

1 State of Arkansas *As Engrossed: S2/14/19 S3/14/19 S3/25/19*
2 92nd General Assembly
3 Regular Session, 2019

A Bill

SENATE BILL 258

4
5 By: Senators Bond, K. Ingram, Hester, J. Hendren
6 *By: Representatives Maddox, Shepherd*

For An Act To Be Entitled

9 AN ACT TO INCREASE THE PENALTY FOR TAKING CAMPAIGN
10 FUNDS AS PERSONAL INCOME; TO AMEND PROVISIONS OF
11 ARKANSAS LAW RESULTING FROM INITIATED ACT 1 OF 1990
12 AND INITIATED ACT 1 OF 1996; AND FOR OTHER PURPOSES.

Subtitle

16 TO INCREASE THE PENALTY FOR TAKING
17 CAMPAIGN FUNDS AS PERSONAL INCOME; AND TO
18 AMEND PROVISIONS OF ARKANSAS LAW
19 RESULTING FROM INITIATED ACT 1 OF 1990
20 AND INITIATED ACT 1 OF 1996.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25 SECTION 1. Arkansas Code § 7-6-202, concerning penalties, is amended
26 to read as follows:

27 7-6-202. Penalties.

28 A person who knowingly fails to comply with this subchapter shall upon
29 conviction be guilty of a Class A misdemeanor unless a different penalty
30 applies under this subchapter.

32 SECTION 2. Arkansas Code § 7-6-203(f), concerning use of campaign
33 contributions and resulting from Initiated Act 1 of 1990 and Initiated Act 1
34 of 1996, is amended to add an additional subdivision to read as follows:

35 (f)(1) A candidate shall not take any campaign funds as personal
36 income. ~~This subdivision (f)(1) shall not apply to campaign funds that were+~~



1 ~~(A) Accumulated prior to the passage of Initiated Act 1 of~~
2 ~~1990; or~~

3 ~~(B) Disposed of prior to July 28, 1995.~~

4 (2) A candidate shall not take any campaign funds as income for
5 his or her spouse or dependent children, except that:

6 (A) This subsection shall not prohibit a candidate who has
7 an opponent from employing his or her spouse or dependent children as
8 campaign workers; and

9 (B) Any candidate who has an opponent and who, during the
10 campaign and before the election, takes a leave of absence without pay from
11 his or her primary place of employment shall be authorized to take campaign
12 funds during the campaign and before the election as personal income up to
13 the amount of employment income lost as a result of such leave of absence.

14 (3) A candidate who takes campaign funds during the campaign and
15 before the election under a leave of absence pursuant to the provisions of
16 subdivision (f)(2) of this section may elect to treat the campaign funds as a
17 loan from the campaign fund to the candidate to be paid back to the campaign
18 fund by the candidate.

19 (4)(A)(i) *For purposes of this subsection, a candidate or*
20 *officeholder, who uses campaign funds or carryover funds to fulfill any*
21 *commitment, obligation, or expense that would exist regardless of the*
22 *candidate's campaign or officeholder activity, shall be deemed to have taken*
23 *campaign funds as personal income.*

24 *(ii) Candidates or officeholders may use campaign*
25 *funds or carryover funds to fulfill any commitment, obligation, or expense*
26 *authorized by law, or permitted by an Arkansas Ethics Commission rule or*
27 *opinion at the time of the expenditure, or reasonably and legitimately*
28 *related to a campaign or officeholder activity.*

29 (B) *The use of campaign funds to purchase a cake or other*
30 *perishable item of food at a fund-raising event held by a volunteer agency,*
31 *as defined in § 16-6-103, shall not be considered a taking of campaign funds*
32 *as personal income.*

33 (C) *The use of campaign funds to purchase advertising*
34 *prior to the date the final report is due to be filed thanking voters for*
35 *their support shall not be considered a taking of campaign funds as personal*
36 *income.*

1 (D) *The use of campaign funds to pay a candidate's own*
2 *personal expenses for food, lodging, or travel to attend a national*
3 *presidential nominating convention shall not be considered a taking of*
4 *campaign funds as personal income.*

5 (5) If a candidate loses an election or if an officeholder is no
6 longer in office, and after disposing of surplus funds, has carryover funds
7 remaining, personal use of funds remains prohibited by this section for
8 expenses unless the expenses relate to a future candidacy and comply with
9 subdivision (f)(4) of this section.

10 (6) Knowingly taking campaign funds as personal income is a:

11 (A) Class B felony if the value of the benefit is twenty-
12 five thousand dollars (\$25,000) or more;

13 (B) Class C felony if the value of the benefit is five
14 thousand dollars (\$5,000) or more but less than twenty-five thousand dollars
15 (\$25,000);

16 (C) Class D felony if the value of the benefit is two
17 thousand five hundred dollars (\$2,500) or more but less than five thousand
18 dollars (\$5,000); or

19 (D) Class A misdemeanor if the value of the benefit is
20 less than two thousand five hundred dollars (\$2,500).

21 (7) It is an affirmative defense to a prosecution for taking
22 campaign funds as personal income if the candidate or officeholder shows by a
23 preponderance of the evidence that:

24 (A) If the personal property was retained as carryover
25 funds, that the candidate or officeholder:

26 (i) Reported the personal property as carryover
27 funds; and

28 (ii) Retained or disposed of the personal property
29 in the manner that is required by law for carryover funds; or

30 (B) If the personal property was retained as surplus
31 funds, that the candidate or officeholder:

32 (i) Reported the personal property as surplus funds;
33 and

34 (ii) Retained or disposed of the personal property
35 in the manner that is required by law for surplus funds.

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/s/Bond

APPROVED: 4/11/19