 (2) The statement shall be filed under penalty of false swearing  
16 and shall disclose the following:

17 (A) The identification, including the name, address, and  
18 phone number, of the person who made the disbursement or who executed a  
19 contract to make a disbursement, and, if the person is not an individual, the  
20 person's principal place of business with name, address, and phone number;

21 (B) The identification, including the name, address, and  
22 phone number, of any person sharing or exercising direction or control over  
23 the activities of the person who made the disbursement or who executed a  
24 contract to make a disbursement;

25 (C) The identification, including the name, address, and  
26 phone number, of the custodian of the books and accounts from which the  
27 disbursements were made;

28 (D)(i) The amount of each disbursement, or amount  
29 obligated, of more than one hundred dollars (\$100) during the period covered  
30 by the statement, the date the disbursement was made, or the contract was  
31 executed, and the identification of the person to whom that disbursement was  
32 made.

33 (ii) The disclosure under subdivision (a)(2)(D)(i)  
34 of this section shall include without limitation the direct costs of  
35 producing or airing an electioneering communication;

36 (E) All clearly identified candidates referred to in the

1 electioneering communication and the elections in which they are candidates;

2 (F) The disclosure date;

3 (G) If the disbursements were paid exclusively from a  
4 segregated bank account established to pay for electioneering communications,  
5 consisting of funds provided solely by individuals who are United States  
6 citizens, the name and address of and the amount contributed by each person  
7 who made a contribution or contributions which, in the aggregate, exceed one  
8 hundred dollars (\$100) or more to the person making the disbursement,  
9 aggregating since the first day of the preceding calendar year; and

10 (H) If the disbursements were not paid exclusively from a  
11 segregated bank account established to pay for the electioneering  
12 communications, the name and address of and amount contributed by each person  
13 who made a contribution or contributions which, in the aggregate, exceed two  
14 hundred fifty dollars (\$250) or more to the person making the disbursement,  
15 aggregating since the first day of the preceding calendar year.

16 (3) A written affirmation shall be filed with the statement that  
17 shall indicate:

18 (A) Whether the electioneering communication is in support  
19 of or in opposition to a candidate;

20 (B) The name and office sought by the candidate under  
21 subdivision (a)(2)(A) of this section; and

22 (C) A certification sworn under penalty of false swearing  
23 whether the electioneering communication was made in cooperation,  
24 consultation, or concert with or at the request or suggestion of a candidate  
25 or the candidate's authorized committee or agent.

26 (b) A person that makes an electioneering communication that is an  
27 independent expenditure:

28 (1) Shall file an independent expenditure report under § 7-6-  
29 220; and

30 (2) Shall not file an electioneering communication disclosure  
31 under this section.

32 (c) A person who makes an electioneering communication or who accepts  
33 a contribution for the purpose of making an electioneering communication must  
34 maintain records for a period of four (4) years.

35 (d) As used in this section:

36 (1) "Direct costs of producing or airing electioneering

1 communications” means:

2 (A) Costs charged by a vendor, such as studio rental time,  
3 staff salaries, cost of video or audio recording media, and talent; or

4 (B) The cost of airtime on broadcast, cable, or satellite  
5 radio and television stations, studio time, material costs, and the charges  
6 for a broker to purchase the airtime;

7 (2) “Disclosure date” means:

8 (A) The first date on which an electioneering  
9 communication is publicly distributed provided that the person making the  
10 electioneering communication has made one (1) or more disbursements, or has  
11 executed one (1) or more contracts to make disbursements, for the direct  
12 costs of producing or airing one (1) or more electioneering communications  
13 using an aggregate amount in excess of five thousand dollars (\$5,000); or

14 (B) Any other date during the same calendar year on which  
15 an electioneering communication is publicly distributed provided that the  
16 person making the electioneering communication has made one (1) or more  
17 disbursements, or has executed one (1) or more contracts to make  
18 disbursements, for the direct costs of producing or airing one (1) or more  
19 electioneering communications using an aggregate amount in excess of five  
20 thousand dollars (\$5,000) since the most recent disclosure date during such  
21 calendar year; and

22 (3) “Persons sharing or exercising direction or control” means  
23 officers, directors, executive directors or their equivalent, partners, and,  
24 in the case of unincorporated organizations, owners, of the entity or person  
25 making the disbursement for the electioneering communication.

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27 */s/Tucker*  
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