

HOUSE BILL NO. 462

INTRODUCED BY SANDS, WILLIAMS, STOKER, WILSON, ERICKSON, LANGE, PARKER, HAWKS,
DICKENSON, LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ESTABLISHMENT OF CONSTITUENT SERVICES ACCOUNTS; PROVIDING FOR THE FUNDING AND USE OF MONEY IN A CONSTITUENT SERVICES ACCOUNT; PROVIDING REPORTING REQUIREMENTS FOR CONSTITUENT SERVICES ACCOUNTS; ~~AND PROVIDING FOR THE DISPOSITION OF CURRENT CONSTITUENT SERVICES ACCOUNTS;~~ AMENDING SECTION SECTIONS 2-2-104 AND 13-37-240, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. DEFINITIONS. AS USED IN [SECTIONS 1 THROUGH 3], THE FOLLOWING DEFINITIONS APPLY:

(1) "CONSTITUENT SERVICES" MEANS TRAVEL, MAILING, AND OTHER EXPENSES INCURRED TO REPRESENT AND SERVE CONSTITUENTS AND AUTHORIZED IN RULES ADOPTED BY THE COMMISSIONER TO IMPLEMENT THE PROVISIONS OF [SECTIONS 1 THROUGH 3].

(2) "PERSONAL BENEFIT" HAS THE MEANING PROVIDED IN 13-37-240.

NEW SECTION. Section 2. Constituent accounts -- reports. (1) A CONSTITUENT SERVICES ACCOUNT IS AN ACCOUNT MAY BE ESTABLISHED BY A PERSON HOLDING A PUBLIC OFFICE IN WHICH FUNDS ARE DEPOSITED AND USED FOR EXPENSES IN REPRESENTING CONSTITUENTS OR FOR TRAVEL OR EXPENSES RELATED TO THE INDIVIDUAL'S ELECTED POSITION ELECTED TO A STATEWIDE OR LEGISLATIVE OFFICE TO PAY FOR CONSTITUENT SERVICES. A PUBLIC OFFICIAL PERSON ELECTED TO A STATEWIDE OR LEGISLATIVE OFFICE MAY ESTABLISH AN ACCOUNT BY FILING AN APPROPRIATE FORM WITH THE COMMISSIONER.

(1)(2) (A)(i) A successful candidate for the legislature or for a state office may deposit surplus campaign funds in a constituent services account.

(ii) EXCEPT AS PROVIDED IN SUBSECTION (2)(A)(III), A STATEWIDE OFFICIAL OR LEGISLATOR MAY ACCEPT CONTRIBUTIONS, SUBJECT TO THE LIMITATIONS PROVIDED IN [SECTION 3], FOR DEPOSIT IN A CONSTITUENT SERVICES ACCOUNT ONLY BETWEEN THE DATE ON WHICH THE OFFICEHOLDER CLOSSES THE OFFICEHOLDER'S CAMPAIGN ACCOUNT

UNDER 13-37-240 AND THE END OF THE OFFICEHOLDER'S TERM OF OFFICE OR, IF THE OFFICEHOLDER RUNS FOR REELECTION OR ELECTION TO ANOTHER OFFICE, THE EARLIER OF THE DATE WHEN THE OFFICEHOLDER OPENS A CAMPAIGN ACCOUNT OR THE DATE WHEN THE OFFICEHOLDER FILES A DECLARATION FOR NOMINATION PURSUANT TO 13-10-201 OR 13-14-112 OR A DECLARATION OF INTENT PURSUANT TO 13-10-211.

(III) A LEGISLATOR MAY NOT ACCEPT CONTRIBUTIONS FOR DEPOSIT IN A CONSTITUENT SERVICES ACCOUNT DURING A LEGISLATIVE SESSION.

(B) The money in the account may be used ONLY for ~~expenses incurred in representing constituents~~ CONSTITUENT SERVICES. THE MONEY IN THE ACCOUNT MAY NOT BE USED FOR PERSONAL BENEFIT. EXPENDITURES FROM A CONSTITUENT SERVICES ACCOUNT MAY NOT BE MADE WHEN THE HOLDER OF THE CONSTITUENT SERVICES ACCOUNT ALSO HAS AN OPEN CAMPAIGN ACCOUNT.

~~(3) A SUCCESSFUL CANDIDATE FOR THE LEGISLATURE OR FOR A STATE OFFICE WHO RECEIVES A PERSONAL BENEFIT, AS DEFINED IN 13-37-240, DURING THE INDIVIDUAL'S TERM OF OFFICE FROM A PUBLIC EVENT OR FUNCTION RELATED TO OR BECAUSE OF THE OFFICE SHALL EITHER DEPOSIT ANY SURPLUS FUNDS RELATED TO THE PUBLIC EVENT OR FUNCTION IN A CONSTITUENT SERVICES ACCOUNT OR MAKE A DONATION TO A NONPROFIT ORGANIZATION WITHIN 45 DAYS AFTER THE CONCLUSION OF THE EVENT OR FUNCTION.~~

~~(3) A SUCCESSFUL CANDIDATE FOR THE LEGISLATURE OR FOR A STATE OFFICE WHO, DURING THE INDIVIDUAL'S TERM OF OFFICE, RECEIVES FUNDS AS A RESULT OF A PUBLIC EVENT OR FUNCTION THAT WAS RELATED TO OR BECAUSE OF THE OFFICE SHALL, WITHIN 90 DAYS AFTER THE CONCLUSION OF THE EVENT OR FUNCTION, EITHER DEPOSIT THE FUNDS IN A CONSTITUENT SERVICES ACCOUNT AND COMPLY WITH THE PROVISIONS OF THIS SECTION OR DONATE THE FUNDS TO A NONPROFIT ORGANIZATION FOR A CHARITABLE PURPOSE.~~

~~(2)(3)(4) The account holder may accept donations from individuals for deposit in the constituent services account. A corporation may not donate money for deposit in the account. All money in the account is subject to the restrictions contained in 13-37-216, 13-37-229 THROUGH 13-37-231, AND 13-37-240.~~

(3) A STATEWIDE OFFICIAL OR LEGISLATOR MAY NOT ESTABLISH ANY ACCOUNT RELATED TO THE PUBLIC OFFICIAL'S OFFICE OTHER THAN A CONSTITUENT SERVICES ACCOUNT. THIS SUBSECTION DOES NOT PROHIBIT A STATEWIDE OFFICIAL OR LEGISLATOR FROM ESTABLISHING A CAMPAIGN ACCOUNT.

~~(3)(4)(5)(4)~~ The holder of a constituent services account shall file ~~an annual~~ A QUARTERLY report with the commissioner, by a date established by the commissioner by rule. The report must disclose the source of all money deposited in the account and enumerate expenditures from the account. THE REPORT MUST INCLUDE THE SAME INFORMATION AS REQUIRED FOR A CANDIDATE REPORTING CONTRIBUTIONS UNDER 13-37-229 AND EXPENDITURES UNDER 13-37-230. THE REPORT MUST BE CERTIFIED AS PROVIDED IN 13-37-231.

~~(4)(5)(6)(5)~~ The holder of a constituent services account shall close the account within 120 days after the account holder leaves public office.

NEW SECTION. SECTION 3. CONTRIBUTION LIMITS APPLICABLE TO CONSTITUENT SERVICES ACCOUNTS. (1)

THE HOLDER OF A CONSTITUENT SERVICES ACCOUNT MAY ACCEPT CONTRIBUTIONS FOR DEPOSIT INTO THE ACCOUNT ONLY FROM AN INDIVIDUAL. A COMMITTEE OR CORPORATION MAY NOT CONTRIBUTE TO A CONSTITUENT SERVICES ACCOUNT.

(2) DURING A TERM OF OFFICE, AGGREGATE CONTRIBUTIONS FROM ONE INDIVIDUAL TO A CONSTITUENT SERVICES ACCOUNT ARE LIMITED AS FOLLOWS:

(A) FOR THE OFFICE OF GOVERNOR OR LIEUTENANT GOVERNOR, NOT TO EXCEED \$500;

(B) FOR A STATEWIDE OFFICE, OTHER THAN THE GOVERNOR OR LIEUTENANT GOVERNOR, NOT TO EXCEED \$250;

(C) FOR A LEGISLATOR, NOT TO EXCEED \$130.

(3) A CANDIDATE MAY NOT ACCEPT ANY CONTRIBUTIONS IN EXCESS OF THE LIMITS IN THIS SECTION.

SECTION 4. SECTION 2-2-104, MCA, IS AMENDED TO READ:

"2-2-104. Rules of conduct for public officers, legislators, and public employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:

(a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or

(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

(i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or

(ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions or contributions to a constituent services account pursuant to [sections 1 through 3] reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated,

unless:

(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

(b) Subsection (3)(a) does not prohibit:

(i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment; or

(ii) a public school teacher from receiving payment from a college or university for the supervision of student teachers who are enrolled in a teacher education program at the college or university if the supervision is performed concurrently with the school teacher's duties for a public school district.

(c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee subject to this subsection (3) shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices."

Section 5. Section 13-37-240, MCA, is amended to read:

"13-37-240. Surplus campaign funds. (1) A candidate shall dispose of any surplus funds from the candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228. In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. A successful candidate FOR A STATEWIDE ELECTED OR LEGISLATIVE OFFICE may establish a constituent services account as provided in [section 4 2]. The candidate shall provide a supplement to the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

(2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family."

NEW SECTION. SECTION 6. DISPOSITION OF CURRENT ACCOUNTS. A CONSTITUENT SERVICES ACCOUNT THAT EXISTS ON [THE EFFECTIVE DATE OF THIS ACT] MUST BE CLOSED WITHIN 120 DAYS AFTER [THE EFFECTIVE DATE OF THIS ACT]. MONEY IN THE ACCOUNT MUST EITHER BE SPENT ON CONSTITUENT SERVICES OR DONATED TO A CHARITABLE

PURPOSE.

NEW SECTION. Section 7. Codification instruction. [~~Section 4~~] is [SECTIONS 1 THROUGH 3] ARE intended to be codified as an integral part of Title 13, chapter 37, ~~part 2~~, and the provisions of Title 13, chapter 37, ~~part 2~~, apply to [~~section 4~~] [SECTIONS 1 THROUGH 3].

NEW SECTION. SECTION 8. APPLICABILITY. [THIS ACT] APPLIES TO ANY CONSTITUENT SERVICES ACCOUNT OPENED ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].

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