**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4421**

**STATUS INFORMATION**

General Bill

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Companion/Similar bill(s): 4634

Introduced in the House on January 10, 2012

Currently residing in the House Committee on **Judiciary**

Summary: Government Accountability and Campaign Reform Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/29/2011 House Prefiled

11/29/2011 House Referred to Committee on **Judiciary**

1/10/2012 House Introduced and read first time ([House Journal‑page 33](file:///h:\hj%20archive\2012\01-10-12.docx))

1/10/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 33](file:///h:\hj%20archive\2012\01-10-12.docx))

1/18/2012 House Member(s) request name added as sponsor: Stringer

**VERSIONS OF THIS BILL**

[11/29/2011](file:///p:\pprever\2011-12\4421_20111129.docx)

**A** **BILL**

TO AMEND SECTION 8‑13‑100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITIONS APPLICABLE TO THE GENERAL PROVISIONS OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT, SO AS TO ELIMINATE THE DEFINITION OF “APPROPRIATE SUPERVISORY OFFICE”; TO AMEND SECTION 8‑13‑310, RELATING TO THE COMPOSITION, MEMBERSHIP, TERMS, AND MEETINGS OF THE STATE ETHICS COMMISSION, SO AS TO PROVIDE THAT ONE OF THE AT‑LARGE COMMISSIONERS MUST BE RECOMMENDED BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND A SECOND AT‑LARGE COMMISSIONER MUST BE RECOMMENDED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; TO AMEND SECTION 8‑13‑320, AS AMENDED, RELATING TO THE DUTIES AND POWERS OF THE STATE ETHICS COMMISSION, SO AS TO INCLUDE THE MEMBERS, STAFF, AND CANDIDATES FOR THE GENERAL ASSEMBLY WITHIN THE JURISDICTION OF THE STATE ETHICS COMMISSION; TO AMEND SECTION 8‑13‑1300, AS AMENDED, RELATING TO THE DEFINITIONS APPLICABLE TO THE CAMPAIGN PRACTICES PROVISIONS OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT, SO AS TO ELIMINATE THE DEFINITION OF “APPROPRIATE SUPERVISORY OFFICE”; AND TO REPEAL SECTIONS 8‑13‑530, 8‑13‑540, AND 8‑13‑550 ALL RELATING TO THE HOUSE OF REPRESENTATIVES AND SENATE ETHICS COMMITTEES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 8‑13‑100 of the 1976 Code, as last amended by Act 40 of 2011, is further amended to read:

“Section 8‑13‑100. As used in Articles 1 through 11:

(1)(a) ‘Anything of value’ or ‘thing of value’ means:

(i) a pecuniary item, including money, a bank bill, or a bank note;

(ii) a promissory note, bill of exchange, an order, a draft, warrant, check, or bond given for the payment of money;

(iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;

(iv) a stock, bond, note, or other investment interest in an entity;

(v) a receipt given for the payment of money or other property;

(vi) a chose‑in‑action;

(vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;

(viii) a loan or forgiveness of indebtedness;

(ix) a work of art, an antique, or a collectible;

(x) an automobile or other means of personal transportation;

(xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;

(xii) an honorarium or compensation for services;

(xiii) a promise or offer of employment;

(xiv) any other item that is of pecuniary or compensatory worth to a person.

(b) ‘Anything of value’ or ‘thing of value’ does not mean:

(i) printed informational or promotional material, not to exceed ten dollars in monetary value;

(ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;

(iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;

(iv) educational material of a nominal value directly related to the public official’s, public member’s, or public employee’s official responsibilities;

(v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;

(vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or

(vii) a campaign contribution properly received and reported under the provisions of this chapter.

(2) ~~“Appropriate supervisory office” means:~~

~~(a)~~ ~~the State Ethics Commission for all persons required to file reports under this chapter except for those members of or candidates for the office of State Senator or State Representative;~~

~~(b)~~ ~~the Senate Ethics Committee for members or staff, including staff elected to serve as officers of or candidates for the office of State Senator; and~~

~~(c)~~ ~~the House of Representatives Ethics Committee for members or staff, including staff elected to serve as officers of or candidates for the office of State Representative.~~

~~(3)~~ ‘Business’ means a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self‑employed individual.

~~(4)~~(3) ‘Business with which he is associated’ means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

~~(5)~~(4) ‘Candidate’ means a person who seeks appointment, nomination for election, or election to a state or local office, or authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election. It also means a person on whose behalf write‑in votes are solicited if the person has knowledge of such solicitation. ‘Candidate’ does not include a person within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.

~~(6)~~(5) ‘Compensation’ means money, anything of value, an in‑kind contribution or expenditure, or economic benefit conferred on or received by a person.

~~(7)~~(6) ‘Confidential information’ means information, whether transmitted orally or in writing, which is obtained by reason of the public position or office held and is of ~~such~~a nature that ~~it~~ is not, at the time of transmission, a matter of public record or public knowledge.

~~(8)~~(7) ‘Consultant’ means a person, other than a public official, public member, or public employee who contracts with the State, county, municipality, or a political subdivision ~~thereof~~of them to:

(a) evaluate bids for public contracts, or

(b) award public contracts.

~~(9)~~(8) ‘Contribution’ means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money or anything of value made to a candidate or committee, as defined in Section 8‑13‑1300~~(6)~~(5), for the purpose of influencing an election; or payment or compensation for the personal service of another person which is rendered for any purpose to a candidate or committee without charge. ‘Contribution’ does not include volunteer personal services on behalf of a candidate or committee for which the volunteer receives no compensation from any source.

~~(10)~~(9) ‘Corporation’ means an entity organized in the corporate form under federal law or the laws of ~~any~~a state.

~~(11)~~(10)(a) ‘Economic interest’ means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official’s, public member’s, or public employee’s position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

~~(12)~~(11) ‘Election’ means:

(a) a general, special, primary, or runoff election;

(b) a convention or caucus of a political party held to nominate a candidate; or

(c) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or the Constitution of this State.

~~(13)~~(12) ‘Elective office’ means an office at the state, county, municipal, or political subdivision level. For the purposes of Articles 1 through 11, the term ‘elective office’ does not include an office under the unified judicial system except that for purposes of campaign practices, campaign disclosure, and disclosure of economic interests, ‘elective office’ includes the office of probate judge.

~~(14)~~(13) ‘Expenditure’ means a purchase, payment, loan, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit, transfer of funds, a gift of money, or anything of value for any purpose.

~~(15)~~(14) ‘Family member’ means an individual who is:

(a) the spouse, parent, brother, sister, child, mother‑in‑law, father‑in‑law, son‑in‑law, daughter‑in‑law, brother‑in‑law, sister‑in‑law, grandparent, or grandchild;

(b) a member of the individual’s immediate family.

~~(16)~~(15) ‘Gift’ means anything of value, including entertainment, food, beverage, travel, and lodging given or paid to a public official, public member, or public employee to the extent that consideration of equal or greater value is not received. A gift includes a rebate or discount on the price of anything of value unless it is made in the ordinary course of business without regard to that person’s status. A gift does not include campaign contributions accepted pursuant to this chapter.

~~(17)~~(16) ‘Governmental entity’ means the State, a county, municipality, or political subdivision ~~thereof~~of them with which a public official, public member, or public employee is associated or employed. ‘Governmental entity’ also means ~~any~~a charitable organization or foundation, but not an athletic organization or athletic foundation, which is associated with a state educational institution and which is organized to raise funds for the academic, educational, research, or building programs of a college or university.

~~(18)~~(17) ‘Immediate family’ means:

(a) a child residing in a candidate’s, public official’s, public member’s, or public employee’s household;

(b) a spouse of a candidate, public official, public member, or public employee; or

(c) an individual claimed by the candidate, public official, public member, or public employee or the candidate’s, public official’s, public member’s, or public employee’s spouse as a dependent for income tax purposes.

~~(19)~~(18) ‘Income’ means the receipt or promise of any consideration, whether or not legally enforceable.

~~(20)~~(19) ‘Individual’ means one human being.

~~(21)~~(20) ‘Individual with whom he is associated’ means an individual with whom the person or a member of his immediate family mutually has an interest in ~~any~~a business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

~~(22)~~(21) ‘Loan’ means a transfer of money, property, guarantee, or anything of value in exchange for an obligation, conditional or not, to repay in whole or in part.

~~(23)~~(22) ‘Official responsibility’ means the direct administrative or operating authority, whether intermediate or final and whether exercisable personally or through subordinates, to approve, disapprove, or otherwise direct government action.

~~(24)~~(23) ‘Person’ means an individual, a proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, an estate, a company, committee, an association, a corporation, club, labor organization, or ~~any other~~another organization or group of persons acting in concert.

~~(25)~~(24) ‘Public employee’ means a person employed by the State, a county, a municipality, or a political subdivision ~~thereof~~of them.

~~(26)~~(25) ‘Public member’ means an individual appointed to a noncompensated part‑time position on a board, commission, or council. A public member does not lose this status by receiving reimbursement of expenses or a per diem payment for services.

~~(27)~~(26) ‘Public official’ means an elected or appointed official of the State, a county, a municipality, or a political subdivision ~~thereof~~of them, including candidates for the office. ‘Public official’ does not mean a member of the judiciary except that for the purposes of campaign practices, campaign disclosure, and disclosure of economic interests, a probate judge is considered a public official and must meet the requirements of this chapter.

~~(28)~~(27) ‘Represent’ or ‘representation’ means making an appearance, whether gratuitous or for compensation, before a state agency, office, department, division, bureau, board, commission, or council, including the General Assembly, or before a local or regional government office, department, division, bureau, board, or commission.

~~(29)~~(28) ‘Substantial monetary value’ means a monetary value of five hundred dollars or more.

~~(30)~~(29) ‘Official capacity’ means activities which:

(a) arise because of the position held by the public official, public member, or public employee;

(b) involve matters ~~which~~that fall within the official responsibility of the agency, the public official, the public member, or the public employee; and

(c) are services the agency would normally provide and for which the public official, public member, or public employee would be subject to expense reimbursement by the agency with which the public official, public member, or public employee is associated.

~~(31)~~(30) ‘State board, commission, or council’ means an agency created by legislation ~~which~~that has statewide jurisdiction and which exercises some of the sovereign power of the State.”

SECTION 2. Section 8‑13‑310 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“Section 8‑13‑310. (A) The State Ethics Commission as constituted under law in effect before July 1, 1992, is reconstituted to continue in existence with the appointment and qualification of the at‑large members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17, ~~of~~ Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to ‘this chapter’ in Article 3, ~~of~~ Chapter 13, ~~of~~ Title 8 to ‘this chapter and Chapter 17, ~~of~~ Title 2’.

(B) There is created the State Ethics Commission composed of nine members appointed by the Governor, upon the advice and consent of the General Assembly. One member shall represent each of the six congressional districts, and three members must be appointed from the State at large. Of the members appointed from the State at large, one member must be appointed upon recommendation of the President Pro Tempore of the Senate, and one member must be appointed upon recommendation of the Speaker of the House of Representatives. The member recommended for appointment by the President Pro Tempore of the Senate must be appointed to fill the first at‑large vacancy occurring after the effective date of this act. The member recommended for appointment by the Speaker of the House of Representatives must be appointed to fill the second at‑large vacancy occurring after the effective date of this act. ~~No~~ A member of the General Assembly or other public official ~~shall~~ must not be eligible to serve on the State Ethics Commission. The Governor shall make the appointments based on merit regardless of race, color, creed, or gender, and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.

(C) The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission serving on this chapter’s effective date may continue to serve until the expiration of their terms. These members ~~may~~ then may be appointed to serve one full five‑year term under the provisions of this chapter. Members representing the first, third, and sixth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1993. The initial appointments for the at‑large members of the commission created by this chapter must be for a one‑, two‑, or three‑year term, but these at‑large members are eligible subsequently for a full five‑year term. Under this section, the at‑large members of the commission are to be appointed to begin service on or after July 1, 1992. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment.

(D) The commission shall elect a chairman, ~~a~~ vice‑chairman, and ~~such~~ other officers ~~as~~ it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as ~~is~~ provided by law for members of state boards, committees, and commissions.”

SECTION 3. Section 8‑13‑320(9) of the 1976 Code, as last amended by 245 of 2008, is further amended to read:

“(9) to initiate or receive complaints and make investigations, as provided in item (10), of statements filed, or allegedly failed to be filed, under the provisions of this chapter and Chapter 17, ~~of~~ Title 2 and, upon complaint by an individual~~,~~ of an alleged violation of this chapter, or Chapter 17, ~~of~~ Title 2 by a public official, public member, or public employee ~~except members or staff, including staff elected to serve as officers of or candidates for the General Assembly unless otherwise provided for under House or Senate rules~~. ~~Any~~ A person charged with a violation of this chapter, or Chapter 17, ~~of~~ Title 2, is entitled to the administrative hearing process contained in this section.

(a) The commission may commence an investigation on the filing of a complaint by an individual or by the commission, as provided in item (10)(d), upon a majority vote of the total membership of the commission.

(b)(1) ~~No~~ A complaint may be accepted by the commission concerning a candidate for elective office during the fifty‑day period before an election in which he is a candidate. During this fifty‑day period, ~~any~~ a person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court ~~must~~ either must dismiss the petition, or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty‑day period must be considered to be an irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve ~~any~~ a party to the proceeding from ~~any~~ a penalty prescribed for violations of this chapter. The court must award reasonable attorneys fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:

(i) petition is being presented for an improper purpose such as harassment or to cause delay;

(ii) claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(iii) allegations and other factual contentions do not have evidentiary support or, if specifically ~~so~~ identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.

(2) Action on a complaint filed against a candidate, which was received more than fifty days before the election, but which cannot be disposed of or dismissed by the commission at least thirty days before the election, must be postponed until after the election.

(c) If an alleged violation is found to be groundless by the commission, the entire matter must be stricken from public record. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this item, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice.

(d) Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. The Attorney General may initiate an action to recover a fee, compensation, gift, or profit received by a person as a result of a violation of the chapter no later than one year after a determination by the commission that a violation of this chapter has occurred;”

SECTION 4. Section 8‑13‑1300 of the 1976 Code, as last amended by Act 245 of 2008, is further amended to read:

“Section 8‑13‑1300. As used in this article:

(1) ~~“Appropriate supervisory office” means:~~

~~(a)~~ ~~the State Ethics Commission for all candidates for public office in this State except for members or staff, including staff elected to serve as officers of or candidates for the office of State Senator or State Representative;~~

~~(b)~~ ~~the Senate Ethics Committee for members or staff, including staff elected to serve as officers, of or candidates for the office of State Senator, and the House of Representatives Ethics Committee for members or staff, including staff elected to serve as officers, of or candidates for the office of State Representative;~~

~~(c)~~ ~~the State Ethics Commission for all committees, except legislative caucus committees, supporting or opposing a ballot measure or supporting or opposing a candidate;~~

~~(d)~~ ~~the Senate Ethics Committee for all legislative caucus committees and legislative special interest caucuses affiliated with the Senate, the House of Representatives Ethics Committee for all legislative caucus committees and legislative special interest caucuses affiliated with the House of Representatives, and both ethics committees for all legislative caucus committees and legislative special interest caucuses affiliated with both houses.~~

~~(2)~~ ‘Ballot measure’ means a referendum, proposition, or measure submitted to voters for their approval.

~~(3)~~(2) ‘Business’ means a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self‑employed individual.

~~(4)~~(3) ‘Candidate’ means:

(a) a person who seeks appointment, nomination for election, or election to a statewide or local office, or authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election;

(b) a person who is exploring whether or not to seek election at the state or local level; or

(c) a person on whose behalf write‑in votes are solicited if the person has knowledge of ~~such~~the solicitation.

‘Candidate’ does not include a candidate within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.

~~(5)~~(4) ‘Charitable organization’ means an organization described in Title 26, Section 170(c) of the United States Code as it currently exists or as it may be amended.

~~(6)~~(5) ‘Committee’ means an association, a club, an organization, or a group of persons which, to influence the outcome of an elective office, receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. It also means a person who, to influence the outcome of an elective office, makes:

(a) contributions aggregating at least twenty‑five thousand dollars during an election cycle to, or at the request of, a candidate or a committee, or a combination of them; or

(b) independent expenditures aggregating five hundred dollars or more during an election cycle for the election or defeat of a candidate.

‘Committee’ includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.

~~(7)~~(6) ‘Contribution’ means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a candidate or committee to influence an election; or payment or compensation for the personal service of another person which is rendered for any purpose to a candidate or committee without charge, whether any of the above are made or offered directly or indirectly.

‘Contribution’ does not include:

(a) volunteer personal services on behalf of a candidate or committee for which the volunteer, or ~~any~~a person acting on behalf of or instead of the volunteer, receives no compensation either in cash or in‑kind, directly or indirectly, from any source; or

(b) a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a committee, other than a candidate committee, and is used to pay for communications made not more than forty‑five days before the election to influence the outcome of an elective office as defined in Section 8‑13‑1300(31)(c). These funds must be deposited in an account separate from a campaign account as required in Section 8‑13‑1312.

~~(8)~~(7) ‘Corporation’ means an entity organized in the corporate form under federal law or the laws of ~~any~~a state.

~~(9)~~(8) ‘Election’ means:

(a) a general, special, primary, or runoff election;

(b) a convention or caucus of a political party held to nominate a candidate; or

(c) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or the Constitution of this State.

~~(10)~~(9) ‘Election cycle’ means the period of a term of office beginning on the day after the general election for the office, up to and including the following general election for the same office, including a primary, special primary, or special election; however, the contribution limits under Sections 8‑13‑1314 and 8‑13‑1316 apply only to elections occurring on or after January 1, 1992, and are for each primary, runoff, or special election in which a candidate has opposition and for each general election. If the candidate remains unopposed during an election cycle, one contribution limit shall apply.

~~(11)~~(10) ‘Elective office’ means an office at the state, county, municipal or political subdivision level. For ~~the~~ purposes of this article, the term ‘elective office’ does not include an office under the unified judicial system except for purposes of campaign practices, campaign disclosure, and disclosure of economic interests. ‘Elective office’ includes the office of probate judge.

~~(12)~~(11) ‘Expenditure’ means a purchase, payment, loan, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit, transfer of funds, gift of money, or anything of value for any purpose.

~~(13)~~(12) ‘Expenditures incurred’ means an amount owed to a creditor for purchase of delivered goods or completed services.

~~(14)~~(13) ‘Family member’ means an individual who is:

(a) the spouse, parent, brother, sister, child, mother‑in‑law, father‑in‑law, son‑in‑law, daughter‑in‑law, grandparent, or grandchild; or

(b) a member of the individual’s immediate family.

~~(15)~~(14) ‘Gift’ means anything of value, including entertainment, food, beverage, travel, and lodging given for pay to a public official or public employee to the extent that consideration of equal or greater value is not received. A gift includes a rebate or discount on the price of anything of value unless it is made in the ordinary course of business without regard to that person’s status. A gift does not include campaign contributions accepted pursuant to this article.

~~(16)~~(15) ‘Immediate family’ means:

(a) a child residing in a candidate’s, public official’s, public member’s, or public employee’s household;

(b) a spouse of a candidate, public official, public member, or public employee; or

(c) an individual claimed by the candidate, public official, public member, or public employee or the candidate’s, public official’s, public member’s, or public employee’s spouse as a dependent for income tax purposes.

~~(17)~~(16) ‘Independent expenditure’ means:

(a) an expenditure made directly or indirectly by a person to advocate the election or defeat of a clearly identified candidate or ballot measure; and

(b) when taken as a whole and in context, the expenditure made by a person to influence the outcome of an elective office or ballot measure but which is not:

(i) made to;

(ii) controlled by;

(iii) coordinated with;

(iv) requested by; or

(v) made upon consultation with a candidate or an agent of a candidate; or a committee or agent of a committee; or a ballot measure committee or an agent of a ballot measure committee.

Expenditures by party committees or expenditures by legislative caucus committees based upon party affiliation are considered to be controlled by, coordinated with, requested by, or made upon consultation with a candidate or an agent of a candidate.

~~(18)~~(17) ‘Individual’ means one human being.

~~(19)~~(18) ‘Individual with whom he is associated’ means an individual with whom the person or a member of his immediate family mutually has an interest in a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of ~~any~~a class.

~~(20)~~(19) ‘In‑kind contribution or expenditure’ means goods or services which are provided to or by a person at no charge or for less than their fair market value.

~~(21)~~(20) ‘Legislative caucus committee’ means:

(a) a committee of either house of the General Assembly controlled by the caucus of a political party or a caucus based upon racial or ethnic affinity, or gender; however, each house may establish only one committee for each political, racial, ethnic, or gender‑based affinity;

(b) a party or group of either house of the General Assembly based upon racial or ethnic affinity, or gender;

(c) ‘legislative caucus committee’ does not include a ‘legislative special interest caucus’ as defined in Section 2‑17‑10(21).

~~(22)~~(21) ‘Loan’ means a transfer of money, property, guarantee, or anything of value in exchange for an obligation, conditional or not, to repay in whole or in part.

~~(23)~~(22) ‘Noncandidate committee’ means a committee that is not a campaign committee for a candidate but is organized to influence an election or to support or oppose a candidate or public official, which receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. ‘Noncandidate committee’ does not include political action committees that contribute solely to federal campaigns.

~~(24)~~(23) ‘Party committee’ means a committee established by a political party.

~~(25)~~(24) ‘Person’ means an individual, a proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, an estate, a company, committee, an association, a corporation, club, labor organization, or ~~any other~~another organization or group of persons acting in concert.

~~(26)~~(25) ‘Political party’ means an association, a committee, or an organization ~~which~~that nominates a candidate whose name appears on the election ballot as the candidate of that association, committee, or organization.

~~(27)~~(26) ‘Public employee’ means a person employed by the State, a county, a municipality, or a political subdivision ~~thereof~~of them.

~~(28)~~(27) ‘Public official’ means an elected or appointed official of the State, a county, a municipality or a political subdivision ~~thereof~~of them, including candidates for the office. However, ‘public official’ does not mean a member of the judiciary except for purposes of campaign financing. A probate judge is considered a public official and must meet the requirements of this article.

~~(29)~~(28) ‘Statewide office’ means an elective office other than a federal office eligible to be voted upon by all electors of the State.

~~(30)~~(29) ‘Transfer’ means the movement or exchange of funds or anything of value between committees and candidates except the disposition of surplus funds or material assets by a candidate to a party committee, as provided in this article.

~~(31)~~(30) ‘Influence the outcome of an elective office’ means:

(a) expressly advocating the election or defeat of a clearly identified candidate using words including or substantially similar to ‘vote for’, ‘elect’, ‘cast your ballot for’, ‘Smith for Governor’, ‘vote against’, ‘defeat’, or ‘reject’;

(b) communicating campaign slogans or individual words that, taken in context, have no other reasonable meaning other than to urge the election or defeat of a clearly identified candidate including or substantially similar to slogans or words such as ‘Smith’s the One’, ‘Jones 2000’, ‘Smith/Jones’ , ‘Jones!’, or ‘Smith‑A man for the People!’; or

(c) ~~any~~a communication made, not more than forty‑five days before an election, which promotes or supports a candidate or attacks or opposes a candidate, regardless of whether the communication expressly advocates a vote for or against a candidate. For purposes of this paragraph, ‘communication’ means:

(i) ~~any~~a paid advertisement or purchased program time broadcast over television or radio;

(ii) ~~any~~a paid message conveyed through telephone banks, direct mail, or electronic mail; or

(iii) ~~any~~a paid advertisement that costs more than five thousand dollars ~~that~~which is conveyed through a communication medium other than those set forth in subsections (i) or (ii) of this paragraph. ‘Communication’ does not include news, commentary, or editorial programming or article, or communication to an organization’s own members.

~~(32)~~(31) ‘Ballot measure committee’ means:

(a) an association, club, ~~an~~ organization, or a group of persons which, to influence the outcome of a ballot measure, receives contributions or makes expenditures in excess of two thousand five hundred dollars in the aggregate during an election cycle;

(b) a person, other than an individual, who, to influence the outcome of a ballot measure, makes contributions aggregating at least fifty thousand dollars during an election cycle to, or at the request of, a ballot measure committee; or

(c) a person, other than an individual, who, to influence the outcome of a ballot measure, makes independent expenditures aggregating two thousand five hundred dollars or more during an election cycle.

~~(33)~~(32) ‘Coordinated with’ means discussion or negotiation between a candidate or a candidate’s agent and:

(a) a person;

(b) an agent of a person;

(c) ~~any other~~another agent of a candidate; or

(d) ~~any~~a combination of these concerning, but not limited to, a political communication’s:

~~(1)~~(i) contents, including the specific wording of print, broadcast, or telephone communications; appearance of print or broadcast communications; the message or theme of print or broadcast communications;

~~(2)~~(ii) timing, including the proximity to general or primary elections, proximity to other political communications, and proximity to other campaign events;

~~(3)~~(iii) location, including the proximity to other political communications, or geographical targeting, or both;

~~(4)~~(iv) mode, including the ~~medium (~~mediums of phone, broadcast, print, ~~etc.)~~and other forms, of the communication;

~~(5)~~(v) intended audience, including the demographic or political targeting, or geographical targeting; and

~~(6)~~(vi) volume, including the amount, frequency, or size of the political communication.

~~(34)~~(33) ‘Operation expenses’ means expenditures for salaries ~~and/or~~and fringe benefits for part‑time, full‑time, temporary ~~and/or~~and contract employees; meeting expenses, travel, utilities, communications ~~and/or~~or communications equipment whether leased or purchased, printing or printing services, postage, food ~~and/or~~and beverage, advertising, consulting services, ~~and/or any~~ orother expenditures ~~which~~that are not ~~an~~ authorized ~~contribution~~contributions to a candidate, committee, or ballot measure committee.”

SECTION 5. Sections 8‑13‑530, 8‑13‑540, and 8‑13‑550, of the 1976 Code are repealed.

SECTION 6. The Code Commissioner is directed to change all references in Chapter 13, Title 8 of the 1976 Code from ‘appropriate supervisory office’ to ‘State Ethics Commission’.

SECTION 7. This act takes effect upon ratification of an amendment to Section 12, Article III of the Constitution of this State, providing that supervision of ethical conduct by members of the General Assembly, including the authority to discipline members, is vested in the state agency charged by law with investigating, enforcing, and adjudicating allegations of ethical misconduct.

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