

1 SB445
2 153788-6
3 By Senator Taylor
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 16-APR-13

1 SB445

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4 ENROLLED, An Act,

5 Relating to the Fair Campaign Practices Act; to
6 amend Sections 17-5-2, 17-5-5, 17-5-7, 17-5-8, 17-5-8.2,
7 17-5-9, 17-5-12, 17-5-14, 17-5-15, 17-5-15.1, 17-5-16, and
8 17-5-19, Code of Alabama 1975, so as to lower the contribution
9 threshold amounts at which a person becomes a candidate for
10 purposes of campaign finance reporting requirements; to allow
11 designated filing agents to file reports; to clarify persons
12 subject to violations of the act; to change the legislative
13 session prohibitions on fundraising to apply to legislative
14 and statewide candidates; to clarify allowable spending
15 amounts for political party dinners and functions; to change
16 deadlines for reports; to provide further for municipal
17 candidates; to clarify and amend corporate contribution
18 restrictions; to clarify the entities subject to the ban on
19 PAC to PAC transfers so as not to prohibit private foundations
20 from making non-political donations to other private
21 foundations; to clarify the responsible person in the PAC to
22 PAC ban; to transfer certain enforcement provisions from
23 Chapter 17 of Title 17 to Chapter 5 of Title 17; to provide
24 further for venue of prosecutions; to add Sections 17-5-5.1,
25 17-5-7.1, 17-5-14.1, and 17-5-20 to the Code of Alabama 1975;

1 to provide further for the regulation of legislative caucus
2 organizations; to provide for the return or refund of
3 contributions; to move certain provisions relating to
4 corporate contributions from Title 10A to Title 17; to provide
5 for the appointment of designated filing agents; and to repeal
6 Sections 10A-21-1.01 to 10A-21-1.04, inclusive, and Sections
7 17-5-18, and 17-17-35, Code of Alabama 1975.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 17-5-2, 17-5-5, 17-5-7, 17-5-8,
10 17-5-8.2, 17-5-9, 17-5-12, 17-5-14, 17-5-15, 17-5-15.1,
11 17-5-16, and 17-5-19, Code of Alabama 1975, are amended to
12 read as follows:

13 "§17-5-2.

14 "(a) For purposes of this chapter, the following
15 terms shall have the following meanings:

16 "(1) CANDIDATE. An individual who has done any of
17 the following:

18 "a. Taken the action necessary under the laws of the
19 state to qualify himself or herself for nomination or for
20 election to any state office or local office or in the case of
21 an independent seeking ballot access, on the date when he or
22 she files a petition with the judge of probate in the case of
23 county offices, with the appropriate qualifying municipal
24 official in the case of municipal offices, or the Secretary of
25 State in all other cases.

1 "b. Received contributions or made expenditures in
2 excess of one thousand dollars (\$1,000), or given his or her
3 consent for any other person or persons to receive
4 contributions or make expenditures in excess of one thousand
5 dollars (\$1,000), with a view to bringing about his or her
6 nomination or election to any state office or local office.
7 ~~Notwithstanding the foregoing, no person shall be considered a~~
8 ~~candidate within the meaning of this subdivision until the~~
9 ~~time that he or she has either received contributions or made~~
10 ~~expenditures as provided herein in the following amounts:~~

11 ~~"1. Twenty-five thousand dollars (\$25,000) or more,~~
12 ~~with a view toward bringing about nomination or election to~~
13 ~~any state office other than one filled by election of the~~
14 ~~registered voters of any circuit or district within the state.~~

15 ~~"2. Five thousand dollars (\$5,000) or more, with a~~
16 ~~view toward bringing about nomination or election to any state~~
17 ~~office, excluding legislative office, filled by election of~~
18 ~~the registered voters of any circuit or district.~~

19 ~~"3. Ten thousand dollars (\$10,000) or more, with a~~
20 ~~view toward bringing about nomination or election to the~~
21 ~~Alabama Senate and five thousand dollars (\$5,000) or more,~~
22 ~~with a view toward bringing about nomination or election to~~
23 ~~the Alabama House of Representatives.~~

1 ~~"4. One thousand dollars (\$1,000) or more, with a~~
2 ~~view toward bringing about nomination or election to any local~~
3 ~~office.~~

4 "(2) CONTRIBUTION.

5 "a. Any of the following shall be considered a
6 contribution:

7 "1. A gift, subscription, loan, advance, deposit of
8 money or anything of value, a payment, a forgiveness of a
9 loan, or payment of a third party, made for the purpose of
10 influencing the result of an election.

11 "2. A contract or agreement to make a gift,
12 subscription, loan, advance, or deposit of money or anything
13 of value for the purpose of influencing the result of an
14 election.

15 "3. Any transfer of anything of value received by a
16 political committee from another political committee,
17 political party, or other source.

18 "4. The payment of compensation by any person for
19 the personal services or expenses of any other person if the
20 services are rendered or expenses incurred on behalf of a
21 candidate, political committee, or political party without
22 payment of full and adequate compensation by the candidate,
23 political committee, or political party. Provided, however,
24 that the payment of compensation by a corporation for the
25 purpose of establishing, administering, or soliciting

1 voluntary contributions to a separate, segregated fund as
2 permitted by ~~Section 10-1-2~~ in this chapter, shall not
3 constitute a contribution.

4 "b. The term "contribution" does not include:

5 "1. The value of services provided without
6 compensation by individuals who volunteer a portion or all of
7 their time on behalf of a candidate or political committee.

8 "2. The use of real or personal property and the
9 cost of invitations, food, or beverages, voluntarily provided
10 by an individual to a candidate or political committee in
11 rendering voluntary personal services on the individual's
12 residential or business premises for election-related
13 activities.

14 "3. The sale of any food or beverage by a vendor for
15 use in an election campaign at a charge to a candidate or
16 political committee less than the normal comparable charge, if
17 the charge to the political committee for use in an election
18 campaign is at least equal to the cost of the food or beverage
19 to the vendor.

20 "4. Any unreimbursed payment for travel expenses
21 made by an individual who, on his or her own behalf,
22 volunteers personal services to a candidate or political
23 committee.

24 "5. The payment by a state or local committee of a
25 political party of the cost of preparation, display, or

1 mailing or other distribution incurred by the committee with
2 respect to a printed slate card or sample ballot, or other
3 printed listing of two or more candidates for any public
4 office for which an election is held in the state, except that
5 this subparagraph shall not apply in the case of costs
6 incurred by the committee with respect to a display of the
7 listing made on broadcasting stations, or in newspapers,
8 magazines, or other similar types of general public political
9 advertising.

10 "6. The value or cost of polling data and voter
11 preference data and information if provided to a candidate or
12 political committee, unless the information was compiled with
13 the advance knowledge of and approval of the candidate or the
14 political committee.

15 "(3) DESIGNATED FILING AGENT. An individual
16 appointed and authorized as attorney in fact to electronically
17 submit any report or other filing required by this chapter on
18 behalf of a candidate, his or her principal campaign
19 committee, or a political action committee.

20 "~~(3)~~(4) ELECTION. Unless otherwise specified, any
21 general, special, primary, or runoff election, or any
22 convention or caucus of a political party held to nominate a
23 candidate, or any election at which a constitutional amendment
24 or other proposition is submitted to the popular vote.

1 "~~(4)~~(5) ELECTIONEERING COMMUNICATION. Any
2 communication disseminated through any federally regulated
3 broadcast media, any mailing, or other distribution,
4 electronic communication, phone bank, or publication which (i)
5 contains the name or image of a candidate; (ii) is made within
6 120 days of an election in which the candidate will appear on
7 the ballot; (iii) the only reasonable conclusion to be drawn
8 from the presentation and content of the communication is that
9 it is intended to influence the outcome of an election; and
10 (iv) entails an expenditure in excess of one thousand dollars
11 (\$1,000).

12 "~~(5)~~(6) EXPENDITURE.

13 a. The following shall be considered expenditures:

14 1. A purchase, payment, distribution, loan, advance,
15 deposit, or gift of money or anything of value made for the
16 purpose of influencing the result of an election.

17 2. A contract or agreement to make any purchase,
18 payment, distribution, loan, advance, deposit, or gift of
19 money or anything of value, for the purpose of influencing the
20 result of an election.

21 3. The transfer, gift, or contribution of funds of a
22 political committee to another political committee.

23 b. The term "expenditure" does not include:

24 1. Any news story, commentary, or editorial prepared
25 by and distributed through the facilities of any broadcasting

1 station, newspaper, magazine, or other periodical publication,
2 unless the facilities are owned or controlled by any political
3 party or political committee.

4 2. Nonpartisan activity designed to encourage
5 individuals to register to vote, or to vote.

6 3. Any communication by any membership organization
7 to its members or by a corporation to its stockholders and
8 employees if the membership organization or corporation is not
9 organized primarily for the purpose of influencing the result
10 of an election.

11 4. The use of real or personal property and the cost
12 of invitations, food, or beverages, voluntarily provided by an
13 individual in rendering voluntary personal services on the
14 individual's residential or business premises for
15 election-related activities.

16 5. Any unreimbursed payment for travel expenses made
17 by an individual who, on his or her own behalf, volunteers
18 personal services to a candidate or political committee.

19 6. Any communication by any person which is not made
20 for the purposes of influencing the result of an election.

21 7. The payment by a state or local committee of a
22 political party of the cost of preparation, display, or
23 mailing or other distribution incurred by the committee with
24 respect to a printed slate card or sample ballot, or other
25 printed listing of two or more candidates for any public

1 office for which an election is held in the state, except that
2 this subparagraph shall not apply in the case of costs
3 incurred by the committee with respect to a display of the
4 listing made on broadcasting stations, or in newspapers,
5 magazines, or other similar types of general public political
6 advertising.

7 "~~(6)~~(7) IDENTIFICATION. The full name and complete
8 address.

9 "~~(7)~~(8) LOAN. A transfer of money, property, or
10 anything of value in consideration of a promise or obligation,
11 conditional or not, to repay in whole or part.

12 "~~(8)~~(9) LOCAL OFFICE. Any office under the
13 constitution and laws of the state, except circuit, district,
14 or legislative offices, filled by election of the registered
15 voters of a single county or municipality, or by the voters of
16 a division contained within a county or municipality.

17 "~~(9)~~(10) PERSON. An individual, partnership,
18 committee, association, corporation, labor organization, or
19 any other organization or group of persons.

20 "~~(10)~~(11) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
21 Household supplies, personal clothing, tuition payments,
22 mortgage, rent, or utility payments for a personal residence;
23 admission to an entertainment event or fees for a country club
24 or social club, unless tied to a specific campaign event or
25 functions involving constituents; and any other expense,

1 excluding food and beverages, that would exist irrespective of
2 the candidate's campaign or duties as a legislator. Personal
3 and legislative living expenses shall not include expenses for
4 food, beverages, travel, or communications incurred by the
5 legislator in the performance of the office held.

6 "~~(11)~~(12) POLITICAL ACTION COMMITTEE. Any ~~political~~
7 ~~action~~ committee, club, association, political party, or other
8 group of one or more persons, whether in-state or
9 out-of-state, which receives or anticipates receiving
10 contributions ~~or~~ and makes or anticipates making expenditures
11 to or on behalf of any Alabama state or local elected
12 official, proposition, candidate, principal campaign committee
13 or other political action committee. For the purposes of this
14 chapter, ~~an individual~~ a person who makes a ~~personal~~ political
15 contribution shall not be considered a political action
16 committee by virtue of making such contribution.

17 "(13) POLITICAL PARTY. A political party as defined
18 in Section 17-13-40.

19 "~~(12)~~(14) PRINCIPAL CAMPAIGN COMMITTEE. The
20 principal campaign committee designated by a candidate under
21 Section 17-5-4. A political action committee established
22 primarily to benefit an individual candidate or an individual
23 elected official shall be considered a principal campaign
24 committee for purposes of this chapter.

1 "~~(13)~~(15) PROPOSITION. Any proposal for submission
2 to the general public for its approval or rejection, including
3 proposed as well as qualified ballot questions.

4 "~~(14)~~(16) PUBLIC OFFICIAL. Any person elected to
5 public office, whether or not that person has taken office, by
6 the vote of the people at the state, county, or municipal
7 level of government or their instrumentalities, including
8 governmental corporations, and any person appointed to a
9 position at the state, county, or municipal level of
10 government or their instrumentalities, including governmental
11 corporations. For purposes of this chapter, a public official
12 includes the chairs and vice chairs or the equivalent offices
13 of each state political party as defined in Section 17-13-40.

14 "~~(15)~~(17) STATE. The State of Alabama.

15 "~~(16)~~(18) STATE OFFICE. All offices under the
16 constitution and laws of the state filled by election of the
17 registered voters of the state or of any circuit or district
18 and shall include legislative offices.

19 "(b) The words and terms used in this chapter shall
20 have the same meanings respectively ascribed to them in
21 Section 36-25-1.

22 "§17-5-5.

23 "(a) ~~Each~~ The treasurer or designated filing agent
24 of each political action committee which anticipates either
25 receiving contributions or making expenditures during the

1 calendar year in an aggregate amount exceeding one thousand
2 dollars (\$1,000) shall file with the Secretary of State or the
3 judge of probate as herein provided in Section 17-5-9, a
4 statement of organization, within 10 days after its
5 organization or, if later within 10 days after the date on
6 which it has information which causes the committee to
7 anticipate it will receive contributions or make expenditures
8 in an aggregate amount in excess of one thousand dollars
9 (\$1,000).

10 "(b) The statement of organization shall include:

11 "(1) The name and complete address of the committee.

12 "(2) The identification of affiliated or connected
13 organizations, if any.

14 "(3) The purposes of the committee.

15 "(4) The identification of the chair and treasurer.

16 "(5) The identification of principal officers,
17 including members of any finance committee.

18 "(6) A description of the constitutional amendments
19 or other propositions, if any, that the committee is
20 supporting or opposing, and the identity, if known, of any
21 candidate or elected official that the committee is supporting
22 or opposing.

23 "(7) A statement whether the committee is a
24 continuing one, and if not, the expected termination or
25 dissolution date.

1 "(8) The disposition of residual funds which will be
2 made in the event of dissolution.

3 "(c) ~~Any~~ Whenever there is any material change in
4 information previously submitted in a statement of
5 organization, except for the information described in
6 subdivision (6) above, ~~shall be reported~~ the treasurer or
7 designated filing agent of the political action committee
8 shall report the change to the Secretary of State or judge of
9 probate as provided in Section 17-5-9, within 10 days
10 following the change.

11 "(d) Any political action committee or any principal
12 campaign committee after having filed its initial statement of
13 organization shall continue in existence until terminated or
14 dissolved as provided herein. When any political action
15 committee determines it will no longer receive contributions
16 or make expenditures during any calendar year in an aggregate
17 amount exceeding one thousand dollars (\$1,000), or when any
18 candidate through his or her principal campaign committee
19 determines that he or she will not receive contributions or
20 make expenditures in the amounts specified in Section 17-5-2,
21 the ~~chair or~~ treasurer, designated filing agent, or candidate
22 of such political committee ~~may~~ shall so notify the Secretary
23 of State or judge of probate, as designated in Section 17-5-9,
24 of the termination or dissolution of such political committee.
25 Such notice shall contain a statement by the treasurer,

1 designated filing agent, or candidate of such committee of the
2 intended disposition of any residual funds then held by the
3 committee ~~on behalf of a candidate.~~

4 "§17-5-7.

5 "(a) ~~A~~ Except as provided in subsection (d) and in
6 Section 17-5-7.1, a candidate, public official, or treasurer
7 of a principal campaign committee as defined in this chapter,
8 may only use campaign contributions, and any proceeds from
9 investing the contributions that are in excess of any amount
10 necessary to defray expenditures of the candidate, public
11 official, or principal campaign committee, for the following
12 purposes:

13 "(1) Necessary and ordinary expenditures of the
14 campaign.

15 "(2) Expenditures that are reasonably related to
16 performing the duties of the office held. For purposes of this
17 section, expenditures that are reasonably related to
18 performing the duties of the office held do not include
19 personal and legislative living expenses, as defined in this
20 chapter.

21 "(3) Donations to the State General Fund, the
22 Education Trust Fund, or equivalent county or municipal funds.

23 "(4) Donations to an organization to which a federal
24 income tax deduction is permitted under subparagraph (A) of
25 paragraph (1) of subsection (b) of Section 170 of the Internal

1 Revenue Code of 1986, as amended, or any other charitable,
2 educational, or eleemosynary cause of Section 501 of Title 26
3 of the U. S. Code.

4 "~~(4)~~ (5) Inaugural or transitional expenses.

5 "(6) Donations to a legislative caucus organization
6 registered under this chapter which does not operate as a
7 political action committee.

8 "(b) Notwithstanding any other provision of law,
9 including, but not limited to, Section 13A-10-61, a candidate,
10 public official, or principal campaign committee may only
11 accept, solicit, or receive contributions:

12 "(1) To influence the outcome of an election.

13 "(2) For a period of 12 months before an election in
14 which the person intends to be a candidate. Provided, however,
15 candidates for ~~state~~ legislative and statewide office and
16 their principal campaign committees may not accept, solicit,
17 or receive contributions during the period when the
18 Legislature is convened in session. For purposes of this
19 section, the Legislature is convened in session at any time
20 from the opening day of the special or regular session and
21 continued through the day of adjournment sine die for that
22 session. However, this subdivision shall not apply within 120
23 days of any primary, runoff, or general election, and shall
24 not apply to the candidates or their principal campaign
25 committees participating in any special election as called by

1 the Governor. This subdivision shall not apply to a loan from
2 a candidate to his or her own principal campaign committee.

3 "(3) For a period of 120 days after the election in
4 which the person was a candidate, but only to the extent of
5 any campaign debt of the candidate or principal campaign
6 committee of the candidate as indicated on the campaign
7 financial disclosure form or to the extent of reaching the
8 threshold that is required for qualification as a candidate
9 for the office which he or she currently holds, or both.

10 "(4) For the purpose of paying all expenses
11 associated with an election challenge including, but not
12 limited to, quo warranto challenges.

13 "(c) Notwithstanding any other provision of law,
14 including, but not limited to, Section 13A-10-61, a candidate,
15 public official, or principal campaign committee shall not
16 accept, solicit, or receive contributions for any of the
17 following reasons:

18 "(1) As a bribe, as defined by Sections 13A-10-60 to
19 13A-10-63, inclusive.

20 "(2) For the intention of corruptly influencing the
21 official actions of the public official or candidate for
22 public office.

23 "(d) Notwithstanding any other provision of law, a
24 principal campaign committee, during a ~~term of office~~ two-year
25 period commencing on the day after ~~the~~ each regularly

1 ~~scheduled general election for the seat or office the~~
2 ~~candidate seeks and ending on the day of the next general~~
3 ~~election for that seat or office~~ and ending on the day of the
4 next regularly scheduled general election, may pay qualifying
5 fees to a political party and in addition thereto, during that
6 period, may expend up to a cumulative total of five thousand
7 dollars (\$5,000) of campaign contributions, and any proceeds
8 from investing the contributions, for the following purposes:

9 "(1) Tickets for political party dinners or
10 functions.

11 "(2) State or local political party dues or similar
12 expenses incurred by independent or write-in candidates.

13 "§17-5-8.

14 "(a) ~~Each~~ The treasurer, designated filing agent, or
15 candidate, principal campaign committee or political action
16 committee shall file with the Secretary of State or judge of
17 probate, as designated in Section 17-5-9, periodic reports of
18 contributions and expenditures at the following times once a
19 principal campaign committee files its statement under Section
20 17-5-4 or a political action committee files its statement of
21 organization under Section 17-5-5:

22 "(1) Beginning after the 2012 election cycle,
23 regardless of whether a candidate has opposition in any
24 election, monthly reports not later than the second business
25 day of the subsequent month, beginning 12 months before the

1 date of any primary, special, runoff, or general election for
2 which a political action committee or principal campaign
3 committee receives contributions or makes expenditures with a
4 view toward influencing such election's result. A monthly
5 report shall include all reportable transactions for the
6 previous full month period. Reports shall be required as
7 provided in subdivisions (2) and (3).

8 "(2) With regard to a primary, special, runoff, or
9 general election, a report shall be required weekly on the
10 Monday of the succeeding week for each of the four weeks
11 before the election that includes all reportable activities
12 for the previous week.

13 "(3)a. In addition to the reporting dates specified
14 in subdivisions (1) and (2), reports required to be filed with
15 the Secretary of State shall be filed with the Secretary of
16 State on the eighth, seventh, sixth, fifth, fourth, third, and
17 second day preceding a legislative, state school board, or
18 other statewide primary, special, runoff, or general election,
19 and by 12:01 ~~a.m.~~ p.m. on the day preceding a legislative,
20 state school board, or statewide, primary, special, runoff, or
21 general election if any principal campaign committee or
22 political action committee receives or spends in the aggregate
23 five thousand dollars (\$5,000) or more on any day with a view
24 toward influencing an election's results. If a daily report is
25 required pursuant to this subdivision, the report shall

1 include all reportable activity occurring on the day of the
2 report as well as all reportable activity that has occurred on
3 each day since the most recent prior report. Principal
4 campaign committees and political action committees that are
5 exempt from electronic filing and principal campaign
6 committees and political action committees required to make
7 daily reports pursuant to this subdivision for the 2012
8 election cycle may file reports by facsimile (FAX)
9 transmission provided they keep proper documentation in their
10 office.

11 "b. Electronic filing on the Secretary of State's
12 website may be implemented sooner than the 2014 election cycle
13 as an alternative method of reporting; however, electronic
14 filing shall be required beginning with the 2014 election
15 cycle. Electronic filings shall be available to the public on
16 a searchable database maintained on the Secretary of State's
17 website.

18 "(b) Except as provided in subsection (1), each
19 principal campaign committee, political action committee, and
20 elected state and local official covered under the provisions
21 of this chapter, shall annually file with the Secretary of
22 State or judge of probate, as designated in Section 17-5-9,
23 reports of contributions and expenditures made during that
24 year. The annual reports required under this subsection shall
25 be made on or before January 31 of the succeeding year.

1 "(c) Each report under this section shall disclose:

2 "(1) The amount of cash or other assets on hand at
3 the beginning of the reporting period and forward until the
4 end of that reporting period and disbursements made from same.

5 "(2) The identification of each person who has made
6 contributions to such committee or candidate within the
7 calendar year in an aggregate amount greater than one hundred
8 dollars (\$100), together with the amount and date of all such
9 contributions; provided, however, in the case of a political
10 action committee identification shall mean the name and city
11 of residence of each person who has made contributions within
12 the calendar year in an aggregate amount greater than one
13 hundred dollars (\$100).

14 "(3) The total amount of other contributions
15 received during the calendar year but not reported under
16 subdivision (c) (2) of this section.

17 "(4) Each loan to or from any person within the
18 calendar year in an aggregate amount greater than one hundred
19 dollars (\$100), together with the identification of the
20 lender, the identification of the endorsers, or guarantors, if
21 any, and the date and amount of such loans.

22 "(5) The total amount of receipts from any other
23 source during such calendar year.

24 "(6) The grand total of all receipts by or for such
25 committee during the calendar year.

1 "(7) The identification of each person to whom
2 expenditures have been made by or on behalf of such committee
3 or elected official within the calendar year in an aggregate
4 amount greater than one hundred dollars (\$100), the amount,
5 date, and purpose of each such expenditure, and, if
6 applicable, the designation of each constitutional amendment
7 or other proposition with respect to which an expenditure was
8 made.

9 "(8) The identification of each person to whom an
10 expenditure for personal services, salaries, and reimbursed
11 expenses greater than one hundred dollars (\$100) has been
12 made, and which is not otherwise reported or exempted from the
13 provisions of this chapter, including the amount, date, and
14 purpose of such expenditure.

15 "(9) The grand total of all expenditures made by
16 such committee or elected official during the calendar year.

17 "(10) The amount and nature of debts and obligations
18 owed by or to the committee or elected official, together with
19 a statement as to the circumstances and conditions under which
20 any such debt or obligation was extinguished and the
21 consideration therefor.

22 "(d) Each report required by this section shall be
23 signed and filed by the elected official or on behalf of the
24 political action committee by its chair or treasurer and, if
25 filed on behalf of a principal campaign committee, by the

1 candidate represented by such committee. There shall be
2 attached to each such report an affidavit subscribed and sworn
3 to by the official or chair or treasurer and, if filed by a
4 principal campaign committee, the candidate represented by
5 such committee, setting forth in substance that such report is
6 to the best of his or her knowledge and belief in all respects
7 true and complete, and, if made by a candidate, that he or she
8 has not received any contributions or made any expenditures
9 which are not set forth and covered by such report.

10 "(e) Commencing with the 2014 election cycle,
11 electronic filing of contributions and expenditures for any
12 legislative, state school board, and statewide primary,
13 special, runoff, or general election shall be mandatory,
14 except as provided in subsection (g). The Secretary of State
15 may provide electronic reporting sooner than the 2014 election
16 cycle. Electronic filing shall satisfy any filing requirements
17 of this chapter and no paper filing is required for any report
18 filed electronically.

19 "(f) In the 2012 election cycle the provisions for
20 the time of filing contained in subsection (a) shall apply to
21 the paper or facsimile (FAX) filings for any legislative,
22 state school board, or statewide primary, special, runoff, or
23 general election.

24 "(g) Electronic filing of reports shall not apply to
25 any campaign, principal campaign committee, or political

1 action committee receiving ten thousand dollars (\$10,000) or
2 less per election cycle.

3 "(h) In connection with any electioneering
4 communication paid for by a person, nonprofit corporation,
5 entity, principal campaign committee, or other political
6 committee or entity, the payor shall disclose its
7 contributions and expenditures in accordance with this
8 section. The disclosure shall be made in the same form and at
9 the same time as is required of political action committees in
10 this section; provided, however, no duplicate reporting shall
11 be required by a political committee.

12 "(i) Notwithstanding any disclosure requirements of
13 subsection (h), churches are exempt from the requirements of
14 this section unless the church's expenditures are used to
15 influence the outcome of an election. Nothing herein shall
16 require a church to disclose the identities, donations, or
17 contributions of members of the church. As used in this
18 section, the term church is defined in accordance with and
19 recognized by Internal Revenue Service guidelines and
20 regulations.

21 "(j) Notwithstanding the disclosure requirements of
22 this section, the provisions of this section shall not be
23 interpreted to nor shall they require any disclosure for
24 expenses incurred for any electioneering communication used by
25 any membership or trade organization to communicate with or

1 inform its members, its members' families, or its members'
2 employees or for any electioneering communication by a
3 business entity of any type to its employees or stockholders
4 or their families.

5 ~~"(k) The corporate contribution limits contained in~~
6 ~~Sections 10A-21-1.02, 10A-21-1.03, and 10A-21-1.04 shall not~~
7 ~~apply in any respect to an electioneering communication;~~
8 ~~provided, however, the corporate contribution limits contained~~
9 ~~in Sections 10A-21-1.02, 10A-21-1.03, and 10A-21-1.04 shall~~
10 ~~continue in force and effect for contributions by corporations~~
11 ~~to principal campaign committees, political committees, and to~~
12 ~~political parties.~~

13 ~~"(i)(k)~~ Each report required by this section shall
14 include all reportable transactions occurring since the most
15 recent prior report; however, duplicate reporting is not
16 required by this section. A political action committee or
17 principal campaign committee that is required to file a daily
18 report is not required to also file a weekly report for the
19 week preceding an election specified in subdivision (3) of
20 subsection (a); a committee required to file a weekly report
21 is not required to also file a monthly report ~~for~~ in the month
22 in which the election is held; and a committee required to
23 file a monthly report is not required to also file an annual
24 report ~~for~~ in the year in which the election is held. The

1 monetary balance in a report of each committee shall begin at
2 the monetary amount appearing in the most recent prior report.

3 ~~"(m) (1)~~ The Secretary of State may promulgate
4 administrative rules pursuant to the Alabama Administrative
5 Procedure Act as are necessary to implement and administer the
6 changes made to this section by Act 2012-477.

7 "§17-5-8.2.

8 "(a) The Legislature determines that there is a
9 compelling state and public interest in the disclosure of the
10 source of funds used to advertise or otherwise influence
11 public opinion with regard to elections as defined in Section
12 17-5-2(3). The Legislature further finds that these compelling
13 interests should be designed to protect the public's right to
14 know while protecting free speech of individuals as guaranteed
15 in the U.S. Constitution and the Constitution of Alabama of
16 1901.

17 "(b) Currently, the Fair Campaign Practices Act, as
18 provided in this chapter, commencing with Section 17-5-1, et
19 seq., regulates the disclosure of contributions and
20 expenditures made for the purpose of influencing the outcome
21 of an election. This ~~section and Sections 17-5-2, 17-5-8, and~~
22 ~~17-5-12, as amended by Act 2011-697~~ are chapter is also
23 intended to regulate the disclosure of contributions and
24 expenditures for electioneering communications ~~which currently~~

1 ~~do not fall within the ambit of the Fair Campaign Practices~~
2 ~~Act.~~

3 (c) The Legislature finds and declares that Alabama
4 voters have a right to know who pays for the costs of
5 electioneering communications.

6 "§17-5-9.

7 "(a) All statements and reports, including
8 amendments, required of principal campaign committees under
9 the provisions of this chapter shall be filed with the
10 Secretary of State in the case of candidates for state office
11 or state elected officials, and in the case of candidates for
12 local office or local elected officials, with the judge of
13 probate of the county in which the office is sought.

14 "(b) Political action committees, which seek to
15 influence an election for local office or to influence a
16 proposition regarding a single county, shall file all reports
17 and statements, including amendments, with the judge of
18 probate of the county affected. All other political action
19 committees, except as provided in subsection (a) above, shall
20 file reports and statements with the Secretary of State.

21 "(c) In the case of candidates for a municipal
22 office where the municipality is located in more than one
23 county, the statements and reports shall be filed in the
24 county where the city hall of the municipality is located. The
25 judge of probate of the county where the report is filed, if

1 the municipality is located in more than one county, shall
2 provide a copy of the report to the judge of probate of the
3 other county or counties where the municipality is located.

4 "(d) Commencing with the 2014 election cycle, all
5 principal campaign committees and political action committees
6 that file with the judge of probate, other than candidates for
7 municipal office, may choose instead to file electronically
8 with the Secretary of State pursuant to this chapter. Any such
9 principal campaign committee or political action committee
10 that chooses to file electronically with the Secretary of
11 State shall first provide notice to the appropriate judge of
12 probate, in a manner prescribed by the judge of probate,
13 indicating that choice and shall continue to file
14 electronically with the Secretary of State until terminated or
15 dissolved pursuant to this chapter.

16 "§17-5-12.

17 "(a) Any paid political advertisement or
18 electioneering communication appearing in any print media or
19 broadcast on any electronic media shall clearly and distinctly
20 identify the entity responsible for paying for the
21 advertisement or electioneering communication. It shall be
22 unlawful for any person, nonprofit corporation, entity,
23 candidate, principal campaign committee, ~~nonprofit~~
24 ~~corporation, entity,~~ or other political action committee to
25 broadcast, publish, or circulate any campaign literature,

1 political advertisement, or electioneering communication
2 without a notice appearing on the printed matter with a clear
3 and unmistakable identification of the entity responsible for
4 directly paying for the advertisement or electioneering
5 communication, or on the broadcast at the beginning, during,
6 or end of a radio or television spot, stating that the
7 communication was a paid advertisement, clearly identifying
8 the entity directly responsible for paying for the
9 advertisement or electioneering communication, and giving the
10 identification of the person, nonprofit corporation, entity,
11 principal campaign committee, or other political action
12 committee or entity that paid for such communication.

13 "(b) This section does not apply to any political
14 advertisement or electioneering communication used by a
15 candidate and the candidate's supporters or by a political
16 committee if the message or advertisement is:

17 "(1) Designed to be worn by a person.

18 "(2) Placed as a paid link on an Internet website,
19 provided the message or advertisement is no more than 200
20 characters in length and the link directs the user to another
21 Internet website that complies with subsection (a).

22 "(3) Placed as a graphic or picture link where
23 compliance with the requirements of this section is not
24 reasonably practical due to the size of the graphic or picture

1 link and the link directs the user to another Internet website
2 that complies with subsection (a).

3 "(4) Placed at no cost on an Internet website for
4 which there is no cost to post content for public users.

5 "(5) Placed or distributed on an unpaid profile
6 account which is available to the public without charge or on
7 a social networking Internet website, as long as the source of
8 the message or advertisement is patently clear from the
9 content or format of the message or advertisement. A candidate
10 or political committee may prominently display a statement
11 indicating that the website or account is an official website
12 or account of the candidate or political committee and is
13 approved by the candidate or political committee. A website or
14 account may not be marked as official without prior approval
15 by the candidate or political committee.

16 "(6) Distributed as a text message or other message
17 via Short Message Service, provided the message is no more
18 than 200 characters in length or requires the recipient to
19 sign up or opt in to receive it.

20 "(7) Connected with or included in any software
21 application or accompanying function, provided that the user
22 signs up, opts in, downloads, or otherwise accesses the
23 application from or through a website that complies with
24 subsection (a).

1 "(8) Sent by a third-party user from or through a
2 campaign or committee's website, provided the website complies
3 with subsection (a).

4 "(9) Contained in or distributed through any other
5 technology related item, service, or device for which
6 compliance with subsection (a) is not reasonably practical due
7 to the size or nature of such item, service, or device as
8 available, or the means of displaying the message or
9 advertisement makes compliance with subsection (a)
10 impracticable.

11 "§17-5-14.

12 ~~"A political action committee may be established by
13 a corporation, subject to the provisions of this chapter.~~

14 "(a) A corporation incorporated or organized under
15 the laws of this state, or doing business in this state, may
16 make a contribution or expenditure to or on behalf of any
17 candidate or political action committee in the same manner
18 that an individual is permitted to make under the laws of this
19 state, except as otherwise expressly prohibited by subsection
20 (c).

21 "(b) Any corporation may establish a political
22 action committee, subject to the provisions of this section.
23 Any corporation or any officer, employee, or agent acting on
24 behalf of such corporation, is also permitted to give, pay,
25 expend, or contribute money, services, or anything of value

1 for the purposes of establishing, administering, or soliciting
2 voluntary contributions to a separate, segregated fund to be
3 utilized for political purposes as permitted by Section
4 17-5-14.1.

5 "(c) A utility regulated by the public service
6 commission may not make a contribution to any candidate for
7 the public service commission, but shall otherwise be entitled
8 to take any action permitted corporations under this section.

9 "§17-5-15.

10 "(a) It shall be unlawful for any person, acting for
11 himself or herself or on behalf of any entity, to make a
12 contribution in the name of another person or entity, or
13 knowingly permit his or her name, or the entity's name, to be
14 used to effect such a contribution made by one person or
15 entity in the name of another person or entity, or for any
16 candidate, principal campaign committee, or political action
17 committee to knowingly accept a contribution made by one
18 person or entity in the name of another person or entity;
19 provided, however, that nothing in this chapter ~~would prohibit~~
20 prohibits any person from soliciting and receiving
21 contributions from other persons for the purpose of making
22 expenditures to a candidate, political campaign committee,
23 political action committee, or elected state or local official
24 required to file reports pursuant to Section 17-5-8.

1 "(b) It shall be unlawful for any political action
2 ~~committee, organization, or private foundation, or tax exempt~~
3 political organization under 26 U.S.C. § 527, including a
4 principal campaign committee, or any person authorized to make
5 an expenditure on behalf of such political action committee or
6 527 organization, to make a contribution, expenditure, or any
7 other transfer of funds to any other political action
8 ~~committee, or 527 organization, or private foundation.~~ It
9 shall be unlawful for any principal campaign committee or any
10 person authorized to make an expenditure on behalf of such
11 principal campaign committee to make a contribution,
12 expenditure, or ~~any~~ other transfer of funds to any other
13 principal campaign committee, except where the contribution,
14 expenditure, or any other transfer of funds is made from a
15 principal campaign committee to another principal campaign
16 committee on behalf of the same person. Notwithstanding the
17 foregoing, a political action committee that is not a
18 principal campaign committee may make contributions,
19 expenditures, or other transfers of funds to a principal
20 campaign committee; and a separate segregated fund established
21 by a corporation under federal law, if the fund does not
22 receive any contributions from within this state other than
23 contributions from its employees and directors, is not
24 restricted by this subsection in the amount it may transfer to
25 a political action committee established under the provisions

1 of Section ~~10A-21-1.01~~ 17-5-14.1 by the same or an affiliated
2 corporation.

3 "§17-5-15.1.

4 "(a) A principal campaign committee of a state or
5 local candidate and any person authorized to make an
6 expenditure on its behalf may not receive or spend, in a
7 campaign for state or local office, campaign funds in excess
8 of one thousand dollars (\$1,000) that were raised by a
9 principal campaign committee of a federal candidate.

10 "(b) Any ~~receipt or expenditure of~~ person who
11 intentionally receives or expends campaign funds in violation
12 of subsection (a) shall be guilty, upon conviction, of a Class
13 C felony.

14 "§17-5-16.

15 "(a) It shall be unlawful for any person
16 fraudulently to misrepresent himself or herself, or any other
17 person or organization with which he or she is affiliated, as
18 speaking or writing or otherwise acting for or on behalf of
19 any candidate, principal campaign committee, political action
20 committee, or political party, or agent or employee thereof,
21 in a manner which is damaging or is intended to be damaging to
22 such other candidate, principal campaign committee, political
23 action committee, or political party.

24 "(b) It shall be unlawful for any automated or
25 pre-recorded communication initiated, conducted, or

1 transmitted through an automated telephone dialing service to
2 be conducted without providing clear notice at the ending of
3 the phone call that the communication was a paid political
4 advertisement and clearly identifying the person, nonprofit
5 corporation, entity, principal campaign committee, or
6 political action committee that paid for such communication.

7 "(c) It shall be unlawful for any person or entity
8 to knowingly misrepresent, in any automated or pre-recorded
9 communication that is a political advertisement and that is
10 initiated via an automated telephone dialing service, the
11 identification of the person, nonprofit corporation, entity,
12 principal campaign committee, or political action committee
13 that paid for such communication.

14 "(d) The Attorney General of the State of Alabama
15 shall have full power to investigate and enforce violations of
16 this section and any owner, employer, agent, or representative
17 of any automated dialing service found to be in violation of
18 this section shall be guilty upon conviction of a Class A
19 misdemeanor as provided in Section ~~17-17-35(a)~~ 17-5-19.

20 "§17-5-19.

21 ~~"It is the intention of the Legislature by the~~
22 ~~passage of this chapter that its provisions be construed in~~
23 ~~pari materia with other laws regulating political~~
24 ~~contributions, corporations, or political contributions by~~
25 ~~corporations.~~

1 "(a) Except as otherwise provided in this section, a
2 person who intentionally violates any provision of Chapter 5
3 shall be guilty, upon conviction, of a Class A misdemeanor.

4 "(b) A person who intentionally violates any
5 reporting requirement of Sections 17-5-4, 17-5-5, or 17-5-8
6 shall be guilty, upon conviction, of a Class A misdemeanor. A
7 person's failure to promptly file a required report upon
8 discovering or receiving notice from any person that the
9 report has not been filed, or the failure to promptly correct
10 an omission, error, or other discrepancy in a filed report
11 upon discovering or receiving notice of the discrepancy, shall
12 create a rebuttable presumption of intent to violate the
13 applicable reporting requirement.

14 "(c) Any person who intentionally violates Section
15 17-5-7 shall be guilty, upon conviction, of a Class B felony.

16 "(d) A person who fails to timely or accurately file
17 any report required by this chapter shall be assessed a civil
18 penalty of the greater of three hundred dollars (\$300) or ten
19 percent of the amount not properly reported for a first
20 offense in an election cycle, six hundred dollars (\$600) or 15
21 percent of the amount not properly reported for a second
22 offense in an election cycle, and one thousand two hundred
23 dollars (\$1,200) or 20 percent of the amount not properly
24 reported for a third or subsequent offense in an election
25 cycle. A fourth failure to timely or accurately file a report

1 in an election cycle shall create a rebuttable presumption of
2 intent to violate the reporting requirements of this chapter.
3 Civil penalties shall be paid to the appropriate filing
4 official. All penalties collected by a judge of probate shall
5 be distributed to that county's general fund, and all
6 penalties collected by the Secretary of State shall be
7 distributed to the State General Fund. A person who
8 voluntarily files an amended report to correct an error in an
9 otherwise timely filed report, without being prompted by a
10 filing official shall not be subjected to a civil penalty
11 under this subsection, so long as, in the case of a candidate,
12 the corrected report is filed prior to the election at issue,
13 and so long as, in the case of a political action committee,
14 the corrected report is filed prior to the election which the
15 contribution was given to influence.

16 "(e) The Attorney General or district attorney for
17 the appropriate jurisdiction may prosecute violations of
18 Chapter 5. Venue for cases involving violations of Chapter 5
19 shall be in the county in which the violation occurred or the
20 county in which the alleged violator resides or is
21 incorporated. If the alleged violator resides or is
22 incorporated outside of the State of Alabama or if the
23 violation or violations occurred outside the State of Alabama,
24 venue shall be in Montgomery County.

1 "(f) No prosecution for violation of Chapter 5 shall
2 be commenced later than two years after the date of violation.
3 Notwithstanding the foregoing, a prosecution brought pursuant
4 to Section 17-5-7 shall be commenced within four years after
5 the commission of the offense."

6 Section 2. Sections 17-5-5.1, 17-5-7.1, 17-5-14.1,
7 and 17-5-20 are added to Chapter 5, Title 17, Code of Alabama
8 1975, to read as follows:

9 §17-5-5.1.

10 (a) Except as provided in subsection (d), each
11 legislative caucus organization that raises funds for its
12 administration and operation shall register with the Secretary
13 of the Senate, for a Senate caucus, or the Clerk of the House
14 of Representatives, for a House caucus, or both for a
15 bicameral legislative caucus. Such registration shall be on a
16 form jointly created by the Secretary of the Senate and the
17 Clerk of the House of Representatives and shall include the
18 name and complete address of the organization, the
19 identification of and contact information for the
20 organization's designated representative, and a general
21 description of the organization.

22 (b) A legislative caucus organization duly
23 registered pursuant to subsection (a) shall not contribute to
24 or expend funds in support of candidates, principal campaign
25 committees, propositions, or political action committees for

1 the purpose of influencing the result of an election.
2 Notwithstanding any other provision of law, the donation of
3 funds or other resources to a duly registered legislative
4 caucus organization in support of the administration or
5 operations of the caucus is permissible, provided that the
6 donation is not made for the purpose of influencing the result
7 of an election.

8 (c) Nothing in this section shall be construed to
9 exempt a legislative caucus organization or its officers,
10 directors, or members from the Ethics Law.

11 (d) A legislative caucus organization that receives
12 contributions or makes expenditures for the purpose of
13 influencing the outcome of an election and is not registered
14 as provided in subsection (a) shall be regulated as a
15 political action committee under this chapter and shall comply
16 with all the requirements of this chapter pertaining to
17 political action committees.

18 §17-5-7.1.

19 (a) Notwithstanding any other provision of law, a
20 principal campaign committee or political action committee may
21 return or refund, in full or in part, any lawful contribution
22 it receives to the donor, provided that such return or refund
23 may not exceed the amount received. Any lawful contribution
24 refunded to the donor must have been reported in an itemized
25 manner and the refund shall be itemized in the report for the

1 period in which the refund is made. In the case of a political
2 action committee, the refund shall occur within 18 months of
3 the date of the contribution; provided, however, that if the
4 refund of the contribution is required by law or regulation,
5 then the 18-month time limitation shall not apply.

6 (b) Notwithstanding any other provision of law, a
7 principal campaign committee or political action committee
8 shall promptly return or refund, in full, any unlawful
9 contribution. It shall be unlawful for any person acting on
10 behalf of a principal campaign committee or political action
11 committee to retain or cause to be retained a contribution
12 that the person knows or reasonably should know was made in
13 violation of this chapter. It is a defense to prosecution that
14 the unlawful contribution was returned or refunded in full
15 within 10 days of the date the contribution was made.

16 §17-5-14.1.

17 (a) Any business or nonprofit corporation,
18 incorporated under the laws of or doing business in this
19 state, or any officer or agent acting on behalf of the
20 corporation may give, pay, expend, or contribute money,
21 services, anything of value for the purposes of establishing,
22 administering, or soliciting voluntary contributions to a
23 separate, segregated fund which can be utilized for political
24 purposes (i) to aid or promote the nomination or election of
25 any person, including an incumbent political officeholder or

1 any other person who is or becomes a candidate for political
2 office; or (ii) to aid or promote the interest or success, or
3 defeat of any political party or political proposition. Any
4 separate, segregated fund established hereunder for any of the
5 above enumerated purposes shall be established and
6 administered pursuant to the following requirements and
7 prohibitions:

8 (1) Any such business or nonprofit corporation, or
9 any officer or agent acting on behalf of such business or
10 nonprofit corporation, may solicit voluntary contributions to
11 the fund only from the corporation's, or its affiliates',
12 stockholders and their families and its employees and their
13 families; or in the case of a nonprofit corporation, its
14 members and their employees. However, the funds may accept
15 voluntary contributions from any individuals.

16 (2) The custodians of any separate, segregated
17 political fund established hereunder shall file with the
18 Secretary of State such financial disclosure reports or
19 statements now required of a candidate for public office.
20 Filing with the Secretary of State a copy of the information
21 required to be filed with the Federal Election Commission by
22 such separate, segregated fund shall constitute compliance
23 with the reporting provisions of this section.

24 (b) It shall be unlawful:

1 (1) For any separate, segregated political fund
2 established pursuant to this section or for any person acting
3 on behalf of the fund to solicit or secure any money or
4 anything of value by physical force, job discrimination, or
5 financial reprisals, or by threats thereof; by dues, fees, or
6 other moneys required as a condition of employment; or by
7 moneys obtained in any commercial transaction;

8 (2) For any person soliciting contributions to the
9 fund to fail to inform any person being solicited of the
10 political purposes of the fund at the time of the
11 solicitation;

12 (3) For any person soliciting for a contribution to
13 the fund to fail to inform the person being solicited, at the
14 time of the solicitation, of his or her right to refuse to
15 contribute without any reprisal; and

16 (4) For any corporation regulated by the Public
17 Service Commission to pass on to its customers any
18 contribution made for the purpose of establishing,
19 administering, or soliciting voluntary contributions to a
20 separate, segregated fund to be utilized for political
21 purposes.

22 §17-5-20.

23 (a) A candidate, or in the case of a political
24 action committee, the chair or treasurer, may appoint a
25 designated filing agent on a form prescribed by the Secretary

1 of State. Upon receiving a notice of appointment of designated
2 filing agent, the Secretary of State, as soon as practicable,
3 shall take the necessary steps to enable the designated filing
4 agent to electronically submit any report or other filing
5 required by this chapter on behalf of his or her principal.

6 (b) The submission of a timely, complete, and
7 correct report or other filing required by this chapter by a
8 designated filing agent shall satisfy the filing or reporting
9 requirement of the designated filing agent's principal;
10 however, the appointment of a designated filing agent does not
11 itself absolve any person having a duty to submit any report
12 or other filing under this chapter of liability for failure to
13 timely submit such filing, for filing a false, incomplete, or
14 inaccurate report, or for any other violation under this
15 chapter.

16 (c) The submission of a report or other filing
17 required by this chapter by a designated filing agent creates
18 a rebuttable presumption that the submission was approved and
19 intended by the candidate, his or her principal campaign
20 committee, or the political action committee or treasurer
21 thereof. Notwithstanding the foregoing, it is a defense to
22 prosecution that the designated filing agent acted beyond the
23 scope of his or her authority.

24 Section 3. (a) Sections 10A-21-1.01 to 10A-21-1.04,
25 inclusive, Code of Alabama 1975, are repealed.

1 (b) Sections 17-5-18 and 17-17-35, Code of Alabama
2 1975, are repealed.

3 Section 4. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB445

Senate 30-APR-13

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 20-MAY-13

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris
Secretary

House of Representatives

Passed: 09-MAY-13, as amended

House of Representatives

Passed: 20-MAY-2013, as amended by Conference Committee Report.

By: Senator Taylor