

FIRST REGULAR SESSION

HOUSE BILL NO. 196

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KENDRICK.

0484H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 130.011 and 130.047, RSMo, and to enact in lieu thereof three new sections relating to ethics, with penalty provisions.

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

Section A. Sections 130.011 and 130.047, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 130.011, 130.047, and 355.077, to read as
3 follows:

130.011. As used in this chapter, unless the context clearly indicates otherwise, the
2 following terms mean:

3 (1) "Appropriate officer" or "appropriate officers", the person or persons designated in
4 section 130.026 to receive certain required statements and reports;

5 (2) "Ballot measure" or "measure", any proposal submitted or intended to be submitted
6 to qualified voters for their approval or rejection, including any proposal submitted by initiative
7 petition, referendum petition, or by the general assembly or any local governmental body having
8 authority to refer proposals to the voter;

9 (3) "Candidate", an individual who seeks nomination or election to public office. The
10 term "candidate" includes an elected officeholder who is the subject of a recall election, an
11 individual who seeks nomination by the individual's political party for election to public office,
12 an individual standing for retention in an election to an office to which the individual was
13 previously appointed, an individual who seeks nomination or election whether or not the specific
14 elective public office to be sought has been finally determined by such individual at the time the
15 individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an

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.

16 individual who is a write-in candidate as defined in subdivision (28) of this section. A candidate
17 shall be deemed to seek nomination or election when the person first:

18 (a) Receives contributions or makes expenditures or reserves space or facilities with
19 intent to promote the person's candidacy for office; or

20 (b) Knows or has reason to know that contributions are being received or expenditures
21 are being made or space or facilities are being reserved with the intent to promote the person's
22 candidacy for office; except that, such individual shall not be deemed a candidate if the person
23 files a statement with the appropriate officer within five days after learning of the receipt of
24 contributions, the making of expenditures, or the reservation of space or facilities disavowing
25 the candidacy and stating that the person will not accept nomination or take office if elected;
26 provided that, if the election at which such individual is supported as a candidate is to take place
27 within five days after the person's learning of the above-specified activities, the individual shall
28 file the statement disavowing the candidacy within one day; or

29 (c) Announces or files a declaration of candidacy for office;

30 (4) "Cash", currency, coin, United States postage stamps, or any negotiable instrument
31 which can be transferred from one person to another person without the signature or endorsement
32 of the transferor;

33 (5) "Check", a check drawn on a state or federal bank, or a draft on a negotiable order
34 of withdrawal account in a savings and loan association or a share draft account in a credit union;

35 (6) "Closing date", the date through which a statement or report is required to be
36 complete;

37 (7) "Committee", a person or any combination of persons, who accepts contributions or
38 makes expenditures for the primary or incidental purpose of influencing or attempting to
39 influence the action of voters for or against the nomination or election to public office of one or
40 more candidates or the qualification, passage or defeat of any ballot measure or for the purpose
41 of paying a previously incurred campaign debt or obligation of a candidate or the debts or
42 obligations of a committee or for the purpose of contributing funds to another committee:

43 (a) "Committee", does not include:

44 a. A person or combination of persons, if neither the aggregate of expenditures made nor
45 the aggregate of contributions received during a calendar year exceeds five hundred dollars and
46 if no single contributor has contributed more than two hundred fifty dollars of such aggregate
47 contributions;

48 b. An individual, other than a candidate, who accepts no contributions and who deals
49 only with the individual's own funds or property;

50 c. A corporation, cooperative association, partnership, proprietorship, or joint venture
51 organized or operated for a primary or principal purpose other than that of influencing or

52 attempting to influence the action of voters for or against the nomination or election to public
53 office of one or more candidates or the qualification, passage or defeat of any ballot measure, and
54 it accepts no contributions, and all expenditures it makes are from its own funds or property
55 obtained in the usual course of business or in any commercial or other transaction and which are
56 not contributions as defined by subdivision (12) of this section;

57 d. A labor organization organized or operated for a primary or principal purpose other
58 than that of influencing or attempting to influence the action of voters for or against the
59 nomination or election to public office of one or more candidates, or the qualification, passage,
60 or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the
61 organization are from its own funds or property received from membership dues or membership
62 fees which were given or solicited for the purpose of supporting the normal and usual activities
63 and functions of the organization and which are not contributions as defined by subdivision (12)
64 of this section;

65 e. A person who acts as an authorized agent for a committee in soliciting or receiving
66 contributions or in making expenditures or incurring indebtedness on behalf of the committee
67 if such person renders to the committee treasurer or deputy treasurer or candidate, if applicable,
68 an accurate account of each receipt or other transaction in the detail required by the treasurer to
69 comply with all record-keeping and reporting requirements of this chapter;

70 f. Any department, agency, board, institution or other entity of the state or any of its
71 subdivisions or any officer or employee thereof, acting in the person's official capacity;

72 (b) The term "committee" includes, but is not limited to, each of the following
73 committees: campaign committee, candidate committee, continuing committee and political
74 party committee;

75 (8) "Campaign committee", a committee, other than a candidate committee, which shall
76 be formed by an individual or group of individuals to receive contributions or make expenditures
77 and whose sole purpose is to support or oppose the qualification and passage of one or more
78 particular ballot measures in an election or the retention of judges under the nonpartisan court
79 plan, such committee shall be formed no later than thirty days prior to the election for which the
80 committee receives contributions or makes expenditures, and which shall terminate the later of
81 either thirty days after the general election or upon the satisfaction of all committee debt after
82 the general election, except that no committee retiring debt shall engage in any other activities
83 in support of a measure for which the committee was formed;

84 (9) "Candidate committee", a committee which shall be formed by a candidate to receive
85 contributions or make expenditures in behalf of the person's candidacy and which shall continue
86 in existence for use by an elected candidate or which shall terminate the later of either thirty days
87 after the general election for a candidate who was not elected or upon the satisfaction of all

88 committee debt after the election, except that no committee retiring debt shall engage in any
89 other activities in support of the candidate for which the committee was formed. Any candidate
90 for elective office shall have only one candidate committee for the elective office sought, which
91 is controlled directly by the candidate for the purpose of making expenditures. A candidate
92 committee is presumed to be under the control and direction of the candidate unless the candidate
93 files an affidavit with the appropriate officer stating that the committee is acting without control
94 or direction on the candidate's part;

95 (10) "Continuing committee", a committee of continuing existence which is not formed,
96 controlled or directed by a candidate, and is a committee other than a candidate committee or
97 campaign committee, whose primary or incidental purpose is to receive contributions or make
98 expenditures to influence or attempt to influence the action of voters whether or not a particular
99 candidate or candidates or a particular ballot measure or measures to be supported or opposed
100 has been determined at the time the committee is required to file any statement or report pursuant
101 to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any
102 committee organized or sponsored by a business entity, a labor organization, a professional
103 association, a trade or business association, a club or other organization and whose primary
104 purpose is to solicit, accept and use contributions from the members, employees or stockholders
105 of such entity and any individual or group of individuals who accept and use contributions to
106 influence or attempt to influence the action of voters. Such committee shall be formed no later
107 than sixty days prior to the election for which the committee receives contributions or makes
108 expenditures;

109 (11) "Connected organization", any organization such as a corporation, a labor
110 organization, a membership organization, a cooperative, or trade or professional association
111 which expends funds or provides services or facilities to establish, administer or maintain a
112 committee or to solicit contributions to a committee from its members, officers, directors,
113 employees or security holders. An organization shall be deemed to be the connected
114 organization if more than fifty percent of the persons making contributions to the committee
115 during the current calendar year are members, officers, directors, employees or security holders
116 of such organization or their spouses;

117 (12) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or
118 anything of value for the purpose of supporting or opposing the nomination or election of any
119 candidate for public office or the qualification, passage or defeat of any ballot measure, or for
120 the support of any committee supporting or opposing candidates or ballot measures or for paying
121 debts or obligations of any candidate or committee previously incurred for the above purposes.
122 A contribution of anything of value shall be deemed to have a money value equivalent to the fair
123 market value. "Contribution" includes, but is not limited to:

- 124 (a) A candidate's own money or property used in support of the person's candidacy other
125 than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the
126 filing for public office;
- 127 (b) Payment by any person, other than a candidate or committee, to compensate another
128 person for services rendered to that candidate or committee;
- 129 (c) Receipts from the sale of goods and services, including the sale of advertising space
130 in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets
131 or political merchandise;
- 132 (d) Receipts from fund-raising events including testimonial affairs;
- 133 (e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other
134 obligation by a third party, or payment of a loan or debt or other obligation by a third party if the
135 loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in
136 an election campaign or used or intended for the payment of such debts or obligations of a
137 candidate or committee previously incurred, or which was made or received by a committee;
- 138 (f) Funds received by a committee which are transferred to such committee from another
139 committee or other source, except funds received by a candidate committee as a transfer of funds
140 from another candidate committee controlled by the same candidate but such transfer shall be
141 included in the disclosure reports;
- 142 (g) Facilities, office space or equipment supplied by any person to a candidate or
143 committee without charge or at reduced charges, except gratuitous space for meeting purposes
144 which is made available regularly to the public, including other candidates or committees, on an
145 equal basis for similar purposes on the same conditions;
- 146 (h) The direct or indirect payment by any person, other than a connected organization,
147 of the costs of establishing, administering, or maintaining a committee, including legal,
148 accounting and computer services, fund raising and solicitation of contributions for a committee;
- 149 (i) "Contribution" does not include:
- 150 a. Ordinary home hospitality or services provided without compensation by individuals
151 volunteering their time in support of or in opposition to a candidate, committee or ballot
152 measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the
153 performance of voluntary activities, so long as no compensation is directly or indirectly asked
154 or given;
- 155 b. An offer or tender of a contribution which is expressly and unconditionally rejected
156 and returned to the donor within ten business days after receipt or transmitted to the state
157 treasurer;
- 158 c. Interest earned on deposit of committee funds;

159 d. The costs incurred by any connected organization listed pursuant to subdivision [(4)]
160 (5) of subsection 5 of section 130.021 for establishing, administering or maintaining a
161 committee, or for the solicitation of contributions to a committee which solicitation is solely
162 directed or related to the members, officers, directors, employees or security holders of the
163 connected organization;

164 (13) "County", any one of the several counties of this state or the city of St. Louis;

165 (14) "Disclosure report", an itemized report of receipts, expenditures and incurred
166 indebtedness which is prepared on forms approved by the Missouri ethics commission and filed
167 at the times and places prescribed;

168 (15) "Election", any primary, general or special election held to nominate or elect an
169 individual to public office, to retain or recall an elected officeholder or to submit a ballot
170 measure to the voters, and any caucus or other meeting of a political party or a political party
171 committee at which that party's candidate or candidates for public office are officially selected.
172 A primary election and the succeeding general election shall be considered separate elections;

173 (16) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution
174 of money or anything of value for the purpose of supporting or opposing the nomination or
175 election of any candidate for public office or the qualification or passage of any ballot measure
176 or for the support of any committee which in turn supports or opposes any candidate or ballot
177 measure or for the purpose of paying a previously incurred campaign debt or obligation of a
178 candidate or the debts or obligations of a committee; a payment, or an agreement or promise to
179 pay, money or anything of value, including a candidate's own money or property, for the
180 purchase of goods, services, property, facilities or anything of value for the purpose of supporting
181 or opposing the nomination or election of any candidate for public office or the qualification or
182 passage of any ballot measure or for the support of any committee which in turn supports or
183 opposes any candidate or ballot measure or for the purpose of paying a previously incurred
184 campaign debt or obligation of a candidate or the debts or obligations of a committee. An
185 expenditure of anything of value shall be deemed to have a money value equivalent to the fair
186 market value. "Expenditure" includes, but is not limited to:

187 (a) Payment by anyone other than a committee for services of another person rendered
188 to such committee;

189 (b) The purchase of tickets, goods, services or political merchandise in connection with
190 any testimonial affair or fund-raising event of or for candidates or committees, or the purchase
191 of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

192 (c) The transfer of funds by one committee to another committee;

193 (d) The direct or indirect payment by any person, other than a connected organization
194 for a committee, of the costs of establishing, administering or maintaining a committee,

195 including legal, accounting and computer services, fund raising and solicitation of contributions
196 for a committee; but

197 (e) "Expenditure" does not include:

198 a. Any news story, commentary or editorial which is broadcast or published by any
199 broadcasting station, newspaper, magazine or other periodical without charge to the candidate
200 or to any person supporting or opposing a candidate or ballot measure;

201 b. The internal dissemination by any membership organization, proprietorship, labor
202 organization, corporation, association or other entity of information advocating the election or
203 defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to
204 its directors, officers, members, employees or security holders, provided that the cost incurred
205 is reported pursuant to subsection 2 of section 130.051;

206 c. Repayment of a loan, but such repayment shall be indicated in required reports;

207 d. The rendering of voluntary personal services by an individual of the sort commonly
208 performed by volunteer campaign workers and the payment by such individual of the individual's
209 necessary and ordinary personal expenses incidental to such volunteer activity, provided no
210 compensation is, directly or indirectly, asked or given;

211 e. The costs incurred by any connected organization listed pursuant to subdivision [(4)]
212 (5) of subsection 5 of section 130.021 for establishing, administering or maintaining a
213 committee, or for the solicitation of contributions to a committee which solicitation is solely
214 directed or related to the members, officers, directors, employees or security holders of the
215 connected organization;

216 f. The use of a candidate's own money or property for expense of the candidate's personal
217 food, lodging, travel, and payment of any fee necessary to the filing for public office, if such
218 expense is not reimbursed to the candidate from any source;

219 (17) "Exploratory ~~committees~~ committee", a committee which shall be formed by an
220 individual to receive contributions and make expenditures on behalf of this individual in
221 determining whether or not the individual seeks elective office. Such committee shall terminate
222 no later than December thirty-first of the year prior to the general election for the possible office;

223 (18) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee,
224 testimonial, rally, auction or similar affair through which contributions are solicited or received
225 by such means as the purchase of tickets, payment of attendance fees, donations for prizes or
226 through the purchase of goods, services or political merchandise;

227 (19) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a
228 form other than money. **The term "in-kind contribution" or "in-kind expenditure" shall**
229 **include, with respect to corporations regulated under chapter 355 and any foreign**

230 **nonprofit corporations, any contributions or expenditures made by such corporations for**
231 **the purpose of supporting or opposing a candidate for office or a ballot measure;**

232 (20) "Labor organization", any organization of any kind, or any agency or employee
233 representation committee or plan, in which employees participate and which exists for the
234 purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,
235 wages, rates of pay, hours of employment, or conditions of work;

236 (21) "Loan", a transfer of money, property or anything of ascertainable monetary value
237 in exchange for an obligation, conditional or not, to repay in whole or in part and which was
238 contracted, used, or intended for use in an election campaign, or which was made or received by
239 a committee or which was contracted, used, or intended to pay previously incurred campaign
240 debts or obligations of a candidate or the debts or obligations of a committee;

241 (22) "Person", an individual, group of individuals, corporation, partnership, committee,
242 proprietorship, joint venture, any department, agency, board, institution or other entity of the
243 state or any of its political subdivisions, union, labor organization, trade or professional or
244 business association, association, political party or any executive committee thereof, or any other
245 club or organization however constituted or any officer or employee of such entity acting in the
246 person's official capacity;

247 (23) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry,
248 literature, or other items sold or distributed at a fund-raising event or to the general public for
249 publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for
250 nomination or election or in supporting or opposing the qualification, passage or defeat of a
251 ballot measure;

252 (24) "Political party", a political party which has the right under law to have the names
253 of its candidates listed on the ballot in a general election;

254 (25) "Political party committee", a state, district, county, city, or area committee of a
255 political party, as defined in section 115.603, which may be organized as a not-for-profit
256 corporation under Missouri law, and which committee is of continuing existence, and has the
257 primary or incidental purpose of receiving contributions and making expenditures to influence
258 or attempt to influence the action of voters on behalf of the political party;

259 (26) "Public office" or "office", any state, judicial, county, municipal, school or other
260 district, ward, township, or other political subdivision office or any political party office which
261 is filled by a vote of registered voters;

262 (27) "Regular session", includes that period beginning on the first Wednesday after the
263 first Monday in January and ending following the first Friday after the second Monday in May;

264 (28) "Write-in candidate", an individual whose name is not printed on the ballot but who
265 otherwise meets the definition of candidate in subdivision (3) of this section.

130.047. Any person, **including any corporation regulated under chapter 355 and any foreign nonprofit corporation**, who is not a defined committee who makes an expenditure or expenditures aggregating five hundred dollars or more in support of, or opposition to, one or more candidates or in support of, or in opposition to, the qualification or passage of one or more ballot measures, other than a contribution made directly to a candidate or committee, shall file a report signed by the person making the expenditures, or that person's authorized agent. The report shall include the name and address of the person making the expenditure, the date and amount of the expenditure or expenditures, the name and address of the payee, and a description of the nature and purpose of each expenditure. Such report shall be filed with the appropriate officer having jurisdiction over the election of the candidate or ballot measure in question as set forth in section 130.026 no later than fourteen days after the date of making an expenditure which by itself or when added to all other such expenditures during the same campaign equals five hundred dollars or more. If, after filing such report, additional expenditures are made, a further report shall be filed no later than fourteen days after the date of making the additional expenditures; except that, if any such expenditure is made within fourteen days prior to an election, the report shall be filed no later than forty-eight hours after the date of such expenditure. The provisions of this subsection shall not apply to a person who uses only the person's funds or resources to make an expenditure or expenditures in support of or in coordination or consultation with a candidate or committee; provided that, any such expenditure is recorded as a contribution to such candidate or committee and so reported by the candidate or committee being supported by the expenditure or expenditures.

355.077. A corporation regulated under this chapter that makes an in-kind contribution or in-kind expenditure shall:

- (1) Be subject to the contribution and expenditure limitations imposed under Article III, Section 2 and Article VIII, Section 23 of the Constitution of Missouri; and**
- (2) Report the in-kind expenditure in the manner required under section 130.047.**

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