

HB 509 -- ETHICS

SPONSOR: Harris

This bill modifies laws relating to campaign finance, lobbying, and ethics. In its main provisions, the bill:

- (1) Makes technical changes to remove or replace statutes with procedural errors;
- (2) Prohibits solicitation of expenditures, fund-raising activities, or fund-raising events, supporting or opposing any candidate, ballot measure, political party, or political party committee from occurring 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 by the state or the political subdivision (Section 8.925, RSMo);
- (3) Requires the Attorney General, or a designated assistant, the Elections Division of the Office of the Secretary of State, and the prosecuting attorney of each county or city not within a county to aid the Ethics Commission in any investigation under Section 105.959. Certain new reporting requirements, deadlines, and rules for paid political consultants are subject to investigation under Section 105.959 (Sections 27.035, 28.320, 56.060, and 105.959);
- (4) Defines a "paid political consultant," as an individual who is paid or accepts anything of value to support or oppose the passage or defeat of a ballot measure or to promote the election of any candidate or the interest of an organization or committee, as specified in the bill (Section 105.450);
- (5) Prohibits any 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 (Section 105.453);
- (6) Prohibits any member of the General Assembly from acting or serving as a lobbyist, registering as a lobbyist, or soliciting clients to represent as a lobbyist until three years after his or her term of office expires (Section 105.453);
- (7) Prohibits paid, full-time employees of any member from acting or serving as a lobbyist, registering as a lobbyist, or soliciting clients to represent as a lobbyist until one year after termination of his or her employment (Section 105.453);
- (8) Prohibits any member of the General Assembly from being

compensated for acting or serving as an elected local government official lobbyist, or soliciting clients to represent as a lobbyist while serving a term as a member of the General Assembly (Section 105.453);

(9) Allows a member of the General Assembly to act or serve as a lobbyist for and solicit clients to represent as a lobbyist, without compensation, for religious and charitable associations organized under Chapter 352 immediately upon vacating the member's office as a member of the General Assembly;

(10) Prohibits any individual holding office as a Missouri House of Representative or Missouri Senator from accepting or receiving compensation of any kind as a paid political consultant for another individual holding an elected office, as specified in the bill, or for any committee, as defined in Chapter 130. A spouse, dependent child, or parent may not accept or receive compensation of any kind on behalf of any individual holding office as a Missouri House of Representative or Missouri Senator who acts as a paid political consultant (Section 105.456);

(11) Prohibits any individual or business entity from soliciting a member of the General Assembly to become employed by the individual or business entity as a legislative lobbyist or as a paid political consultant, while the member is holding office as a member of the General Assembly. A member of the General Assembly must not solicit clients to represent as a legislative lobbyist (Section 105.456);

(12) Prohibits the Governor and any individual acting on behalf of the Governor from making any offer or promising an appointment to any board, commission, committee, council, county office, department directorship, fee office under Section 136.055, judgeship, or any other position, to any member of the General Assembly in exchange for the member's official vote on any public matter. An individual making any offer or promise is guilty of bribery of a public servant (Section 105.456).

(13) Prohibits the Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, State Auditor, any member of the General Assembly, and any of the elected official's staff, employees, spouse, or dependent children from accepting any tangible or intangible item, service, or thing of value from any lobbyist (Section 105.456);

(14) Requires, within 10 days of submission of an appointment letter to the Secretary of State for the appointment of an individual 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 (Section 105.463);

(15) Prohibits an individual from intentionally offering to any elected or appointed official or employee of the state or any political subdivision thereof, and prohibits any official or employee from accepting, any item, service, or thing of value, including a contribution in direct exchange for voting in favor of, voting against, or engaging in any legislative, executive, or judicial course of 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. A violation of this section is a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017 (Section 105.465);

(16) Requires that a lobbyist or lobbyist principal must maintain accurate records and accounts of lobbyist expenditures on a current basis with regard to records required under Chapter 105. All records and accounts of receipts and expenditures for elected officials must be preserved for at least three years after the date of the expenditure to which the record pertains. The records must be available for inspection by the Ethics Commission and its duly authorized representatives during an investigation by the Ethics Commission (Section 105.473);

(17) Prohibits a lobbyist from delivering any tangible or intangible item, service, or thing of value to the Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, State Auditor, or any member of the General Assembly or to any of the elected official's staff, employee, spouse, or dependent children (Section 105.473);

(18) Creates a crime for improperly acting as a lobbyist without registering. An individual who engages in lobbyist activities and who knowingly fails to register as a lobbyist is guilty of a class B misdemeanor for the first violation and guilty of a class D felony for any subsequent violations (Section 105.478);

(19) Regulates the practice of being a paid political consultant as defined previously. Each paid political consultant must file standardized registration forms by January 5 of each year or five days after beginning any activities as a paid political consultant. Each registration must contain specified information and a \$10 filing fee. The commission must maintain files on all consultant filings and the files must be open to the public. An updated statement must be filed within one week of any addition, deletion, or change in a political employment or representation. The filing

fee must be deposited to the General Revenue Fund of the state (Section 105.479);

(20) Expands the requirement for filing financial interest statements with the commission to include any paid, full-time employee of the principal administrative or deputy officers or assistants serving the Governor, Lieutenant Governor, Secretary of State, State Treasurer, State Auditor and Attorney General who works in any manner to develop or influence the passage or defeat of any legislation. The filing requirements also include an individual who is employed by the state or by any elected or appointed official of the state, or by any political subdivision of the state, including cities, towns, villages, counties, and public school districts, and who receives any compensation for political activities or consulting not directly associated with his or her official duties and any staff of any member of the General Assembly that is a paid, full-time employee of the member. This filing requirement will apply regardless of whether an individual is compensated on a full-time, part-time, or contract basis (Section 105.483);

(21) Specifies additional information required in financial interest statements (Section 105.485);

(22) Enacts a new filing deadline for annual ethics reports under Section 105.487. Reports covering the previous calendar year will be due on January 1 of each year. Members of the General Assembly, paid, full-time employees of members of the General Assembly, statewide elected officials, and designated officers and employees of statewide elected officials required to report under Section 105.483 must file an additional statement annually no later than June 30 and the statement must cover the period including January 1 through May 31 immediately preceding the filing date (Section 105.487);

(23) Extends the time limit for service on the commission by 120 days in cases where a vacancy exists (Section 105.959);

(24) Creates the Missouri Ethics Commission Enforcement Fund, which will consist of 50% of any fine, fee, or penalty imposed for violations of any provisions subject to the Ethics Commission's jurisdiction, excluding certain penalty funds dedicated to the schools by the Constitution of Missouri. All funds will be used to allow the Ethics Commission to fulfill the duties required of the commission by state law, and no amount appropriated to the Ethics Commission for any fiscal year beginning on or after July 1, 2015, will be reduced below the appropriation made for the fiscal year ending on June 30, 2015. The bill also specifies how funds may be used for purposes of an investigation (Section 105.955);

(25) Specifies deadlines for ethics investigations based upon the infraction and person under investigation (Section 105.961);

(26) Removes an aggregate amount exception to late filing fees under Section 105.963 so that fees owed can now exceed \$3,000 (Section 105.963);

(27) Maintains a 90 day period for ethics complaint investigations under Section 105.961 and allows the commission to request an additional 90 days by filing a petition in Cole County Circuit Court (Section 105.966);

(28) Prohibits fraudulent election conduct by requiring candidates to declare that they are not a feigned candidate in order to conceal the candidacy of another or to divide the opposition. Candidates are informed that the commission may investigate claims of feigned candidacy and recommend a criminal investigation (Section 115.349);

(29) Expands the third class election offenses under Section 115.636 by prohibiting giving, lending, agreeing to give or lend, offering, promising, or endeavoring to procure any money or valuable consideration with the intent of inducing an individual to run for an office in this state if he or she has a name that is identical or similar to another candidate for the same elective public office and would not otherwise run for elective public office but for the inducement. Campaign donations made in accordance with the laws of this state may not be construed to be an inducement to run for elective public office (Section 115.635);

(30) Changes the definition of "continuing committee" to political action committee, includes specified nonprofit entities in the definition of committee under Chapter 130, and defines "political party committee" 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 must only take the form of one state party committee per political party (Sections 130.011, 130.046, and 226.033);

(31) 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);

(32) Requires the treasurer or deputy treasurer acting on behalf of an individual or organization or group of individuals which is a committee and any candidate who is not excluded from forming a

committee must file a statement of organization with the appropriate officer within 20 days after the person or organization becomes a committee but no later than 30 days prior to the election for which the committee receives contributions or makes expenditures, except that a political action committee must file a statement of organization with the appropriate officer no later than 60 days prior to the election for which the committee receives contributions or makes expenditures. A campaign committee must terminate either 30 days after the general election or upon the satisfaction of all committee debt after the general election, whichever is later, except that no committee retiring debt may engage in any other activities in support of a measure for which the committee was formed. A candidate committee may continue in existence for use by an elected candidate or may terminate on the later of either 30 days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt may engage in any activities in support of the candidate for which the committee was formed. Each committee may retain only one address for the purpose of receiving contributions and a post office box may not qualify as an acceptable address for the purposes of this subsection. A committee may not have the same address as any other committee (Section 130.021);

(33) Enacts transparency requirements for contributions to committees. A contribution may not be made or accepted, and an expenditure may not be 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 misrepresented to the Ethics Commission through a repeated misspelling of the source or recipient or purpose. No contribution will be made or accepted, and an expenditure may not be made or incurred, with the intent to circumvent the limitations on contributions or expenditures imposed in this bill. 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. There must be a rebuttable presumption that a contribution is made or accepted with the intent to circumvent the limitations on contributions imposed in this bill 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 Ethics Commission must investigate and procedures for the investigation are specified in the bill.

Any person who receives contributions for a committee shall 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 individual has received for the committee. An individual who makes expenditures for a committee must disclose to that committee's treasurer, deputy treasurer, or candidate his or her own name and address, the name and address of each individual to whom an expenditure has been made, and the amount and purpose of the expenditures he or she has made for that committee. For a first violation, the Ethics Commission must notify the individual of the contribution made or accepted or expenditure made or incurred in violation of this subsection within five days of determining that a violation has occurred, and the individual must be subject to a civil penalty of not less than \$5,000 and must return the contribution made or accepted or recover the expenditure made or incurred in violation of this subsection within 10 days of the notification. If the contribution made or accepted in violation of this subsection is not returned or expenditure made or incurred in violation of this subsection is not recovered within 10 days, the Ethics Commission may impose a fine in an amount not less than the amount of the contribution made or accepted or the expenditure made or incurred in violation of this subsection, but the fine must not be more than three times the amount of the contribution made or accepted or expenditure made or incurred in violation of this rule. For the second violation, the person making or accepting the contribution or making or incurring the expenditure in violation of this subsection must be guilty of a class C misdemeanor, and the Ethics Commission may also impose a fine in an amount not less than the amount of the contribution made or accepted or the expenditure made or incurred in violation of this subsection, but the fine must not be more than three times the amount of the contribution made or accepted or expenditure made or incurred in violation of this rule. For the third and subsequent violation, the person making or accepting the contribution or making or incurring the expenditure

in violation of this subsection is guilty of a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017, and the Ethics Commission may also impose a fine in an amount not less than the amount of the contribution made or accepted or the expenditure made or incurred in violation of this subsection, but the fine must not be more than three times the amount of the contribution made or accepted or expenditure made or incurred in violation of these rules (Section 130.031);

(34) Enacts campaign finance limits. Every committee will be subject to the limits, however, the bill does not 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. The amount of contributions made by or accepted from an individual other than the candidate in any one election may not exceed the following:

(a) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor, or attorney general, \$2,600;

(b) To elect an individual to the office of state senator, \$1,000; and

(c) To elect an individual to the office of state representative or to any other office, including judicial office, \$500.

The amount of aggregate contributions made by any single contributor in a calendar year to any political party committee may not exceed \$32,400. A "base-year amount" is defined as the contribution limits prescribed in this bill on January 1, 2016. The limits may be increased on January 1 in each odd-numbered year by multiplying the base-year amount by the cumulative Consumer Price Index, as defined in Section 104.010 and rounded to the nearest \$25 amount, for all years since January 1, 2016. Any committee that accepts or gives contributions other than those allowed are subject to a surcharge of \$1,000 plus an amount equal to the contribution per nonallowable contribution, to be paid to the Ethics Commission and is transferred to the Director of the Department of Revenue, upon notification of the nonallowable contribution by the Ethics Commission, and after the candidate has had 10 business days after receipt of notice to return the contribution to the contributor. The candidate and the candidate committee treasurer or deputy treasurer owing a surcharge must be personally liable for the payment of the surcharge or may pay the surcharge only from campaign funds existing on the date of the receipt of notice. The surcharge must constitute a debt to the state enforceable under, but not limited to, the provisions of Chapter 143 (Section 130.032);



(35) Regulates contributions from young individuals and the application of new campaign finance limits to existing funds. Contributions from anyone under 14 years of age must be considered made by the parents or guardians of the individual and must be attributed toward any contribution limits prescribed in this chapter. Where the contributor under 14 years of age has two custodial parents or guardians, 50% percent of the contribution must be attributed to each parent or guardian, and when the contributor has one custodial parent or guardian, all of the contributions must be attributed to the custodial parent or guardian. Contributions received and expenditures made before January 1, 2016, must be reported as a separate account and under the laws in effect at the time the contributions are received or expenditures made. Contributions received and expenditures made after January 1, 2016, must be reported under the provisions of this chapter as a separate account from the other separate account described in this subsection. The account reported under the prior law must be retained as a separate account and any remaining funds in the account may be used under Chapter 130 (Section 130.032);

(36) Allows the Missouri Ethics Commission to inspect records retained by committee treasurers under Section 130.036. Currently, the records are subject to inspection by the campaign finance review board (Section 130.036);

(37) Requires all committees that hold or invest money to invest only in low-risk or no-risk products such as interest bearing accounts and prohibits investments in moderate or high risk instruments such as stocks (Section 130.039);

(38) Requires donations by a single contributor in excess of \$2,000 to be reported to the commission within 48 hours. The donations may be included in disclosure reports or statements of limited activity (Sections 130.041 and 130.044);

(39) Removes obsolete sections of law based on date changes (Section 130.057);

(40) Allows the commission to order the removal of candidates from the ballot for specified violations of campaign finance law (Section 130.073);

(41) Enhances the offense of obstruction of an ethics investigation under Section 571.021 from a class A misdemeanor to a class D felony until December 31, 2016, and a class E felony thereafter (Section 571.021); and

(42) Defines public officials, statewide elected officials, state

employees, and state agency employees as public governmental bodies for purposes of Chapter 610 commonly known as the Sunshine Law. Members of the General Assembly and their staff and employees are included in the definition of public governmental body. The communications covered by the definition are those made in an official capacity and using state-funded equipment.