

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1288
94TH GENERAL ASSEMBLY

Reported from the Committee on Elections April 16, 2008 with recommendation that House Committee Substitute for Senate Bill No. 1288 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

5405L.04C

AN ACT

To repeal sections 105.473 and 130.032, RSMo, and to enact in lieu thereof three new sections relating to ethics, with an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 105.473 and 130.032, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 105.459, 105.473, and 130.032, to read as
3 follows:

105.459. 1. No executive branch employee shall solicit or accept, directly or
2 **indirectly, on behalf of the employee or any member of the employee's household, any gift,**
3 **including but not limited to any gratuity, service, favor, food, entertainment, lodging,**
4 **transportation, loan, loan guarantee, or any other thing of monetary value, from any**
5 **person or entity that is registered in this state as a lobbyist as defined in section 105.470.**

6 **2. The prohibition in subsection 1 of this section shall not apply to the following:**

7 **(1) A gift given by a member of the employee's immediate family, or by an**
8 **individual if the gift is given for a nonbusiness purpose and is motivated by a close personal**
9 **friendship and not by the position of the employee;**

10 **(2) Informational materials in the form of books, articles, periodicals, other written**
11 **materials, audiotapes, videotapes, or other forms of communication, and travel and lodging**
12 **expenses in connection with a fact-finding, economic development, or educational trip**
13 **sponsored by a bona fide organization;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (3) Sample merchandise, promotional items, appreciation tokens if they are
15 routinely given to customers, suppliers, or potential customers or suppliers in the ordinary
16 course of business, unsolicited tokens or awards of appreciation, honorary degrees, bona
17 fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall
18 memento, and similar items provided that such items shall not be in a form that can be
19 readily converted to cash, and modest items or tokens given by an organization as a display
20 of that organization's esteem when it would be awkward or rude to refuse, such as t-shirts,
21 ball caps, coffee mugs, or similar items;

22 (4) Modest items of food and refreshments such as soft drinks, coffee, and
23 doughnuts offered other than as part of a meal;

24 (5) Food, refreshments, meals, foodstuffs, entertainment, beverages, or intrastate
25 travel expenses that are provided in connection with an event where the employee is a
26 speaker or part of a panel discussion at a scheduled meeting or an established or
27 recognized membership organization that has regular meetings;

28 (6) Loans from established financial institutions made in the ordinary course of
29 business on usual and customary items, so long as there are no guarantees or collateral
30 provided by a registered lobbyist as defined in section 105.470;

31 (7) Anything for which market value is paid by the employee.

32 3. No employee violates this section if the employee:

33 (1) Did not know that the gift was paid for by a lobbyist registered in this state and
34 the employee takes reasonable remedial action, including but not limited to returning the
35 gift, paying market value for the gift, or donating the gift to a nonprofit or charitable
36 organization; or

37 (2) Did not actually receive a gift that was erroneously reported on a lobbyist report
38 filed with the Missouri ethics commission. In a case where an erroneous lobbyist report
39 is filed, the employee shall take appropriate steps to ensure that a correction in the report
40 is made.

105.473. 1. Each lobbyist shall, not later than January fifth of each year or five days
2 after beginning any activities as a lobbyist, file standardized registration forms, verified by a
3 written declaration that it is made under the penalties of perjury, along with a filing fee of ten
4 dollars, with the commission. The forms shall include the lobbyist's name and business address,
5 the name and address of all persons such lobbyist employs for lobbying purposes, the name and
6 address of each lobbyist principal by whom such lobbyist is employed or in whose interest such
7 lobbyist appears or works. The commission shall maintain files on all lobbyists' filings, which
8 shall be open to the public. Each lobbyist shall file an updating statement under oath within one
9 week of any addition, deletion, or change in the lobbyist's employment or representation. The

10 filing fee shall be deposited to the general revenue fund of the state. The lobbyist principal or
11 a lobbyist employing another person for lobbying purposes may notify the commission that a
12 judicial, executive or legislative lobbyist is no longer authorized to lobby for the principal or the
13 lobbyist and should be removed from the commission's files.

14 2. Each person shall, before giving testimony before any committee of the general
15 assembly, give to the secretary of such committee such person's name and address and the
16 identity of any lobbyist or organization, if any, on whose behalf such person appears. A person
17 who is not a lobbyist as defined in section 105.470 shall not be required to give such person's
18 address if the committee determines that the giving of such address would endanger the person's
19 physical health.

20 3. (1) During any period of time in which a lobbyist continues to act as an executive
21 lobbyist, judicial lobbyist, legislative lobbyist, or elected local government official lobbyist, the
22 lobbyist shall file with the commission on standardized forms prescribed by the commission
23 monthly reports which shall be due at the close of business on the tenth day of the following
24 month;

25 (2) Each report filed pursuant to this subsection shall include a statement, verified by a
26 written declaration that it is made under the penalties of perjury, setting forth the following:

27 (a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on
28 behalf of all public officials, their staffs and employees, and their spouses and dependent
29 children, which expenditures shall be separated into at least the following categories by the
30 executive branch, judicial branch and legislative branch of government: printing and publication
31 expenses; media and other advertising expenses; travel; the time, venue, and nature of any
32 entertainment; honoraria; meals, food and beverages; and gifts;

33 (b) The total of all expenditures by the lobbyist or his or her lobbyist principals made on
34 behalf of all elected local government officials, their staffs and employees, and their spouses and
35 children. Such expenditures shall be separated into at least the following categories: printing
36 and publication expenses; media and other advertising expenses; travel; the time, venue, and
37 nature of any entertainment; honoraria; meals; food and beverages; and gifts;

38 (c) An itemized listing of the name of the recipient and the nature and amount of each
39 expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of
40 value, for all expenditures made during any reporting period, paid or provided to or for a public
41 official or elected local government official, such official's staff, employees, spouse or dependent
42 children;

43 (d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions
44 and the identity of the group invited, the date and description of the occasion and the amount of
45 the expenditure for each occasion when any of the following are invited in writing:

- 46 a. All members of the senate;
47 b. All members of the house of representatives;
48 c. All members of a joint committee of the general assembly or a [standing] committee
49 of either the house of representatives or senate; or
50 d. All members of a caucus of the majority party of the house of representatives, minority
51 party of the house of representatives, majority party of the senate, or minority party of the senate;
52 (e) Any expenditure made on behalf of a public official, an elected local government
53 official or such official's staff, employees, spouse or dependent children, if such expenditure is
54 solicited by such official, the official's staff, employees, or spouse or dependent children, from
55 the lobbyist or his or her lobbyist principals and the name of such person or persons, except any
56 expenditures made to any not-for-profit corporation, charitable, fraternal or civic organization
57 or other association formed to provide for good in the order of benevolence;
58 (f) A statement detailing any direct business relationship or association or partnership
59 the lobbyist has with any public official or elected local government official.

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61 The reports required by this subdivision shall cover the time periods since the filing of the last
62 report or since the lobbyist's employment or representation began, whichever is most recent.

63 4. No expenditure reported pursuant to this section shall include any amount expended
64 by a lobbyist or lobbyist principal on himself or herself. All expenditures disclosed pursuant to
65 this section shall be valued on the report at the actual amount of the payment made, or the
66 charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the
67 lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures
68 of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of
69 such lobbyists. No expenditure shall be made on behalf of a state senator or state representative,
70 or such public official's staff, employees, spouse, or dependent children for travel or lodging
71 outside the state of Missouri unless such travel or lodging was approved prior to the date of the
72 expenditure by the administration and accounts committee of the house or the administration
73 committee of the senate.

74 5. Any lobbyist principal shall provide in a timely fashion whatever information is
75 reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by
76 this section.

77 6. All information required to be filed pursuant to the provisions of this section with the
78 commission shall be kept available by the executive director of the commission at all times open
79 to the public for inspection and copying for a reasonable fee for a period of five years from the
80 date when such information was filed.

81 7. No person shall knowingly employ any person who is required to register as a
82 registered lobbyist but is not registered pursuant to this section. Any person who knowingly
83 violates this subsection shall be subject to a civil penalty in an amount of not more than ten
84 thousand dollars for each violation. Such civil penalties shall be collected by action filed by the
85 commission.

86 8. No lobbyist shall knowingly omit, conceal, or falsify in any manner information
87 required pursuant to this section.

88 9. The prosecuting attorney of Cole County shall be reimbursed only out of funds
89 specifically appropriated by the general assembly for investigations and prosecutions for
90 violations of this section.

91 10. Any public official or other person whose name appears in any lobbyist report filed
92 pursuant to this section who contests the accuracy of the portion of the report applicable to such
93 person may petition the commission for an audit of such report and shall state in writing in such
94 petition the specific disagreement with the contents of such report. The commission shall
95 investigate such allegations in the manner described in section 105.959. If the commission
96 determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter
97 an order requiring filing of an amended or corrected report.

98 11. The commission shall provide a report listing the total spent by a lobbyist for the
99 month and year to any member or member-elect of the general assembly, judge or judicial
100 officer, or any other person holding an elective office of state government or any elected local
101 government official on or before the twentieth day of each month. For the purpose of providing
102 accurate information to the public, the commission shall not publish information in either written
103 or electronic form for ten working days after providing the report pursuant to this subsection.
104 The commission shall not release any portion of the lobbyist report if the accuracy of the report
105 has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked
106 "Under Review".

107 12. [Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose
108 behalf the lobbyist acted, shall provide a general description of the proposed legislation or action
109 by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or
110 opposed. This information shall be supplied to the commission on March fifteenth and May
111 thirtieth of each year.

112 13.] The provisions of this section shall supersede any contradicting ordinances or
113 charter provisions.

 130.032. 1. In addition to the limitations imposed pursuant to section 130.031, the
2 amount of contributions made by or accepted from any person other than the candidate in any
3 one election shall not exceed the following:

4 (1) To elect an individual to the office of governor, lieutenant governor, secretary of
5 state, state treasurer, state auditor or attorney general, one thousand dollars;

6 (2) To elect an individual to the office of state senator, five hundred dollars;

7 (3) To elect an individual to the office of state representative, two hundred fifty dollars;

8 (4) To elect an individual to any other office, including judicial office, if the population
9 of the electoral district, ward, or other unit according to the latest decennial census is under one
10 hundred thousand, two hundred fifty dollars;

11 (5) To elect an individual to any other office, including judicial office, if the population
12 of the electoral district, ward, or other unit according to the latest decennial census is at least one
13 hundred thousand but less than two hundred fifty thousand, five hundred dollars; and

14 (6) To elect an individual to any other office, including judicial office, if the population
15 of the electoral district, ward, or other unit according to the latest decennial census is at least two
16 hundred fifty thousand, one thousand dollars.

17 2. For purposes of this subsection "base year amount" shall be the contribution limits
18 prescribed in this section on January 1, 1995. Such limits shall be increased on the first day of
19 January in each even-numbered year by multiplying the base year amount by the cumulative
20 consumer price index, as defined in section 104.010, RSMo, and rounded to the nearest twenty-
21 five-dollar amount, for all years since January 1, 1995.

22 3. Candidate committees, exploratory committees, campaign committees and continuing
23 committees, other than those continuing committees which are political party committees, shall
24 be subject to the limits prescribed in subsection 1 of this section. The provisions of this
25 subsection shall not limit the amount of contributions which may be accumulated by a candidate
26 committee and used for expenditures to further the nomination or election of the candidate who
27 controls such candidate committee, except as provided in section 130.052.

28 4. Except as limited by this subsection, the amount of cash contributions, and a separate
29 amount for the amount of in-kind contributions, made by or accepted from a political party
30 committee in any one election shall not exceed the following:

31 (1) To elect an individual to the office of governor, lieutenant governor, secretary of
32 state, state treasurer, state auditor or attorney general, ten thousand dollars;

33 (2) To elect an individual to the office of state senator, five thousand dollars;

34 (3) To elect an individual to the office of state representative, two thousand five hundred
35 dollars; and

36 (4) To elect an individual to any other office of an electoral district, ward or unit, ten
37 times the allowable contribution limit for the office sought. The amount of contributions which
38 may be made by or accepted from a political party committee in the primary election to elect any

39 candidate who is unopposed in such primary shall be fifty percent of the amount of the allowable
40 contributions as determined in this subsection.

41 5. Contributions from persons under fourteen years of age shall be considered made by
42 the parents or guardians of such person and shall be attributed toward any contribution limits
43 prescribed in this chapter. Where the contributor under fourteen years of age has two custodial
44 parents or guardians, fifty percent of the contribution shall be attributed to each parent or
45 guardian, and where such contributor has one custodial parent or guardian, all such contributions
46 shall be attributed to the custodial parent or guardian.

47 6. Contributions received and expenditures made prior to January 1, 1995, shall be
48 reported as a separate account and pursuant to the laws in effect at the time such contributions
49 are received or expenditures made. Contributions received and expenditures made after January
50 1, 1995, shall be reported as a separate account from the aforementioned account and pursuant
51 to the provisions of this chapter. The account reported pursuant to the prior law shall be retained
52 as a separate account and any remaining funds in such account may be used pursuant to this
53 chapter and section 130.034.

54 7. Any committee which accepts or gives contributions other than those allowed shall
55 be subject to a surcharge of one thousand dollars plus an amount equal to the contribution per
56 nonallowable contribution, to be paid to the ethics commission and which shall be transferred
57 to the director of revenue, upon notification of such nonallowable contribution by the ethics
58 commission, and after the candidate has had ten business days after receipt of notice to return
59 the contribution to the contributor. The candidate and the candidate committee treasurer or
60 deputy treasurer owing a surcharge shall be personally liable for the payment of the surcharge
61 or may pay such surcharge only from campaign funds existing on the date of the receipt of
62 notice. Such surcharge shall constitute a debt to the state enforceable under, but not limited to,
63 the provisions of chapter 143, RSMo. **Any committee which is unable to return a**
64 **nonallowable contribution to a contributor because the contributor:**

65 **(1) Cannot be located following a reasonable attempt to locate the contributor;**

66 **(2) Returns the nonallowable contribution or otherwise refuses acceptance of the**
67 **nonallowable contribution; or**

68 **(3) Is a committee which has terminated;**

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70 **may transfer the nonallowable contribution to the director of revenue for deposit to the**
71 **general revenue of the state, or may make an unconditional gift which is fully vested to any**
72 **charitable, fraternal, or civic organization or association formed to provide for some good**
73 **in the order of benevolence as set forth in subdivision (7) of subsection 2 of section 130.034.**

Section B. Because immediate action is necessary to preserve transparency in the
2 financing of campaigns, the repeal and reenactment of section 130.032 of section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the repeal and reenactment of section 130.032 of section A of this act shall be in full force and
6 effect upon its passage and approval.

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