

1 State of Arkansas As Engrossed: H3/6/15 H3/19/15 H3/26/15

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1425

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5 By: Representative Tucker

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For An Act To Be Entitled

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AN ACT TO REQUIRE REPORTING AND DISCLOSURE OF

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ELECTIONEERING COMMUNICATIONS; AND FOR OTHER

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PURPOSES.

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12

13

Subtitle

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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:

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20 SECTION 1. Arkansas Code § 7-6-201 is amended to add additional

21 subdivisions to read as follows:

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(19) "Broadcast, cable, or satellite communication" means a

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communication that is publicly distributed by a broadcast, cable, or

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satellite radio or television station;

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(20)(A) "Electioneering communication" means any broadcast,

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cable, or satellite communication that:

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(i) Refers to a clearly identified candidate for

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public office;

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(ii) Is publicly distributed within:

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(a) Ninety (90) days before a general election

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for the office sought by the candidate; or

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(b) Sixty (60) days before a primary election

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for the office sought by the candidate;

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(iii) Is targeted to the relevant electorate for

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that candidate; and

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(iv) The only reasonable conclusion to be drawn from



1 the presentation and content of the communication is that it is intended to
2 influence the outcome of an election.

3 (B) "Electioneering communication" does not include any
4 communication that:

5 (i) Is publicly disseminated through a means of
6 communication other than a broadcast, cable, or satellite communication such
7 as:

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

11 (b) Communications over the Internet,
12 including electronic mail; or

13 (c) Telephone communications;

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

18 (iii) Constitutes an expenditure that is reported as
19 required under this subchapter, including without limitation expenditures
20 reported by candidates, political action committees, and political parties;

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

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

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

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

36 (23) "Targeted to the relevant electorate" means the

1 communication can be seen or heard:

2 (A) By at least twenty-five thousand (25,000) viewers or
3 listeners in the state, in the case of a candidate for statewide office;

4 (B) By at least ten percent (10%) of the county,
5 municipality, or district population, in the case of a candidate for a county
6 office, municipal office, school district board of directors, or other
7 district office that is not the Senate or the House of Representatives; or

8 (C) By at least two thousand five hundred (2,500) viewers
9 or listeners in the district, in the case of a candidate for the Senate or
10 the House of Representatives.

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12 SECTION 2. Arkansas Code Title 7, Chapter 6, Subchapter 2, is amended
13 to add additional sections to read as follows:

14 7-6-228. Coordinated communications.

15 (a)(1) A coordinated communication is an in-kind contribution to the
16 candidate or political party who or to the candidate or political party whose
17 authorized committee or agent cooperated, consulted, requested, suggested, or
18 acted in concert with:

19 (A) The person making the coordinated communication or his
20 or her authorized agent; or

21 (B) The person making the expenditure for the coordinated
22 communication or his or her authorized agent.

23 (2) The in-kind contribution under subdivision (a)(1) of this
24 section shall be subject to the contribution limits set forth under § 7-6-
25 203.

26 (b) As used in this section coordinated communication means an
27 electioneering communication or communication funded by expenditures that
28 contain express advocacy made:

29 (1) In cooperation or consultation between:

30 (A) A candidate or his or her authorized committee or
31 agent; and

32 (B) The person making the:

33 (i) Communication or his or her authorized agent; or

34 (ii) Expenditure for the communication or his or her
35 authorized agent.

36 (2) In cooperation or consultation between:

- 1 (A) A political party or its authorized agent; and
2 (B) The person making the:
3 (i) Communication or his or her authorized agent; or
4 (ii) Expenditure for the communication or his or her
5 authorized agent.
- 6 (3) In concert with or at the request or suggestion of a
7 candidate or his or her authorized committee or agent; or
- 8 (4) In concert with or at the request or suggestion of a
9 political party or its authorized agent.
- 10 (c) In making a determination as to whether a communication is a
11 coordinated communication, the Arkansas Ethics Commission shall consider:
- 12 (1) Whether the coordinated communication was paid for, in whole
13 or in part, by someone other than the candidate or his or her agent, the
14 candidate's authorized committee or its agent, or a political party or its
15 agent;
- 16 (2) Whether the content of the coordinated communication:
- 17 (A) Expressly advocates the election or defeat of a
18 clearly identified candidate for office;
- 19 (B) Meets the definition of electioneering communication;
20 or
- 21 (C) Is a public communication that republishes,
22 disseminates, or distributes, in whole, campaign materials prepared by a
23 candidate or a candidate's campaign committee; and
- 24 (3) Whether the conduct of the coordinated communication meets
25 one of the following standards:
- 26 (A) The coordinated communication was created, produced,
27 or distributed at the request or suggestion of the candidate or his or her
28 agent, candidate's committee or its agent, or political party or its agent;
- 29 (B) The coordinated communication was created, produced,
30 or distributed at the suggestion of the person paying for the communication,
31 and the candidate or his or her agent, candidate's committee or its agent, or
32 political party or its agent approves the suggestion;
- 33 (C) The candidate or his or her agent, the candidate's
34 committee or its agent, or the political party or its agent was materially
35 involved in decisions regarding the content, intended audience, means or mode
36 of the coordinated communication, specific media outlet used, timing or

1 frequency, or size or prominence of the coordinated communication; or

2 (D) The coordinated communication was created, produced,
3 or distributed after one or more substantial discussions about the
4 communication between the person paying for the communication or the
5 employees or agents of that person and the candidate or his or her agent,
6 candidate's committee or its agent, candidate's opponent or his or her agent,
7 candidate's opponent's committee or its agent, or political party or its
8 agent.

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

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

14 (B) Engages in the activities on behalf of that specific
15 principal.

16 (2) If the activities carried out by an authorized agent would
17 result in a coordinated communication if carried out directly by the
18 candidate, authorized committee staff, or a political party official, the
19 activities of the authorized agent result in a coordinated communication.

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21 SECTION 3. DO NOT CODIFY. Severability.

22 If any provision of this act is held invalid, illegal, or
23 unenforceable, the validity, legality, or enforceability of the remaining
24 provisions shall not be affected or impaired.

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26 /s/Tucker
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