

HB 1851 -- ETHICS

SPONSOR: Harris

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

(1) Prohibits the solicitation of expenditures or fund-raising activities and events supporting or opposing any candidate, ballot measure, political party, or political party committee on any property or in any building owned or leased by the state or any political subdivision unless the property or building is routinely used by and made available for rent or for a fee to all members of the public (Section 8.925, RSMo);

(2) Requires the Attorney General, or a designated assistant; the Elections Division of the Office of the Secretary of State; and each county prosecutor to provide assistance to the Missouri Ethics Commission in any investigation under Section 105.959 (Sections 27.035, 28.320, and 56.060);

(3) Prohibits a member of the General Assembly from accepting or receiving compensation of any kind as a paid political consultant until one year after the expiration of his or her term of office. A member of the General Assembly cannot act, serve, or register as a lobbyist or solicit clients to represent as a lobbyist until three years after the expiration of his or her term of office. A member may serve as an uncompensated lobbyist for a religious and charitable organization under Chapter 352 immediately upon leaving office. Paid, full-time employees of a member of the General Assembly cannot act, serve, or register as a lobbyist or solicit clients to represent as a lobbyist until one year after his or her termination of employment. A member of the General Assembly cannot be compensated for acting or serving as an elected local government official lobbyist or solicit clients to represent while serving a term as a member of the General Assembly (Sections 105.450 and 105.453);

(4) Prohibits a member of the General Assembly or specified state-wide elected officials from soliciting any registered lobbyist for a position with a hiring date beginning after the person is no longer an elected official, whether compensated or not, while he or she holds office (Section 105.456.1);

(5) Prohibits a member of the General Assembly from accepting or receiving compensation of any kind as a paid political consultant for another individual holding the office of state representative, state senator, specified state-wide elected offices, or any committee and any spouse, dependent child, or parent of a member of

the General Assembly from accepting or receiving compensation of any kind on behalf of any individual holding office as a state representative or senator who acts as a paid political consultant (Section 105.456.3);

(6) Prohibits an individual or business entity from soliciting a member of the General Assembly to become employed by that individual or entity as a lobbyist or paid political consultant while the member is holding office. No member of the General Assembly may solicit clients to represent as a legislative lobbyist (Section 105.456.4);

(7) Prohibits the Governor or any person acting on behalf of the Governor from making any offer or promise to confer various specified appointed positions to a member of the General Assembly in exchange for the member's official vote on a public matter. Any person making an offer or promise is guilty of the crime of bribery of a public servant. A member of the General Assembly who accepts or agrees to accept an offer or promise to confer an appointment to specified positions in exchange for an official vote on a public matter will be guilty of the crime of acceding to corruption (Sections 105.456.5 and 105.456.6);

(8) Prohibits the Governor and other specified statewide elected officials and members of the General Assembly or their staff, employees, spouses, and dependant children from accepting anything of value from a lobbyist (Section 105.456.7);

(9) Requires, within 10 days of the submission of an appointment letter to the Secretary of State for the appointment of a person to a board or commission, the Governor to deliver to the President Pro Tem of the Senate a list of any political contributions and expenditures made by the appointee within the previous four years. The current requirement that an eligible nominee for appointment to a board or commission requiring Senate confirmation must, within 30 days of submission of his or her name to the Governor and in order to be an eligible nominee, file a financial interest statement and request a list of all political contributions that were made within the prior four-year period from the Ethics Commission and deliver it to the Ethics Commission and the President Pro Tem prior to confirmation is repealed (Section 105.463);

(10) Specifies that any person who intentionally offers or accepts anything of value to an elected or appointed official or employee of the state or any political subdivision in direct exchange for voting for or against or engaging in any action designed to benefit, delay, or hinder the passage or failure of any specific state legislation, rule, or regulation or any specific local legislation, order, ordinance, rule, or regulation will be guilty

of a class D felony (Section 105.465);

(11) Requires, by January 5 of each year or five days after beginning any activities as a paid political consultant, a paid political consultant to file standardized registration forms, verified by a written declaration that it is made under the penalties of perjury with the commission. The information that must be included in the report is specified. The commission must maintain files on all consultant filings which must be open to the public. The filing fee is \$10 and an updating statement under oath must be filed with the commission within five days of any addition, deletion, or change in the person's employment or representation (Section 105.468);

(12) Repeals the provisions allowing a lobbyist to report the total of all expenditures, instead of individually, for an occasion provided to all members of the House of Representatives or Senate, all members of a joint committee of the General Assembly, or a standing committee of the House of Representatives or the Senate when they are invited in writing (Section 105.473.3);

(13) Requires a lobbyist or a lobbyist principal to maintain accurate records relating to receipts and expenditures for elected officials for at least three years and to make those records available to the commission for inspection upon an investigation by the commission (Section 105.473.6);

(14) Prohibits a lobbyist from offering the Governor and other specified statewide elected officials and members of the General Assembly or their staff, employees, spouses, and dependant children anything of value (Section 105.473.15);

(15) Requires a paid political consultant to file an electronic registration report as supplied by the commission and requires members of the General Assembly to also use the electronic reporting system used by all lobbyists (Section 105.477);

(16) Specifies that any person who engages in lobbyist activities as defined in Section 105.470 and knowingly fails to register as a lobbyist will be guilty of a class B misdemeanor for the first violation and a class D felony for any subsequent violation (Section 105.478);

(17) Requires any paid, full-time employee of specified elected officials who works in any manner to develop or influence the passage or defeat of any legislation; any person employed by the state or by any elected or appointed official or by any political subdivision including a school district who is compensated for political activities or consulting unrelated to his or her official

duties; and any paid, full-time employee of any member of the General Assembly must also file a financial interest statement with the commission. These provisions must apply to all individuals regardless of whether he or she is compensated on a full-time, part-time, or contract basis. These individuals must also file an additional financial interest statement each year not later than June 30 covering the period from January 1 to May 31 (Sections 105.483 and 105.487);

(18) Creates specified additional information requirements for financial interest statements (Section 105.485);

(19) Authorizes the term of a member of the commission to be extended one time for up to 120 days if there are vacancies on the commission and allows the executive director of the commission to serve at the pleasure of the commission instead of being limited to no more than six years (Sections 105.955.3 and 105.955.11);

(20) Authorizes the commission to conduct investigations and clarifies the commission's authority to issue subpoenas by allowing the commission to delegate the power to issue subpoenas to the executive director (Sections 105.955.14 and 105.955.15);

(21) Creates the Missouri Ethics Commission Enforcement Fund consisting of 50% of any fine, fee, or penalty imposed for a violation of any provision over which the commission has jurisdiction exclusive of funds mandated for education by law. Moneys in the fund must be deemed to be additional funding and no amount appropriated to the commission for fiscal years beginning on or after July 1, 2014, can be reduced below the appropriation made for the fiscal year ending on June 30, 2014 (Section 105.955.19);

(22) Requires a complaint to be signed and notarized and to include the alleged facts that, if true, are within the commission's jurisdiction before being accepted by the commission. The provision is repealed that allows the commission to dismiss a case if it finds no probable cause to believe that there has been a violation. A person is allowed to be reimbursed up to 10% of specified fines, fees, or penalties resulting from an ethics investigation when he or she is the original source of information for the investigation and he or she did not plan, initiate, or participate in the conduct subject to the investigation (Section 105.957);

(23) 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. If an investigation fails to establish reasonable grounds to believe that a violation has occurred, the investigation

must be terminated and the person who had been under investigation must be notified. Separate time limitations for a special election investigation are also specified in the bill (Section 105.959);

(24) Changes the laws regarding complaint investigation procedures, investigation time frames, and the appeal process (Sections 105.961 and 105.966);

(25) Establishes the late fees that may be assessed for a delinquent report to the commission at a consistent rate for all report types and repeals the \$3,000 maximum late fee per report (Sections 105.963.1 and 105.963.2);

(26) Requires a candidate, in the required written declaration of candidacy, to affirm that he or she is not a feigned candidate in order to conceal the candidacy of another or to divide the opposition (Section 115.349.3);

(27) Creates a class three election offense for giving, lending, or agreeing to give or lend, offering, promising, or endeavoring to procure money or anything of value with the intent to induce a person to run for any office in this state if the person has the same or a similar name as another candidate for that office and would not otherwise run for the office but for the inducement. Legally made campaign contributions cannot be construed as an inducement to run for elective office under the provisions of the bill (Section 115.635);

(28) Moves the definitions regarding committee formation and termination from Section 130.011 to Section 130.021 (Sections 130.011 and 130.021); The definition of a "committee" is revised to include an organization that is exempt from taxation under 26 U.S.C. Section 501(c)(4) and the definition of "political party committee" is revised as a committee of a political party which may be organized as a not-for-profit corporation under Missouri law and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party. Political party committees can only take the form of one state party committee per political party (Section 130.011);

(29) Prohibits a person acting as a treasurer or deputy treasurer for a committee from acting as a treasurer or deputy treasurer for any other committee at the same time (Section 130.021.1);

(30) 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 who served as treasurer or deputy treasurer has filed all required

campaign disclosure reports or statements of limited activity have been filed for all prior elections and paid any outstanding fees. No candidate is allowed to form, control, or direct a political action committee (Section 130.021.3);

(31) Modifies the time frame for filing a statement of organization and terminating a committee (Sections 130.021.5 - 130.021.8);

(32) Specifies that each committee must retain only one address for the purpose of receiving contributions and a post office box cannot qualify as an acceptable address. No committee can have the same address as any other committee (Section 130.021.12);

(33) Makes technical changes renaming committees (Sections 130.026 and 130.028);

(34) Prohibits any contribution from being made or accepted and any expenditure being made or incurred with the intent to conceal the identity of the actual source of the contribution or the actual recipient and purpose of the expenditure. There must be a rebuttable presumption that a contribution is made or accepted or an expenditure is made or incurred with the intent to conceal the identity of the actual source of the contribution or the actual recipient and purpose of the expenditure when the source of a contribution or the recipient and purpose of an expenditure is purposely misreported to the commission through a repeated misspelling of the source, recipient, or purpose. A contribution cannot be made or accepted, and an expenditure cannot be made or incurred, with the intent to circumvent the limitations on contributions or expenditures imposed by law. There must be a rebuttable presumption that a contribution is made or accepted with the intent to circumvent the limitations on contributions when a committee receives a contribution from two or more committees that are primarily funded by a single person, individual, or other committee or when a contribution is received from a committee that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations on the receiving committee. A committee must be deemed to be primarily funded by a single person, individual, or other committee when the committee receives more than 50% of its annual funding from that single person, individual, or other committee. When a committee receives a contribution from two or more committees that are primarily funded by a single person, individual, or other committee, or when a contribution is received from a committee that is primarily funded by a single person, individual, or other committee that has already reached its contribution limit under any law relating to contribution limitations on the receiving committee, the commission

must investigate. The investigation must, when directed by the commission, be assisted by the Office of the Attorney General, the Elections Division of the Office of the Secretary of State, or the prosecuting attorney of the county in which the violation occurred. Any person who receives contributions for a committee must disclose to that committee's treasurer, deputy treasurer, or candidate the recipient's own name and address and the name and address of the actual source of each contribution the person has received for the committee. Any person who makes expenditures for a committee must disclose to that committee's treasurer, deputy treasurer, or candidate the person's own name and address, the name and address of each person to whom an expenditure has been made, and the amount and purpose of the expenditures the person has made for that committee. The penalty and fine for a violation are specified (Section 130.031.3);

(35) Prohibits a gubernatorial appointee from making any contribution or expenditure for the Governor or his or her candidate committee (Section 130.031.13);

(36) Requires, beginning January 1, 2015, all committees that must file campaign financial disclosure reports with the commission to file any required report in an electronic format as prescribed by the commission (Section 130.031.14);

(37) Prohibits a committee from transferring any funds to another committee if the same individual is the treasurer or acting as an agent for both committees (Section 130.031.15);

(38) Prohibits the rate of interest on any unsecured loan made to any committee from exceeding 10% per annum (Section 130.031.16);

(39) Limits, beginning January 1, 2015, the amount of contributions from any one person other than the candidate in any one election to a candidate for specified statewide office to \$2,600; \$1,000 for a candidate for state senator; and \$500 for a candidate for state representative or any other office, including judicial office. The total amount of contributions by any single contributor in a year to any political party cannot exceed \$32,400. The limits must be increased on January 1 of each even-number year by the specified formula based on increase in the federal Consumer Price Index. A contribution from a child younger than 14 years of age must be counted equally toward each parent's contribution limits or, in the case of a single parent, counted fully against that parent's contribution limit. Any committee that violates these provisions will be subject to a \$1,000 surcharge plus the amount of the nonallowable contribution if a violation is not voluntarily corrected within 10 business days from receipt of notice of the violation from the commission (Section 130.032);

(40) Specifies that disclosure reports must be available for inspection by the commission instead of the Campaign Finance Review Board which no longer exists (Section 130.036);

(41) Requires any committee that holds or invests funds to only hold or invest the moneys in no- or low-risk investments and prohibits the investment of any of the funds in moderate- to high-risk investments (Section 130.039);

(42) Decreases, from \$5,000 to \$2,000, the amount of a single contribution that must be disclosed electronically to the commission within 48 hours of receipt. Individuals and committees required to file disclosure reports who receive a single contribution of \$2,000 or more that must be reported under Section 130.044 must include that contribution on the current and all subsequent disclosure reports or statements of limited activity required in that election cycle or calendar year. The contribution reportable under Section 130.044 and required to be included on subsequent statements of limited activity under Section 130.041 will not be counted in the maximum aggregate limits for a statement of limited activity filed under Section 130.046 (Sections 130.041-130.046);

(43) Repeals the exemption and requires specified continuing committees and candidate committees to file campaign finance reports electronically with the commission (Section 130.057);

(44) Allows the commission to direct the Secretary of State to remove a candidate from the ballot using the removal process of Chapter 115 for specified violations of the campaign finance limits. Removal requires a finding of a violation by the commission, a judicial body, or a quasi-judicial body prior to the day of the general election (Section 130.073);

(45) Makes technical changes to accommodate committee naming changes (Section 226.0330);

(46) Changes the penalty for a person who commits the crime of obstruction of an ethics investigation from a class A misdemeanor to a class D felony (Section 575.021);

(47) Specifies that individual members of the General Assembly and their staff and employees are to considered as a public governmental body for the purposes of the Open Records and Meetings Law, commonly known as the Sunshine Law, when the person is operating in his or her official capacities and using state-funded equipment for his or her official communications (Section 610.010); and

(48) 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 becomes effective January 1, 2015.