

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 1 of 20 pages

ETHICS COMMISSION

1 An Act relating to campaign finance; amending 21 O.S. 2001,
2 Sections 187 and 187.2, which relate to corporate
3 contributions; modifying definitions; deleting prohibition on
4 certain corporate expenditures; amending 51 O.S. 2001,
5 Section 304, which relates to the Political Subdivisions
6 Ethics Act; modifying definitions; and declaring an
7 emergency.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY 21 O.S. 2001, Section 187, is
10 amended to read as follows:

11 Section 187. As used in Sections ~~1 through 3 of this act~~ 187
12 through 187.2 of this title:

13 1. "Accept", with reference to a contribution, means failure by
14 a candidate, treasurer, deputy treasurer or agent of a committee to
15 expressly and unconditionally reject and return a tendered
16 contribution to the contributor within six (6) business days from
17 receipt of the tender;

18 2. "Ballot measure" means an initiative, referendum, legislative
19 referendum, legislative initiative, state question, or any
20 proposition or measure submitted to voters for their approval or
21 rejection at a municipal, county or statewide election;

22 3. "Campaign" means and includes all activities for or against
23 the election of a candidate to a specific state or local office for a
24 specific term or the passage or defeat of a ballot measure from the
25 date of acceptance of the first contribution, the making of the first

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 2 of 20 pages

ETHICS COMMISSION

1 expenditure, or the filing of a declaration of candidacy, whichever
2 is first, until a final campaign contributions and expenditures
3 report is filed;

4 4. "Candidate" means a person who seeks nomination or election
5 to state or local office. An individual is a candidate when the
6 individual:

- 7 a. has filed a declaration of candidacy for any state
8 office with the Secretary of the State Election Board,
- 9 b. has filed a declaration of candidacy for any local
10 office with the secretary of any county election board,
- 11 c. has filed a declaration of candidacy with the Secretary
12 of State and has drawn active opposition,
- 13 d. is nominated as a "substitute candidate" pursuant to
14 Section 1-105 of Title 26 of the Oklahoma Statutes, or
- 15 e. solicits or accepts contributions, makes expenditures
16 or gives consent to an individual, organization, party
17 committee, or other committee to solicit or accept
18 contributions or make expenditures to secure election
19 to any state or local office at any time, whether or
20 not the office for which the individual will seek
21 nomination or election is known when the:

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 3 of 20 pages

ETHICS COMMISSION

- 1 (1) solicitation is made,
- 2 (2) contribution is accepted, or
- 3 (3) expenditure is made.

4 The term "candidate" shall include a person whose candidacy is
5 unopposed;

6 5. "Candidate committee" means the committee, consisting of one
7 or more persons who may be the candidate only, designated by a
8 candidate to promote the candidate's candidacy and serve as the
9 recipient of all contributions and the disburser of all expenditures
10 for the candidate;

11 6. "Committee" means a candidate committee, political action
12 committee, or party committee;

13 7. a. "Contribution" means and includes:

- 14 (1) a gift, subscription, loan, guarantee or
15 forgiveness of a loan, conveyance, advance,
16 payment, distribution, or deposit of money or
17 anything of value made to and with the knowledge
18 and for the benefit of a committee for use in a
19 campaign, or for reducing the debt of a committee,
- 20 (2) an expenditure made by a person or committee,
21 other than a candidate committee, with the

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 4 of 20 pages

ETHICS COMMISSION

1 cooperation of, or in consultation with, a
2 committee, a candidate, candidate committee, or
3 candidate's agent or that is made in concert with,
4 or at the request or suggestion of, a candidate,
5 candidate committee, or candidate's agent,

6 (3) the difference between the payment to a person,
7 other than a candidate or committee, of
8 compensation for personal services or products to
9 the candidate or committee, and the reasonable and
10 customary rate charged by the person for like
11 services or products in like quantities when the
12 candidate or committee has knowledge of the
13 discounted services or products,

14 (4) anything of value received by a committee that is
15 transferred from another committee or other
16 source,

17 (5) sums paid for tickets for a political event such
18 as a reception, rally, or a similar fundraising
19 event; however, the amount of any such
20 contribution may be reduced for the purpose of
21 complying with the reporting and contribution

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 5 of 20 pages

ETHICS COMMISSION

- 1 limitations requirements of Section ~~2 of this act~~
2 187.1 of this title, by the actual cost of
3 consumables furnished by the committee in
4 connection with the purchase of the tickets, and
5 only the excess over the actual cost of the
6 consumables shall be deemed a contribution,
- 7 (6) the candidate's own money used on behalf of that
8 candidate's candidacy, and
- 9 (7) the difference between the open market value and a
10 discount or rebate:
- 11 (a) not extended to the public generally, or
12 (b) by a television or radio station not extended
13 equally to all candidates for the same
14 office.
- 15 b. The term "contribution" shall not include:
- 16 (1) the value of services provided without
17 compensation by any individual who volunteers on
18 behalf of a candidate or committee,
- 19 (2) for purposes of the contribution limits set forth
20 in Section ~~2 of this act~~ 187.1 of this title, the
21 transfer of any funds by a political action

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 6 of 20 pages

ETHICS COMMISSION

- 1 committee to another political action committee,
2 provided the committees have been established as
3 provided by law and the transferring committee and
4 the receiving committee have been established,
5 directly or indirectly, and are administered or
6 financially supported, directly or indirectly, by
7 a common entity,
- 8 (3) any payment or obligation incurred by a
9 corporation, labor organization, membership
10 organization, cooperative or corporation without
11 capital stock for the establishment,
12 administration, and solicitation of contributions
13 to a separate segregated fund or political action
14 committee to be utilized for political purposes,
- 15 (4) a nonreimbursed payment made by an individual for
16 the individual's own travel expenses on behalf of
17 a committee,
- 18 (5) a payment made by an occupant of a residence or
19 office for costs related to a meeting or
20 fundraising event held in the occupant's residence
21 or office if the costs for the meeting or

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 7 of 20 pages

ETHICS COMMISSION

1 fundraising event do not exceed Five Hundred
2 Dollars (\$500.00). However, if the occupant hosts
3 more than one event in an election cycle for the
4 same beneficiary, all subsequent payments that
5 exceed Five Hundred Dollars (\$500.00) in the
6 aggregate are contributions,

7 (6) a loan of money made in the ordinary course of
8 business by a financial institution authorized to
9 transact business in this state at terms and
10 interest rates generally available to a member of
11 the public without regard to that person's status
12 as a state or local officer or state or local
13 employee or a candidate for state or local office
14 by the institution,

15 (7) a communication by a corporation, labor
16 organization, or association aimed at its
17 employees, members, owners, stockholders,
18 directors, executive administrative personnel, or
19 their families that is not coordinated with,
20 requested by, or made upon consultation with a
21 candidate or party committee or the treasurer,

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 8 of 20 pages

ETHICS COMMISSION

1 deputy treasurer or agent of a candidate committee
2 or party committee, or

3 (8) a tender of a contribution if the tender is not
4 accepted, including use as collateral, or is
5 transferred to the state as provided in Rule 10-1-
6 2 of the Rules of the Ethics Commission, ~~74 O.S.~~
7 ~~Supp. 1994, Chapter 62, App.;~~

8 8. "Expenditure" means a purchase, payment, distribution, loan,
9 advance, compensation, reimbursement, fee deposit, transfer of funds
10 between committees, or a gift made by a committee. An expenditure
11 does not include the following:

12 a. a loan of money, made in the ordinary course of
13 business, by a financial institution authorized to
14 transact business in this state,

15 b. a communication by a corporation, labor organization,
16 or association aimed at its employees, members, owners,
17 stockholders, executive administrative personnel, or
18 their families, ~~except a communication by the~~
19 ~~corporation's political action committee promoting or~~
20 ~~opposing a candidate or candidates,~~

21 c. uncompensated services provided by an individual

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 9 of 20 pages

ETHICS COMMISSION

1 volunteering the individual's time, or

2 d. a transfer of funds to another committee if such
3 transfer is not accepted;

4 9. "Family" means an individual, his or her spouse, if any, and
5 all children under the age of eighteen (18) years residing in the
6 same household;

7 10. "Local office" means all elective offices for which a
8 declaration of candidacy is filed with the secretary of any county
9 election board;

10 11. "Party committee" means a political party or any affiliated
11 or connected entity;

12 12. "Person" means an individual, corporation, association,
13 proprietorship, firm, partnership, limited partnership, joint
14 venture, joint stock company, syndicate, business trust, estate,
15 trust, company, organization, committee, or club, or a group of
16 persons who are voluntarily acting in concert;

17 13. "Political action committee":

18 a. means a combination of at least two individuals, or a
19 person other than an individual:

20 (1) with the primary purpose of:

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 10 of 20 pages

ETHICS COMMISSION

1 (a) supporting or opposing a candidate or
2 candidates, or a party committee, except
3 those required to file with the Federal
4 Election Commission, or

5 (b) supporting or opposing a ballot measure, and
6 (2) which accepts or gives contributions or makes
7 expenditures from a joint account aggregating at
8 least Five Hundred Dollars (\$500.00) during a
9 calendar year, and

10 b. does not include:

11 (1) a party committee or a candidate committee,
12 (2) a person other than an individual, when that
13 person makes an expenditure or expenditures from
14 an account to which contributions have not been
15 solicited or accepted from any other persons or
16 individuals; and the expenditure or expenditures
17 are required by law or by Chapter 10 of the Rules
18 of the Ethics Commission to be reported by the
19 recipient committee or committees as a
20 contribution or contributions, ~~and~~

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 11 of 20 pages

ETHICS COMMISSION

1 (3) a combination of individuals, or a person other
2 than an individual, if the combination of
3 individuals, or a person other than an individual,
4 solicits contributions on behalf of a committee,
5 and any contributions received as a result of the
6 solicitation are forwarded to the committee
7 without being deposited in any account; and the
8 contributions are required by law or by Chapter 10
9 of the Rules of the Ethics Commission to be
10 reported by the committee that receives the
11 contributions,

12 (4) a corporation, or

13 (5) a labor union;

14 14. "Political party" means any political party so recognized for
15 the purpose of having candidates appear on the ballot; and

16 15. "State office" means all elective offices for which
17 declarations of candidacy are filed with the Secretary of the State
18 Election Board.

19 SECTION 2. AMENDATORY 21 O.S. 2001, Section 187.2, is
20 amended to read as follows:

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 12 of 20 pages

ETHICS COMMISSION

1 Section 187.2 A. No corporation shall contribute to any
2 campaign fund of any party committee of this state or to any other
3 person for the benefit of such party committee or ~~its~~ to candidates,
4 nor shall it, through any agent, officer, representative, employee,
5 attorney, or any other person or persons, so contribute. Nor shall
6 any such corporation, directly or through such other person, make any
7 loan of money or anything of value, or give or furnish any privilege,
8 favor or other thing of value to any party committee, or to any
9 representative of a party committee, or to any other person for it,
10 or to any candidate ~~upon the ticket of any political party.~~

11 B. A corporation shall not make a contribution ~~or expenditure~~
12 ~~to, or for the benefit of,~~ a candidate or committee in connection
13 with an election, except that this provision shall not apply to:

14 1. A campaign or committee formed solely for or against a state
15 or local ballot measure ~~or local question; or~~

16 2. A committee formed solely to make independent expenditures or
17 electioneering communications as defined in Rules 1-1-2 of the Rules
18 of the Ethics Commission; or

19 3. The establishment, administration, and solicitation of
20 contributions to a political action committee to be utilized for
21 political purposes by a corporation.

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 13 of 20 pages

ETHICS COMMISSION

1 C. No candidate, candidate committee, or other committee shall
2 knowingly accept contributions given in violation of the provisions
3 of subsection A or B of this section.

4 D. The provisions of this section shall not apply to a bank,
5 savings and loan association or credit union loaning money to a
6 candidate in connection with his or her own campaign which is to be
7 repaid with interest at a rate comparable to that of loans for
8 equivalent amounts for other purposes.

9 E. Any person who knowingly and willfully violates any provision
10 of this section where the aggregate amount contributed exceeds Five
11 Thousand Dollars (\$5,000.00), upon conviction, shall be guilty of a
12 felony punishable by a fine of up to four times the amount of the
13 prohibited contribution or by imprisonment in the State Penitentiary
14 for up to one (1) year, or by both such fine and imprisonment.

15 F. Any person who knowingly and willfully violates any provision
16 of this section where the aggregate amount contributed is Five
17 Thousand Dollars (\$5,000.00) or less, upon conviction, shall be
18 guilty of a misdemeanor punishable by a fine of not more than three
19 times the amount of the prohibited contribution or One Thousand
20 Dollars (\$1,000.00), whichever is greater, or by imprisonment in the
21 county jail for up to one (1) year, or by both such fine and

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 14 of 20 pages

ETHICS COMMISSION

1 imprisonment.

2 SECTION 3. AMENDATORY 51 O.S. 2001, Section 304, is
3 amended to read as follows:

4 Section 304. As used in the Political Subdivisions Ethics Act:

5 1. "Business" means any corporation, partnership, sole
6 proprietorship, firm, enterprise, franchise, association,
7 organization, self-employed individual, holding company, joint stock
8 company, receivership, trust, or any legal entity through which
9 business is conducted for profit;

10 2. "Calendar quarter" means each three-month period of a
11 calendar year, beginning on January 1, April 1, July 1 and October 1
12 of each year;

13 3. "Campaign" means and includes all activities for or against
14 the election of a candidate to a specific local office for a specific
15 term from the date of the first contribution, the making of the first
16 expenditure, the filing of a declaration of candidacy or a public
17 announcement of intent to seek such election, whichever is first;

18 4. "Candidate" means a person who has filed a notification and
19 declaration of candidacy for any public office with the secretary of
20 any county election board. The term "candidate" shall include a
21 person whose candidacy is unopposed, but shall not include any person

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 15 of 20 pages

ETHICS COMMISSION

1 who has withdrawn such notification and declaration of candidacy;

2 5. "Candidate committee" means the committee, consisting of one
3 or more persons who may be the candidate only, designated by a
4 candidate to promote the candidate's candidacy and serve as the
5 recipient of all contributions and the disburser of all expenditures
6 for the candidate;

7 6. "Committee" means a candidate committee, political action
8 committee, political party, or organization;

9 7. "Compensation" means money, service, facility or thing of
10 value or financial benefit which is received or is to be received in
11 return for or in connection with services rendered or to be rendered;

12 8. "Complainant" means a person filing a complaint pursuant to
13 the provisions of Section ~~21 of this act~~ 307 of this title;

14 9. "Contributor" means and includes every person or committee
15 who makes a contribution;

16 10. "Contribution" means and includes any money, property, or in-
17 kind services, including but not limited to, printing or engraving,
18 radio or television time, billboards, advertising, subscription,
19 forgiveness of indebtedness, personal or professional services or any
20 other thing of value whatsoever which is given or loaned to be used
21 in a campaign. The term "contribution" shall not include:

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 16 of 20 pages

ETHICS COMMISSION

- 1 a. money loaned to a candidate in connection with his own
2 campaign by a bank, savings and loan association or
3 credit union which is to be repaid with interest at a
4 rate comparable to that of loans for equivalent amounts
5 for other purposes,
- 6 b. the value of services provided without compensation by
7 individuals volunteering a portion or all of their time
8 on behalf of a candidate, organization, political
9 action committee or political party,
- 10 c. for purposes of the contribution limits set forth in
11 Section ~~2 of this act~~ 187.1 of Title 21 of the Oklahoma
12 Statutes, the transfer of any funds by a political
13 action committee to another political action committee,
14 provided the committee has been established as provided
15 by law if the transferring committee and the receiving
16 committee have been established, directly or
17 indirectly, and are administered or financially
18 supported, directly or indirectly, by a common
19 organization, or
- 20 d. any payment or obligation incurred by a corporation,
21 labor organization, membership organization,

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 17 of 20 pages

ETHICS COMMISSION

1 cooperative or corporation without capital stock for
2 the establishment, administration, and solicitation of
3 contributions to a separate segregated fund or
4 political action committee to be utilized for political
5 purposes;

6 11. "Commission" means the Ethics Commission;

7 12. "Election" means a Primary, Run-off Primary, General, or
8 Special Election in which a candidate is on the ballot;

9 13. "Election board" means the appropriate county election board
10 in reference to candidates who file a declaration of candidacy with
11 the county election board;

12 14. "Expenditure" means a payment, distribution, contribution,
13 loan, advance, compensation, reimbursement, fee deposit or gift of
14 money securement, or any other thing of value, or services including
15 but not limited to postage, telephone, telegraph, printing,
16 advertising, travel, lodging, meals or entertainment for which
17 payment is made with private or public funds, and includes a
18 contract, promise or agreement to make an expenditure, whether or not
19 legally enforceable;

20 15. "Family" means an individual, his or her spouse, if any, and
21 all children under the age of eighteen (18) years residing in the

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 18 of 20 pages

ETHICS COMMISSION

1 same household;

2 16. "Governmental entity" means any department, commission,
3 authority, council, board, bureau, committee, legislative body,
4 agency, public trust, or other establishment of a political
5 subdivision of this state;

6 17. "Income" means any money or thing of value received, or to be
7 received as a claim on future services, whether in the form of a fee,
8 salary, gift, expense, allowance, forbearance, forgiveness, interest,
9 dividend, royalty, rent, capital gain, or any other form of
10 recompense or any combination thereof; provided, the term "income"
11 shall not include campaign contributions;

12 18. "Local office" means all elective offices for which
13 declarations of candidacy are filed with the secretary of any county
14 election board;

15 19. "Ministerial action" means an action that a person performs
16 in a prescribed manner which involves no discretionary judgment;

17 20. "Organization" includes a corporation, government or
18 governmental subdivision or agency, business trust, estate, trust,
19 partnership or association, union, education or action group or
20 committee or entity with two or more persons having a joint or common
21 political interest;

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 19 of 20 pages

ETHICS COMMISSION

1 21. "Person" means an individual, corporation, association, firm,
2 partnership, labor union or labor organization, committee, club or
3 other organization, or a group of persons who are voluntarily acting
4 in concert;

5 22. "Political action committee" means a combination of at least
6 two individuals, or a person other than an individual, except a
7 corporation or labor union:

8 a. with the primary or incidental purpose of supporting or
9 opposing a candidate or political party, except those
10 required to file with the Federal Election Commission
11 or the Ethics Commission, and

12 b. which accepts contributions or makes expenditures
13 aggregating at least Two Hundred Dollars (\$200.00)
14 during a calendar year;

15 23. "Political party" means any political party so recognized for
16 the purpose of having candidates appear on the ballot;

17 24. "Public employee" means any person who is employed by and
18 receives compensation from any governmental entity, but shall not
19 mean independent contractors or public officials;

20 25. "Public official" means an elected or appointed official in
21 the executive or legislative branch of a political subdivision of the

Legislative Changes – EC Recommendations for 2011 Session

Available at the October 18, 2010 Regular Meeting

Page 20 of 20 pages

ETHICS COMMISSION

1 state;

2 26. "Represent" or "representation" means any formal or informal
3 attendance before, or any written or oral communication with, or the
4 filing of documents with any governmental entity on behalf of a
5 person or organization;

6 27. "Respondent" means a person named in a complaint filed
7 pursuant to the provisions of Section ~~21 of this act~~ 307 of this
8 title;

9 28. "Source" means the name, address, and description of the
10 principal business activity of a person or organization; and

11 29. "Substantial financial interest" means an interest that could
12 result in directly or indirectly receiving a substantial pecuniary
13 gain or sustaining a substantial pecuniary loss as a result of
14 ownership or interest in a business entity, or as a result of salary,
15 gratuity or other compensation or remuneration from any person,
16 partnership, organization or association.

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.