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AMENDED--NOT PRINTED IN THE HOUSE

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May 26, 2016

**H. 3186**

Introduced by Reps. Finlay, Cole, Anderson, Bales, G.A. Brown, R.L. Brown, Felder, Funderburk, Hart, Knight, Lucas, Murphy, Newton, Norman, Norrell, Pope, Putnam, Rivers, Southard, Spires, Tallon, Taylor, Wells, Williams, Willis, Long, Henderson, G.R. Smith, G.M. Smith, McCoy, Clary, J.E. Smith, W.J. McLeod, Weeks, Whipper, Hicks, Atwater, Ballentine and Stavrinakis

S. Printed 4/27/16--S.

Read the first time February 24, 2015.

**A** **BILL**

TO AMEND SECTION 8‑13‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD TO ETHICS AND GOVERNMENT ACCOUNTABILITY, SO AS TO REVISE THE DEFINITION OF “BUSINESS WITH WHICH HE IS ASSOCIATED”; AND TO AMEND SECTION 8‑13‑1120, AS AMENDED, RELATING TO CONTENTS OF STATEMENTS OF ECONOMIC INTERESTS, SO AS TO REVISE THE FORM AND REQUIRED CONTENTS OF STATEMENTS OF ECONOMIC INTERESTS.

Amend Title To Conform

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

SECTION 1. A. Section 8‑13‑1120 of the 1976 Code, as last amended by Act 6 of 1995, is further amended to read:

“Section 8-13-1120. (A) A statement of economic interests filed pursuant to Section 8‑13‑1110 must be on forms prescribed by the State Ethics Commission and must contain full and complete information concerning:

(1) the name, business or government address, and workplace telephone number of the filer;

(2) the source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer’s immediate family during the reporting period;

(3)(a) the description, value, and location of all real property owned and options to purchase real property during the reporting period by a filer or a member of the filer’s immediate family if:

(i) there have been any public improvements of more than two hundred dollars on or adjacent to the real property within the reporting period and the public improvements are known to the filer; or

(ii) the interest can reasonably be expected to be the subject of a conflict of interest; or

(b) if a sale, lease, or rental of personal or real property is to a state, county, or municipal instrumentality of government, a copy of the contract, lease, or rental agreement must be attached to the statement of economic interests;

(4) the name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date, and location of the speaking engagement;

(5) the identity of every business or entity in which the filer or a member of the filer’s immediate family held or controlled, in the aggregate, securities or interests constituting five percent or more of the total issued and outstanding securities and interests which constitute a value of one hundred thousand dollars or more;

(6)(a) a listing by name and address of each creditor to whom the filer or member of the filer’s immediate family owed a debt in excess of five hundred dollars at any time during the reporting period, if the creditor is subject to regulation by the filer or is seeking or has sought a business or financial arrangement with the filer’s agency or department other than for a credit card or retail installment contract, and the original amount of the debt and amount outstanding unless:

(i) the debt is promised or loaned by a bank, savings and loan, or other licensed financial institution which loans money in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; or

(ii) the debt is promised or loaned by an individual’s family member if the person who promises or makes the loan is not acting as the agent or intermediary for someone other than a person named in this subitem; and

(b) the rate of interest charged the filer or a member of the filer’s immediate family for a debt required to be reported in (a);

If a discharge of a debt required to be reported in (a) has been made, the date of the transaction must be shown.

(7) the name of any lobbyist, as defined in Section 2‑17‑10(13) who is:

(a) an immediate family member of the filer;

(b) an individual with whom or business with which the filer or a member of the filer’s immediate family is associated;

(8) if a public official, public member, or public employee receives compensation from an individual or business which contracts with the governmental entity with which the public official, public member, or public employee serves or is employed, the public official, public member, or public employee must report the name and address of that individual or business and the amount of compensation paid to the public official, public member, or public employee by that individual or business;

(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official’s or employee’s office or position; or

(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:

(i) has or is seeking to obtain contractual or other business or financial relationship with the official’s or employee’s agency; or

(ii) conducts operations or activities which are regulated by the official’s or employee’s agency if the value of the gift is twenty‑five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year;

(10) a listing of the private source and type of any income received in the previous year by the filer or a member of his immediate family. This item does not include income received pursuant to:

(a) a court order;

(b) interest from a savings or checking account with a bank, savings and loan, or other licensed financial institution which offers savings or checking accounts in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; or

(c) a mutual fund or similar fund in which an investment company invests its shareholders’ money in a diversified selection of securities.

(11) the source, type, and amount of any income received in the previous year by the filer or a member of his immediate family from a direct contractual or employment relationship to include consulting, acting as an independent contractor, salary, or any other arrangement from which payment in return for services or goods is made by a lobbyist principal, as defined in Section 2‑17‑10, to a filer or a member of his immediate family.

(B) This article does not require the disclosure of economic interests information concerning:

(1) a spouse separated pursuant to a court order from the public official, public member, or public employee;

(2) a former spouse;

(3) a campaign contribution that is permitted and reported under Article 13 of this chapter; or

(4) matters determined to require confidentiality pursuant to Section 2‑17‑90(E).

(C) For purposes of this section, income means anything of value received, which must be reported on a form used by the Internal Revenue Service for the reporting or disclosure of income received by an individual or a business. Income does not include retirement, annuity, pension, IRA, disability, or deferred compensation payments received by the filer or filer’s immediate family member.

B. Article 13, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑1313. A person who is not a committee required to file subject to Section 8‑13‑1304 and who makes an independent expenditure in an aggregate amount or value in excess of five hundred dollars during a calendar year or makes an electioneering communication must file a report of the expenditure or communication with the State Ethics Commission electronically in the manner prescribed by the commission pursuant to Section 8‑13‑365 within thirty days of the expenditure being made, or if the independent expenditure or electioneering communication is made within thirty days before an election, the report must be filed within forty‑eight hours of the expenditure being made. The report must include:

(1) a detailed description of the use of the expenditure or communication and the amount of the expenditure or the cost of the communication;

(2) the full name, primary occupation of the reporting person, as well as the physical address and phone number for the residence or place of business for the reporting person;

(3) the identification of the chief executive officer or for all controlling individuals if the reporting person is a business or another organization that is not an individual, to include name, title, employer, and address;

(4) the name of the candidate or ballot measure that is the subject of the independent expenditure or electioneering communication and whether the expenditure or communication was made in support of, or opposition to, the candidate or ballot measure;

(5) the chief executive officer or controlling individual must file, under penalty of perjury, a certification that the independent expenditure is not made in cooperation, consultation, or coordination with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(6)(a) the identification of each person or entity making a donation of more than one hundred dollars to the entity filing the report if the donation was made to further the reported independent expenditure or electioneering communication.

(b) If the donor is an individual, the statement shall include the name, primary occupation, address, and amount of the donation.

(c) If the donor is a business or another organization that is not an individual, then the identification shall indicate the name and title of the chief executive officer or the controlling individual of the donor organization, and include the address and amount of the donation.

(7) For the purposes of item (6) of this section, a donation to the person or entity making the independent expenditure or electioneering communication is deemed to have been donated to further the independent expenditure or electioneering communication if any of items (1) through (4) of this section apply. For purposes of this section, the ‘filer’ is the person or entity making the independent expenditure or electioneering communication and responsible for filing the report, or an agent of that person or entity. For purposes of this section, the ‘donor’ is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

(a) The donor designates, requests, or suggests that the donation be used for an independent expenditure or electioneering communication or for multiple independent expenditures or electioneering communication, and the filer agrees to use the donation for an independent expenditure or electioneering communication.

(b) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure or electioneering communication.

(c) The donor and the filer engaged in substantial written or oral discussion regarding the donor’s making, donating, or paying for an independent expenditure or electioneering communication.

(d) The donor or the filer knew or had reason to know of the filer’s intent to make independent expenditures or electioneering communications with the donation.

A donation must not be deemed to be made to further an independent expenditure or electioneering communication if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an independent expenditure or electioneering communication. In determining the amount of a donation that was made to further a particular independent expenditure or electioneering communication, there must be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the independent expenditure or electioneering communication covered by the report.”

C. Section 8‑13‑1300 of the 1976 Code, as last amended by Act 245 of 2008, is further amended by adding at the end:

“(35)(a) ‘Electioneering communication’ means a broadcast, cable, or satellite communication or mass postal mailing or telephone bank that has the following characteristics:

(1) refers to a clearly identified candidate for elected office or ballot measure; and

(2) that is publicly aired or distributed within sixty days prior to a general election or within thirty days prior to a primary election for that office.

(b) ‘Electioneering communication’ does not mean:

(1) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by a political party, political committee, or candidate;

(2) a communication that constitutes an expenditure or independent expenditure pursuant to this article;

(3) a communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by a political party or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(4) a communication that meets all of the following criteria:

(i) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public;

(ii) does not take a position on the candidate’s character or qualifications and fitness for office; and

(iii) proposes a commercial transaction.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. (1) The provisions of subsection A. of SECTION 1 of this act take effect January 1, 2017, and apply to statements of economic interest filed on or after this date which reflect 2017 information or disclosures.

(2) The provisions of subsections B. and C. of SECTION 1 and the remaining provisions of this act take effect upon approval by the Governor.

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