

HB 1756 -- Ethics

Sponsor: Kander

This bill changes the laws regarding ethics. In its main provisions, the bill:

(1) Prohibits a member of the General Assembly or a statewide elected official from soliciting a registered lobbyist for any position while in office and from registering as a lobbyist within the two-year period after leaving office. No statewide elected official, member of the General Assembly, or any person acting on behalf of the person can expressly and explicitly make an offer or promise to confer any paid employment in exchange for the official's or member's vote on any public matter. Any person making the offer or promise will be guilty of the crime of bribery of a public servant. Any statewide elected official or member of the General Assembly who accepts or agrees to accept an offer will be guilty of the crime of acceding to corruption. A member of the General Assembly is prohibited from accepting any item, service, or thing of value from any lobbyist and from accepting or receiving compensation of any kind as a paid political consultant for another state legislator or statewide office holder or for any campaign, candidate, continuing, or political party committee and his or her spouse, dependent child, or parent is prohibited from accepting or receiving compensation of any kind as a paid political consultant for any state legislator (Section 105.456, RSMo);

(2) Requires a nominee for appointment to a board or commission requiring Senate confirmation to file a financial interest statement and to request from the Missouri Ethics Commission, within 30 days of the submission of his or her name to the Governor, a list of all his or her political contributions and the name of the candidate or committee to which those contributions were made for the four-year period prior to the appointment in order to be an eligible nominee. The commission must provide the information to the nominee so that he or she can deliver the information to the President Pro Tem of the Senate prior to confirmation (Section 105.463);

(3) Allows a lobbyist to report the total expenditures for an occasion provided to all members of the House of Representatives or Senate and their staff and employees, all members of a joint committee of the General Assembly and its staff, a standing committee of the House of Representatives or the Senate and its staff, the majority or minority caucus of the House of Representatives or the Senate, or all statewide officials and their staff and employees when they are invited in writing (Section 105.473.3);

(4) Specifies that a lobbyist found to knowingly omit, conceal, or falsify information required on the monthly lobbyist report will be guilty of a class A misdemeanor (Section 105.473.8);

(5) Requires any state employee or any person employed by an elected or appointed state official or by a political subdivision or public school district of the state who receives compensation for political activities or consulting not directly associated with the person's official duties to file a financial interest statement with the commission (Section 105.483);

(6) Specifies that each person who is required to file a financial interest statement must attest that at no time during the covered period did he or she knowingly engage in a financial transaction to advance a personal pecuniary interest or a pecuniary interest for or on behalf of a member of his or her family within the third degree using confidential business information that was available to him or her by virtue of the person's public office or employment or knowingly provide or transmit confidential business information only available to him or her by virtue of his or her public office or employment to any person intending to use the information for a nongovernmental purpose unless the provision or transmission is otherwise provided for or required by law. The bill changes the information and the amount of income, stock, and property of a spouse or dependent child of a person who is required to file a financial interest statement that must be disclosed on a financial interest statement (Section 105.485);

(7) Requires, on or before January 1 of each year, every department, agency, board, and commission with the executive, judicial, and legislative branches of state government, as well as specified quasi-governmental bodies to identify every public official and employee who is required to file a financial interest statement and submit those names to the commission on forms prescribed by the commission. The entities must also notify the commission of any new public official or employee who must file a statement within 10 business days of his or her employment (Section 105.487);

(8) Authorizes the commission to conduct an investigation on any report, statement, or record filed with the commission if there is reasonable grounds to believe that a violation has occurred (Section 105.955);

(9) Requires a complaint filed with the commission alleging a violation of specified provisions to be signed and notarized and to include the facts which, if true, fall within the commission's jurisdiction. A portion of a provision is repealed that requires

the commission to dismiss a case if it finds no probable cause to believe that there has been a violation (Section 105.957);

(10) Authorizes the executive director of the commission to conduct an independent investigation without the receipt of a complaint if there are reasonable grounds to believe a violation has occurred and a majority of the commission members vote to proceed. All investigations by the executive director must be strictly confidential with the exception of notification of the commission and the complainant and the person under investigation. Revealing any confidential investigation information will be cause for removal or dismissal of the director, commission member, or employee (Section 105.959);

(11) Specifies complaint investigation procedures, investigation time frames, and the appeal process (Sections 105.961 and 105.966);

(12) Increases, from \$10 to \$50 per day, the late filing fee that the director may assess for a delinquent campaign disclosure report up to a maximum of \$3,000 per report and allows the director to also assess the late filing fee on a statement of limited authority (Sections 105.963.1 and 105.963.2);

(13) Authorizes the commission, after receiving a judgment for unpaid late filing fees, to collect the judgment in any manner authorized by law including garnishment of and execution against the committee's official depository account after a 30-day delinquency (Section 105.963.5);

(14) Allows a lobbyist or an individual to file an appeal of a late filing fee as specified in the bill (Section 105.963.7);

(15) Repeals the provision allowing extra time for an investigation if it is assigned to a retired judge and the provision allowing the commission to file a petition in the Cole County Circuit Court to seek extra time (Section 105.966);

(16) Prohibits a party nominating committee from selecting a candidate for an office on the primary election ballot if the candidate had previously been disqualified for the same office on the same primary election ballot or for the same office on the corresponding general election ballot (Section 115.364);

(17) Specifies that a political party committee can include only one Congressional district committee per political party for each Congressional district in the state and one state party committee per political party (Section 130.011);

(18) Prohibits a person from forming a new committee or serving

as a treasurer or deputy treasurer for a committee until the person or the treasurer of any previously formed committee by the person or the person who served as treasurer or deputy treasurer has filed all required campaign disclosure reports and statements of limited authority for all prior elections and paid any outstanding fees (Section 130.021.3);

(19) Repeals the provision requiring each legislative and senatorial district committee to retain only one address in the district for the purpose of receiving contributions (Section 130.021.12);

(20) Allows a political action committee to receive contributions from individuals, unions, federal political action committees, corporations, associations, and partnerships but prohibits a committee from receiving contributions from other political action committees, candidate committees, political party committees, campaign committees, exploratory committees, or debt service committees. Candidate, political party, campaign, exploratory, and debt service committees must be allowed to return contributions to the donor political action committee that is the origin of the contribution (Section 130.031.13);

(21) Prohibits a person from transferring anything of value to any committee with the intent to conceal the identity of the actual source from the commission. A first violation requires the return of the funds within 10 days of notification by the commission. A person will be guilty of a class C misdemeanor for a second violation and a class D felony for a third or subsequent violation (Section 130.031.14);

(22) Requires all committees to file campaign financial disclosure reports electronically with the commission (Section 130.031.15);

(23) Prohibits a committee from transferring any funds to another committee if the treasurer of both committees is the same person (Section 130.031.16);

(24) Prohibits a committee from receiving any contribution from a tax-exempt organization unless the organization has disclosed to the commission the name and address of each donor or provides a list of all donors to the general public on the organization's website (Section 130.031.17);

(25) Establishes a limit on the amount of contributions made by or accepted from any person other than the candidate in any one election to \$2,000 for a candidate for a statewide office, \$1,000 for a candidate for the office of state senator, \$500 for a candidate for the office of state representative, \$500 for a

candidate for any other office in an electoral district with less than 100,000 persons, \$1,000 for a candidate for any other office in an electoral district with at least 100,000 but less than 250,000 persons, and \$2,000 for a candidate for any office in an electoral district with 250,000 or more persons. The limits must be increased on January 1 of each even-numbered year based on inflation as specified in the bill (Sections 130.032.1 and 130.032.2);

(26) Specifies that every committee established under Chapter 105 will be subject to the limits but the provisions of the bill cannot limit the amount of contributions that may be accumulated by a candidate committee and used for expenditures to further the nomination or election of the candidate who controls the candidate committee (Section 130.032.3);

(27) Specifies that a contribution from a person younger than 14 years of age will be considered as made by the parents or guardians of the person and attributed equally to each parent or guardian unless the contributor has one custodial parent or guardian in which case all of the contribution must be attributed to the custodial parent or guardian (Section 130.032.4);

(28) Requires contributions received and expenditures made before January 1, 2013, to be reported as a separate account and under the laws in effect at the time the contributions are received or the expenditures made (Section 130.032.5);

(29) Specifies that any committee that accepts or gives contributions other than those allowed by law will be subject to a surcharge of \$1,000 plus an amount equal to the nonallowable contribution, which will constitute a debt owed to the state under Chapter 143. The candidate and the committee treasurer or deputy treasurer owing the surcharge will be personally liable for the payment or may pay it from campaign funds existing on the date of the receipt of notice and is payable to the commission after the individual has had 10 business days after receipt of notice from the commission to return the nonallowable contribution (Section 130.032.6);

(30) Requires members of the General Assembly and statewide elected officials and any candidate for one of these offices to report any contribution exceeding \$500 within 48 hours during the regular legislative session and any period in which legislation from the regular session awaits gubernatorial action (Section 130.044);

(31) Prohibits a successful candidate from taking office until all required reports have been filed and fees assessed by the commission have been paid by the candidate or the treasurer of

the candidate's committee or the successful candidate who also has served as a treasurer or deputy treasurer of any committee defined in Section 130.011. No person may file for any office in a subsequent election until he or she or the treasurer of his or her existing candidate or any specified committee in which he or she is a treasurer or deputy treasurer has filed all required campaign disclosure reports for all prior elections and paid all fees assessed by the commission (Section 130.071);

(32) Specifies that a person commits the crime of obstruction of an ethics investigation, a class D felony, if he or she knowingly confers or agrees to confer or accepts or agrees to accept anything of pecuniary benefit to any person in direct exchange for that person's concealing or withholding any information concerning a violation of the provisions regarding conflicts of interest and lobbying or the provisions regarding campaign finance disclosures or makes or submits a false statement or submits inaccurate documentation to any commission member or employee or to any investigating official. It is a defense to prosecution in certain specified circumstances that the person retracted the false statement, writing, or documentation (Section 575.021);

(33) Specifies that a public official, statewide elected official, or an employee of the state and its agencies is a public governmental body when he or she is operating in his or her official capacity and is subject to the provisions of the Open Meetings and Records Law, commonly known as the Sunshine Law (Section 610.010); and

(34) Repeals the provisions enacted by Senate Bill 844 in the 95th General Assembly, Second Regular Session, which were struck down as unconstitutional by the Missouri Supreme Court for procedural reasons in *Legends Bank and John Klebba v. State of Missouri*, SC 91742.

The bill contains an emergency clause.