

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 794, Page 4, Section 115.1630, Line 94,
2 by inserting after all of said section and line the following:

3
4 "130.170. For purposes of sections 130.170 to 130.188, the following terms mean:

5 (1) "Committee", the same meaning as otherwise provided in section 130.011, except it shall
6 not include candidate committees;

7 (2) "Directly or indirectly", acting either alone or jointly with, through, or on behalf of any
8 other committee, organization, person, or other entity;

9 (3) "Foreign national", any of the following:

10 (a) An individual who is not a citizen or lawful permanent resident of the United States of
11 America;

12 (b) A government, or subdivision, of a foreign country or municipality thereof;

13 (c) A foreign political party;

14 (d) Any entity, such as a partnership, association, corporation, organization, or other
15 combination of persons, that is organized under the laws of, or has its principal place of business in,
16 a foreign country; or

17 (e) Any entity organized pursuant to the laws of the United States of America or any state
18 thereof that is wholly or majority owned by a person or entity described in paragraphs (a) to (d) of
19 this subdivision, unless:

20 a. Any contribution or expenditure it makes derives entirely from funds generated by the
21 entity's United States operations; and

22 b. All decisions concerning the contribution or expenditure are made by individuals who are
23 United States citizens or lawful permanent residents, except for setting overall budget amounts;

24 (4) "Funds obtained through the usual course of business", funds generated entirely by the
25 entity's United States operations;

26 (5) "Lobbyist", the same meaning as in section 105.470;

27 (6) "Prohibited sources", contributions from or expenditures by a foreign national made with
28 the intent to use such funds to influence an election on a ballot measure;

29 (7) "Preliminary activity", includes, but is not limited to, conducting a poll, drafting ballot
30 measure language, conducting a focus group, making telephone calls, and travel;

Action Taken _____ Date _____

1 (8) "Tax-exempt organization", an organization that is described in section 501(c) of the
2 Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code. A
3 political organization organized pursuant to section 527 of such Code shall not be considered a tax-
4 exempt organization.

5 130.173. 1. Upon creating, forming, or registering a committee, the treasurer shall file an
6 accompanying certification that no preliminary activity was funded by prohibited sources, whether
7 directly or indirectly.

8 2. After a committee has been created, formed, or registered the committee shall not
9 knowingly or willfully receive, solicit, or accept contributions from a prohibited source, whether
10 directly or indirectly.

11 3. Any report filed pursuant to this chapter shall include an affirmation that the committee
12 has not knowingly or willfully received, solicited, or accepted, directly or indirectly, contributions
13 from a prohibited source.

14 4. Any committee or person that makes an expenditure in support of or in opposition to a
15 ballot measure shall keep records of any contribution or expenditure and retain such records in the
16 same manner and for the same period of time as is required by section 130.036.

17 130.176. 1. Upon a committee's receipt of a contribution of more than two thousand dollars,
18 the treasurer shall obtain from the donor an affirmation that the donor is not a foreign national and
19 has not knowingly or willfully accepted funds, directly or indirectly, aggregating in excess of ten
20 thousand dollars from one or more prohibited sources within the two-year period immediately
21 preceding the date the contribution is made, in the case of an individual, or within the four-year
22 period immediately preceding the date the contribution is made, in case of any other entity. Receipt
23 of an affirmation by a committee pursuant to this subsection shall create a rebuttable presumption of
24 compliance with this subsection on the part of the committee. Nothing in this subsection shall
25 prohibit the attorney general from pursuing any action pursuant to section 130.188 if the attorney
26 general has found a willful violation of this subsection.

27 2. Each disclosure report filed pursuant to section 130.041 shall require the treasurer of a
28 committee to affirm that the donor associated with each contribution is not a foreign national and
29 has not knowingly or willfully received, solicited, or accepted, whether directly or indirectly,
30 contributions from one or more prohibited sources aggregating in excess of ten thousand dollars
31 within the four-year period immediately preceding the date of the contribution.

32 3. Within forty-eight hours of making one or more expenditures supporting or opposing a
33 ballot measure, the entity making the expenditure shall affirm to the Missouri ethics commission
34 that it has not knowingly or willfully accepted funds, directly or indirectly, aggregating in excess of
35 ten thousand dollars from one or more prohibited sources within the four-year period immediately
36 preceding the date the expenditure is made and that it will not do so through the remainder of the
37 calendar year in which the ballot measure will appear on the ballot. Each disclosure report filed
38 pursuant to section 130.041 shall require the entity making the expenditure to affirm that it has not
39 knowingly or willfully accepted funds, directly or indirectly, aggregating in excess of ten thousand

1 dollars from one or more prohibited sources within the four-year period immediately preceding the
2 date the expenditure is made. Receipt of an affirmation from a donor that it is not a foreign national
3 shall create a rebuttable presumption that the entity has not knowingly or willingly accepted funds,
4 directly or indirectly, aggregating in excess of ten thousand dollars from one or more prohibited
5 sources. Nothing in this subsection shall prohibit the attorney general from pursuing any action
6 pursuant to section 130.188 if the attorney general has found a willful violation of this subsection.

7 4. Notwithstanding any provision of this section to the contrary, a donor or entity that makes
8 a contribution to a committee or an expenditure in support of or in opposition to a ballot measure
9 from its own funds obtained through the usual course of business or in any commercial or other
10 transaction from any source and which are not contributions does not violate this section.

11 5. A committee shall not accept an in-kind contribution from any foreign national or from
12 any individual or entity that has knowingly or willfully accepted funds, directly or indirectly,
13 aggregating in excess of ten thousand dollars from one or more foreign nationals within the four
14 year period immediately preceding the date the in-kind contribution is made. A foreign national
15 shall not make an in-kind expenditure for the purpose of supporting or opposing any ballot measure.

16 130.179. 1. A foreign national may not direct, dictate, control or directly or indirectly
17 participate in the decision-making process of any person with regard to that person's activities to
18 influence an election on a ballot measure, such as decisions concerning the making of contributions
19 to influence an election on a ballot measure.

20 2. A foreign national may not solicit, directly or indirectly, the making of a donation,
21 contribution or expenditure by another person to influence an election on a ballot measure.

22 3. Nothing in sections 130.170 to 130.188 shall be deemed to create or eliminate any
23 existing rights or duties beyond those specifically enumerated in such sections.

24 130.185. 1. Lawful donors to a tax-exempt organization possess a right of privacy in their
25 donations. Any investigation of an alleged violation of sections 130.170 to 130.188 shall occur in a
26 manner that shields the identity of lawful donors as much as possible. The attorney general shall not
27 collect or require the submission of information on the identity of any donor to a tax-exempt
28 organization other than those directly related to an alleged violation of sections 130.170 to 130.188.
29 Any collection or required submission of information by the attorney general regarding the identity
30 of any donor to a tax-exempt organization beyond that permitted by sections 130.170 to 130.188
31 shall be deemed a violation of section 105.1500.

32 2. The attorney general shall not disclose to the public, or another government official not
33 directly involved in the investigation, information revealing the identity of the entity under
34 investigation or any donor to a tax-exempt organization, unless the information is regarding the
35 identity of the entity or of a donor that engaged in conduct prohibited by sections 130.170 to
36 130.188 after a final determination has been made that the entity or donor violated sections 130.170
37 to 130.188. The unlawful disclosure of information revealing the identity of any entity under
38 investigation or donor to a tax-exempt organization in connection with a committee shall be deemed
39 a violation of section 105.1500.

130.188. 1. (1) If the attorney general has reasonable cause to believe that a person or entity has engaged in, is engaging in, or is about to engage in, a violation of sections 130.170 to 130.185, the attorney general may execute in writing and cause to be served upon any person who is believed to have information, documentary material, or physical evidence relevant to the alleged or suspected violation, a civil investigative demand requiring such person to appear and testify, or to produce relevant documentary material or physical evidence or examination, at such reasonable time and place as may be stated in the civil investigative demand, concerning the subject matter of the investigation. Service of any civil investigative demand, notice, or subpoena may be made by any person authorized by law to serve process or by any duly authorized employee of the attorney general.

(2) In the process of a civil investigative demand being executed pursuant to subdivision (1) of this subsection, the provisions of sections 407.040 to 407.090 shall apply.

2. (1) If the attorney general has reasonable cause to believe that a committee, person, or other entity has engaged in, is engaging in, or is about to engage in, a violation of sections 130.170 to 130.185, the attorney general may bring a civil action to enforce sections 130.170 to 130.188. The provisions of section 130.054 and 105.957 to 105.963 shall not apply to violations of sections 130.170 to 130.188.

(2) A committee, person, or other entity alleged to have violated sections 130.170 to 130.188 shall be provided a notice of the civil action, with opportunity for discovery and opportunity to be heard as provided by law for civil actions generally before being found liable for a violation of sections 130.170 to 130.188.

(3) In all actions brought pursuant to this section, the burden of proof shall be on the attorney general.

(4) (a) Prior to discovery, the court shall set a hearing to determine if there is probable cause to believe that a committee, person, or other entity has violated sections 130.170 to 130.188.

(b) If, after the hearing, the court determines that no probable cause exists to believe that a violation of sections 130.170 to 130.188 has occurred, the court shall enter an order of dismissal.

(c) If, after the hearing, the court determines that probable cause does exist to believe that a violation of sections 130.170 to 130.188 has occurred, the court shall enter an order to that effect and the case should proceed to trial on an expedited basis.

(5) Subject to the provisions of section 130.185, the committee, person, or other entity alleged to have violated sections 130.170 to 130.188 may, at a time to be determined by the court prior to the scheduling of trial, present evidence sufficient to rebut the probable cause finding by making an ex parte presentation of records to the court for in camera review.

(6) A non-prevailing party under paragraph (c) of subdivision (4) of this subsection has the right to:

(a) An interlocutory expedited appeal; and

(b) A stay of proceedings in the trial court.

1 3. (1) Within thirty days of a court finding that a committee has violated sections 130.170
 2 to 130.188, the committee shall refund the contribution to the original contributor. In the event of
 3 an appeal, the contribution shall be placed in escrow, after which the funds shall be disbursed in
 4 accordance with the final order.

5 (2) If the committee is unable to return the funds, the directors, officers or executive
 6 members of the campaign committee shall be liable in their personal capacity, jointly and severally,
 7 for the refund of said funds.

8 4. Within thirty days of a court finding that a committee, person, or other entity making an
 9 expenditure covered by sections 130.170 to 130.188 has violated such sections, the committee,
 10 person, or other entity shall disgorge to the attorney general funds in an amount equal to the reported
 11 cost of the expenditure. If the committee, person, or entity is unable to disgorge the requisite funds,
 12 the person or the directors, officers or executive members of the committee or other entity shall be
 13 liable in their personal capacities, jointly and severally, for the payment of the amount due. In the
 14 event of an appeal, the funds subject to disgorgement shall be placed in escrow, after which they
 15 shall be disbursed in accordance with the final order.

16 5. If any lobbyist violates any of the provisions of sections 130.170 to 130.188, the
 17 lobbyist's registration may be revoked or suspended and the lobbyist may be enjoined from
 18 receiving compensation or making expenditures for lobbying.

19 6. If the attorney general prevails in an action brought under this section, the court shall
 20 award:

21 (1) Injunctive relief sufficient to prevent the defendant from violating sections 130.170 to
 22 130.188 or engaging in acts that aid or abet violations of such sections; and

23 (2) Statutory damages up to twice the amount of the prohibited contribution or expenditure.

24 7. In addition to the penalties in subsection 6 of this section and any other remedies
 25 provided by law, if the court finds a knowingly or willful violation of sections 130.170 to 130.188,
 26 the court may assess a penalty of up to three times the statutory damages." ; and

27
 28 Further amend said bill by amending the title, enacting clause, and intersectional references
 29 accordingly.