

Sec. 29. Section 815.11, Code 1999, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, or 822, or section 232.141, subsection 3, paragraph “c”, or sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the department of inspections and appeals for those purposes.

Sec. 30. EMERGENCY RULES. The office of the state public defender of the department of inspections and appeals may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement the provisions of this Act. The rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 31. Sections 815.9A and 815.10A, Code 1999, are repealed.

Approved May 18, 1999

CHAPTER 136

CAMPAIGN FINANCE

S.F. 470

AN ACT relating to campaign finance disclosure, including the study of campaign finance disclosure and related laws, by regulating express advocacy of candidates and ballot issues, establishing a commission to study campaign finance disclosure and related laws, providing and applying penalties, providing an effective date and for severability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 56.2, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 5A. “Clearly identified” means that a communication contains an unambiguous reference to a particular candidate or ballot issue, including but not limited to one or more of the following:

- a. Use of the name of the candidate or ballot issue.
- b. Use of a photograph or drawing of the candidate, or the use of a particular symbol associated with a specific ballot issue.
- c. Use of a candidate’s initials, nickname, office, or status as a candidate, or use of acronym, popular name, or characterization of a ballot issue.

NEW SUBSECTION. 12A. “Express advocacy” or to “expressly advocate” means communication that can be characterized according to at least one of the following descriptions:

- a. The communication is political speech made in the form of a contribution.
- b. In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.

c. When taken as a whole and with limited reference to external events such as the proximity to the election, the communication could only be interpreted by a reasonable person as supporting or recommending the election, passage, or defeat of one or more clearly identified candidates or ballot issues because both of the following conditions are met:

(1) The communication, as it relates to the election or defeat of the candidate or ballot issue, is unmistakable, unambiguous, and suggestive of only one meaning.

(2) Reasonable minds could not differ as to whether the communication encourages action to nominate, elect, approve, or defeat one or more clearly identified candidates or a ballot issue or whether the communication encourages some other kind of action.

Sec. 2. Section 56.2, subsections 16 and 17, Code 1999, are amended to read as follows:

16. "Political committee" means a either of the following:

a. A committee, but not a candidate's committee, which that accepts contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in any one calendar year for the purpose of supporting or opposing to expressly advocate the nomination, election, or defeat of a candidate for public office, or for the purpose of supporting or opposing to expressly advocate the passage or defeat of a ballot issue; "political committee" also means an.

b. An association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization which that accepts contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in any one calendar year for the purpose of supporting or opposing to expressly advocate the nomination, election, or defeat of a candidate for public office, or for the purpose of supporting or opposing to expressly advocate the passage or defeat of a ballot issue. "Political committee" also includes a committee which accepts contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in a calendar year to cause the publication or broadcasting of material in which the public policy positions or voting record of an identifiable candidate is discussed and in which a reasonable person could find commentary favorable or unfavorable to those public policy positions or voting record.

17. "Political purpose" or "political purposes" means the support or opposition express advocacy of a candidate or ballot issue.

Sec. 3. Section 56.4, unnumbered paragraphs 2 and 3, Code 1999, are amended to read as follows:

Political committees supporting or opposing expressly advocating the nomination, election, or defeat of candidates for both federal office and any elected office created by law or the Constitution of the state of Iowa shall file statements and reports with the board in addition to any federal reports required to be filed with the board. However, a political committee which is registered and filing full disclosure reports of all financial activities with the federal election commission may file verified statements as provided in section 56.5.

Political committees supporting or opposing expressly advocating the nomination, election, or defeat of candidates or the passage or defeat of ballot issues for statewide elections and for county, municipal or school elections may file all activity on one report with the board and shall send a copy to the commissioner responsible under section 47.2 for conducting the election.

Sec. 4. Section 56.5, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. A signed statement by the treasurer of the committee and the candidate, in the case of a candidate's committee, which shall verify that they are aware of the requirement to file

disclosure reports if the committee, the committee officers, the candidate, or both the committee officers and the candidate receive contributions in excess of five hundred dollars in the aggregate, make expenditures in excess of five hundred dollars in the aggregate, or incur indebtedness in excess of five hundred dollars in the aggregate in a calendar year ~~for the purpose of supporting or opposing to expressly advocate the nomination, election, or defeat of any candidate for public office.~~ In the case of political committees, statements shall be made by the treasurer of the committee and the chairperson.

Sec. 5. Section 56.5A, Code 1999, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

1. Each candidate for state, county, city, or school office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate in a calendar year.

2. A political committee shall not be established to ~~support or oppose~~ expressly advocate the nomination, election, or defeat of only one candidate for office, except that a political committee may be established to ~~support or oppose~~ expressly advocate the passage or defeat of approval of a single judge standing for retention.

Sec. 6. Section 56.6, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. Committees for municipal and school elective offices and local ballot issues shall file their first reports five days prior to any election in which the name of the candidate or the local ballot issue which they ~~support or oppose~~ expressly advocate appears on the printed ballot and shall file their next report on the first day of the month following the final election in a calendar year in which the candidate's name or the ballot issue appears on the ballot. A committee ~~supporting or opposing expressly advocating the nomination, election, or defeat of~~ a candidate for a municipal or school elective office or the passage or defeat of a local ballot issue shall also file disclosure reports on the nineteenth day of January and October of each year in which the candidate or ballot issue does not appear on the ballot and on the nineteenth day of January, May, and July of each year in which the candidate or ballot issue appears on the ballot, until the committee dissolves. These reports shall be current to five days prior to the filing deadline and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date.

Sec. 7. Section 56.12A, unnumbered paragraph 1, Code 1999, is amended to read as follows:

The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including ~~supporting or opposing~~ expressly advocating the passage or defeat of a ballot issue.

Sec. 8. Section 56.13, subsections 1, 2, and 3, Code 1999, are amended to read as follows:

1. Action involving a contribution or expenditure which must be reported under this chapter and which is taken by any person, candidate's committee or political committee on behalf of a candidate, if known and approved by the candidate, shall be deemed action by the candidate and reported by the candidate's committee. It shall be presumed that a candidate approves the action if the candidate had knowledge of it and failed to file a statement of disavowal with the commissioner or board and take corrective action within seventy-two hours of the action. A person, candidate's committee or political committee taking such action independently of that candidate's committee shall notify that candidate's committee in writing within twenty-four hours of taking the action. The notification shall provide that candidate's committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board.

Any person who makes expenditures or incurs indebtedness, other than incidental expenses incurred in performing volunteer work, ~~in support or opposition to expressly advocate the nomination, election, or defeat~~ of a candidate for public office shall notify the appropriate committee and provide necessary information for disclosure reports.

2. If a person, other than a political committee, makes one or more expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate, in any one calendar year ~~for purposes of supporting or opposing to expressly advocate the passage or defeat of~~ a ballot issue, the person shall file a statement of activity within ten days of taking the action exceeding the threshold. The statement shall contain information identifying the person filing the statement, identifying the ballot issue, and indicating the position urged by the person with regard to the ballot issue. The person shall file reports indicating the dates on which the expenditures or incurrence of indebtedness took place; a description of the nature of the action taken which resulted in the expenditures or debt; and the cost of the promotion at fair market value. For a local ballot issue, the reports shall be filed five days prior to any election in which the ballot issue appears and on the first day of the month following the election, as well as on the nineteenth day of January, May, and July of each year in which the ballot issue appears on the ballot and on the nineteenth day of January and October of each year in which the ballot issue does not appear on the ballot. For a statewide ballot issue, reports shall be filed on the nineteenth day of January, May, and July of each year. The reports shall be current to five days prior to the filing deadline, and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date. Filing obligations shall cease when the person files a statement of discontinuation indicating that the person's financial activity ~~in support of or in opposition to expressly advocate the passage or defeat of~~ the ballot issue has ceased. Statements and reports shall be filed with the commissioner responsible under section 47.2 for conducting the election at which the issue is voted upon, except that reports on a statewide ballot issue shall be filed with the board.

3. A person taking action involving the making of an expenditure or incurrence of indebtedness ~~in support or opposition to expressly advocate the passage or defeat of~~ a ballot issue independently of a political committee shall, within seventy-two hours of taking the action, notify in writing any political committee which advocates the same position with regard to the ballot issue as the person taking the action. The notification shall provide the political committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board. It shall be presumed that a benefited committee approves the action if the committee fails to file a statement of disavowal with the commissioner or board and takes corrective action within ten days of the action. Action approved by a committee shall be reported as a contribution by the committee.

Sec. 9. Section 56.14, subsection 1, paragraph a, Code 1999, is amended to read as follows:

1. a. A person who causes the publication or distribution of published material designed to ~~promote or defeat expressly advocate~~ the nomination, ~~or election, or defeat~~ of a candidate for public office or the passage ~~or defeat~~ of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. However, if the organization is a committee which has filed a statement of organization under this chapter, only the name of the committee is required to be included on the published material. Published material designed to ~~promote or defeat expressly advocate~~ the nomination, ~~or election, or defeat~~ of a candidate for public office or the passage ~~or defeat~~ of a constitutional amendment or public measure which contains language or depictions which a reasonable person would understand as asserting that an entity which is incorporated or is a registered committee had authored the material shall, if the entity is not incorporated or a registered committee,

include conspicuously on the published material a statement that the apparent organization or committee is not incorporated or a registered committee in addition to the attribution statement required by this section. For purposes of this section, "registered committee" means a committee which has an active statement of organization filed under section 56.5.

Sec. 10. Section 56.15, subsections 1, 2, and 4, Code 1999, are amended to read as follows:

1. Except as provided in subsections 3 and 4, it is unlawful for an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or an officer, agent, or representative acting for such insurance company, savings and loan association, bank, credit union, or corporation, to contribute any money, property, labor, or thing of value, directly or indirectly, to a committee, or ~~for the purpose of influencing to expressly advocate that~~ the vote of an elector be used to nominate, elect, or defeat a candidate for public office, except that such resources may be so expended in connection with a utility franchise election held pursuant to section 364.2, subsection 4, or a ballot issue. All such expenditures are subject to the disclosure requirements of this chapter.

2. Except as provided in subsection 3, it is unlawful for a member of a committee, or its employee or representative, except a ballot issue committee, or for a candidate for office or the representative of the candidate, to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or its officer, agent, or representative, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, or corporation for campaign expenses, or ~~for the purpose of influencing to expressly advocate that~~ the vote of an elector be used to nominate, elect, or defeat a candidate for public office. This section does not restrain or abridge the freedom of the press or prohibit the consideration and discussion in the press of candidacies, nominations, public officers, or public questions.

4. The restrictions imposed by this section relative to making, soliciting or receiving contributions shall not apply to a nonprofit corporation or organization which uses those contributions to encourage registration of voters and participation in the political process, or to publicize public issues, or both, but does not use any part of those contributions to ~~endorse or oppose expressly advocate the nomination, election, or defeat of~~ any candidate for public office. A nonprofit corporation or organization may use contributions solicited or received to ~~support or oppose expressly advocate the passage or defeat of~~ ballot issues but the expenditures shall be disclosed by the nonprofit corporation or organization in the manner provided for a permanent organization temporarily engaged in a political activity under section 56.6.

This section does not prohibit a family farm corporation, as defined in section 9H.1, from placing a yard sign on agricultural land, and does not prohibit the placement of yard signs, with the prior written permission of the individual property owner, on property rented or leased by a corporation from private individuals, subject to the requirements of section 56.14. This section also does not prohibit the placement of a yard sign on residential property that is owned by a corporation, but rented or leased to a private individual, if the prior permission of the renter or lessee is obtained.

Sec. 11. Section 56.15, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 4A. For purposes of this section, "committee" shall include statutory political committees organized under chapter 43, and nonparty political organizations organized under chapter 44.

Sec. 12. Section 56.22, subsection 2, Code 1999, is amended to read as follows:

2. Funds distributed to statutory political committees pursuant to this chapter shall not be used to ~~support or oppose~~ expressly advocate the nomination, election, or defeat of any

candidate. Nothing in this subsection shall be construed to prohibit a statutory political committee from using such funds to pay expenses incurred in arranging and holding a nominating convention.

Sec. 13. CAMPAIGN FINANCE COMMISSION. A campaign finance commission is established to study campaign finance disclosure and related laws and to recommend reforms in these laws, according to the following:

1. APPOINTMENT. The commission shall be composed of six members, bipartisan and gender-balanced in accordance with sections 69.16 and 69.16A, and appointed as follows:

a. Two members shall be the state chairs of each of the political parties, as defined in section 43.2, or their designees.

b. Four members shall be jointly appointed by the majority and minority leaders of the senate and house. These members shall be appointed from nonpartisan organizations which have researched, studied, and advocated the issue of political campaign finance reform for fifteen years or more, or who are specially qualified to serve on the commission because of training or experience.

c. The commission shall elect a chair and vice chair at its first meetings.

2. TERMS. The members of the commission shall serve for the life of the commission.

3. VACANCIES. A vacancy in the commission shall be filled in the manner in which the original appointment was made.

Sec. 14. POWERS AND DUTIES OF THE COMMISSION.

1. HEARINGS. The commission may hold hearings which shall be open and announced in advance to the public, take testimony, and receive evidence as the commission considers appropriate. Activities of the commission shall be held in accordance with chapter 21.

The commission shall hold at least one hearing in each congressional district within the state specifically to obtain public input on the issue of campaign finance reform.

2. QUORUM. Four members of the commission shall constitute a quorum, but a lesser number may hold hearings.

3. REPORT. Not later than December 15, 1999, the commission shall submit to the general assembly a report of the activities of the commission, together with a draft of legislation recommended by the commission to reform the campaign finance disclosure and related laws for consideration by the general assembly in the year 2000 according to the provisions of this Act.

4. MATTERS TO BE CONSIDERED. In holding hearings and preparing the report required under subsection 3, the commission shall consider all issues related to the reform of campaign finance disclosure and related laws. The commission may secure directly from any department or agency such information as the commission considers necessary, and the department or agency shall promptly furnish such information to the commission.

5. STAFFING. Assistance shall be provided to the commission by the central nonpartisan legislative staff bureaus. The commission may utilize the services of the legislative service bureau in formulating a draft of legislation. The attorney general's office and the ethics and campaign disclosure board shall serve as consultants, and advise the commission as necessary.

Sec. 15. ASSIGNMENT OF LEGISLATION. The legislation drafted by the commission shall be filed with each chamber on the first day of the legislative session beginning in the year 2000, and immediately assigned to the committee on state government in each chamber.

Sec. 16. TERMINATION. The commission shall cease to exist one month after the submission of its report.

Sec. 17. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 18. SEVERABILITY. If any section of this Act, or any portion of any section of this Act, is found unconstitutional or otherwise unenforceable by a court, the remaining sections and portions of sections shall be given effect to the fullest extent possible.

Approved May 18, 1999

CHAPTER 137

CITY AND CITY UTILITY PUBLIC IMPROVEMENT CONTRACTS — EARLY COMPLETION INCENTIVES

H.F. 115

AN ACT relating to the award of a contract for a public improvement by a city or the governing body of a city utility.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 384.99, Code 1999, is amended to read as follows:
384.99 AWARD OF CONTRACT.

The contract for the public improvement must be awarded to the lowest responsible bidder, provided, however, that contracts relating to public utilities or extensions or improvements thereof, as described in division V of this chapter, may be awarded by the governing body as it deems to be in the best interests of the city. This section shall not be construed to prohibit a city in the award of a contract for a public improvement or a governing body of a city utility from providing in the award of a contract for a public improvement, an enhancement of payments upon early completion of the public improvement if the availability of the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, the enhancement payments are considered as a separate item in the public hearing on the award of contract, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.

Approved May 18, 1999

CHAPTER 138

ADOPTION PROCEDURES

H.F. 172

AN ACT relating to adoption procedural requirements including those related to investigations, reports, and counseling.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 600.8, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A background information investigation and a report of the investigation shall be made by the agency, the person making an independent placement, or an investigator.