

House File 285 - Introduced

HOUSE FILE 285

BY McKEAN

A BILL FOR

1 An Act relating to certain political communications and
2 voluntary ethics statements and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 68A.507 Disclosures related to
2 political telephone communications — legislative findings —
3 definitions.

4 1. The general assembly finds that political telephone
5 communication is increasingly used in political campaigns in
6 this state in a deceptive manner, including but not limited
7 to the use of political telemarketing, also known as push-
8 polling, where an anonymous telephone communication is
9 designed to appear as a legitimate poll, but is in fact used
10 to communicate certain negative information related to a
11 candidate or ballot issue. The general assembly declares that
12 a compelling public interest exists to identify the source of
13 funding of telephone communications related to elections in
14 order to prevent corruption and deceit at the expense of the
15 electorate and to preserve accountability for expenditures made
16 in connection with political campaigns.

17 2. For the purposes of this section, unless the context
18 otherwise requires:

19 a. "*Legitimate poll*" means a telephone communication
20 conducted by a polling firm for the purpose of a scientific
21 poll of respondents in order to gauge public opinion concerning
22 a candidate, public office holder, or ballot issue that is part
23 of a series of like telephone communications that utilizes a
24 scientific sampling technique to produce a random sample of
25 respondents.

26 b. "*Political telemarketing*" means the canvassing of persons
27 under the guise of performing a legitimate poll, with the
28 purpose of encouraging support of, or opposition to, a clearly
29 identified candidate for public office or the passage or defeat
30 of a clearly identified ballot issue.

31 3. A candidate, an authorized representative of a
32 candidate, a candidate's committee, or a political committee
33 that engages either in a telephone communication for the
34 purpose of soliciting contributions or in a telephone
35 communication that has the effect of promoting or opposing the

1 nomination or election of a candidate for public office or the
2 passage of a ballot issue shall disclose all of the following
3 by the end of the telephone communication:

4 *a.* The identity of the individual who is communicating and
5 the entity with which the individual is affiliated, if any.

6 *b.* The individual or entity that paid for the telephone
7 communication. If a candidate's committee or political
8 committee has paid for or authorized the telephone
9 communication, the name of the candidate's committee or
10 political committee shall be disclosed. If any person other
11 than a candidate's committee or political committee has
12 paid for or authorized the telephone communication, the
13 communication shall also state whether or not the communication
14 has been authorized by the candidate intended to benefit from
15 the communication and shall state whether the communication is
16 an independent expenditure.

17 *c.* The name, telephone number, and address of an individual
18 whom the communication recipient can contact for further
19 information regarding the telephone communication.

20 4. An individual who, on behalf of, at the direction of,
21 or in cooperation with a political committee, engages either
22 in a telephone communication for the purpose of soliciting
23 contributions or in a telephone communication that has the
24 effect of promoting or opposing the nomination or election of a
25 candidate for public office or the passage of a ballot issue
26 shall disclose all of the following at the commencement of the
27 telephone communication:

28 *a.* The identity of the individual who is communicating and
29 the entity with which the individual is affiliated, if any.

30 *b.* The individual or entity that paid for the telephone
31 communication. If a political committee has paid for or
32 authorized the telephone communication, the name of the
33 political committee shall be disclosed. If any person
34 other than the candidate, a candidate's committee, or a
35 political committee has paid for or authorized the telephone

1 communication, the communication shall also state whether or
2 not the communication has been authorized by the candidate
3 intended to benefit from the communication.

4 c. The name, telephone number, and address of an individual
5 whom the communication recipient can contact for further
6 information regarding the telephone communication.

7 5. The board shall adopt rules pursuant to chapter 17A
8 establishing procedures to administer this section.

9 Sec. 2. NEW SECTION. **68A.508 Publication of certain false**
10 **statements of fact concerning candidate prohibited — remedies.**

11 1. The general assembly finds that the increasing use of
12 false statements of fact aimed at candidates for public office
13 impedes campaigns and diminishes the trust and confidence of
14 the public in the electoral process. It is not the intent
15 of the general assembly to lessen political debate that
16 furthers the ability of the public to understand the issues
17 and positions of candidates for public office. The general
18 assembly declares that a compelling state interest exists in
19 prohibiting the use of false statements of fact that impede
20 campaigns for public office in Iowa and diminish the public's
21 trust and confidence in the electoral process.

22 2. As used in this section:

23 a. "*Actual malice*" means knowledge of the falsity of a
24 statement or reckless disregard for whether a statement is true
25 or false.

26 b. "*Public office*" means any state, county, city, school, or
27 other office of a political subdivision of this state filled
28 by election.

29 c. "*Publish*" means the act of printing, posting,
30 broadcasting, mailing, speaking, or otherwise disseminating.

31 3. A person shall not, with actual malice, cause to be
32 published a false statement of fact concerning a candidate for
33 public office involving any of the following:

34 a. The education or training of the candidate.

35 b. The current profession or occupation of the candidate or

1 any former profession or occupation of the candidate.

2 *c.* Whether the candidate committed, was indicted for
3 committing, or was convicted of committing a crime punishable
4 by law.

5 *d.* Whether the candidate was subject to discipline
6 or sanction by any body of the federal government, state
7 government, or political subdivision of the state.

8 *e.* Whether the candidate has received treatment for a mental
9 illness.

10 *f.* Whether another person endorses or opposes the candidate.

11 *g.* The record of voting of a candidate if the candidate
12 serves or formerly served in an elected office.

13 4. A candidate for public office who alleges that a false
14 statement of fact concerning the candidate has been published
15 in violation of this section may file a complaint with the
16 board. The board shall give priority consideration to any
17 complaint filed under this section over all other matters
18 pending before the board.

19 5. If the board determines that a violation did occur, the
20 board may impose any of the recommended actions under section
21 68B.32D, except that the board shall not refer any complaint or
22 supporting information of a violation of this section to the
23 attorney general or any county attorney for prosecution.

24 6. This section shall not preclude the filing of a civil
25 action based on the same facts or event giving rise to a
26 complaint filed with the board under this section.

27 7. Section 68A.701, which otherwise applies criminal
28 penalties for violations of this chapter, shall not apply to
29 violations of this section.

30 **Sec. 3. NEW SECTION. 68A.509 Statement of fair campaign**
31 **practices for state offices.**

32 The board shall prepare a statement of fair campaign
33 practices to assist candidates in the proper conduct of
34 political campaigns in accordance with this chapter. A
35 copy of the statement shall be mailed to any incumbent state

1 officeholder running for reelection to that office and to any
2 other individual running for elected state office that has
3 filed a statement of organization for that office pursuant to
4 section 68A.201. Any individual running for elected office
5 for a county, city, school, or other political subdivision may
6 request a copy of the statement. Candidates choosing to abide
7 by the statement shall sign and return the statement to the
8 board. Compliance with the provisions of the statement shall
9 be voluntary on the part of any candidate choosing to sign and
10 return the statement to the board. The statement prepared by
11 the board shall be adopted by rule pursuant to chapter 17A.

12

EXPLANATION

13

The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to certain political telephone calls and
16 voluntary ethics statements. The bill requires a caller that
17 makes a telephone call soliciting a contribution or advocating
18 for or against a candidate or ballot issue to disclose the name
19 and affiliation of the caller, the name of the entity that paid
20 for the telephone call, whether a candidate has authorized
21 the call, and the name, address, and telephone number of an
22 individual whom the person can contact to receive further
23 information regarding the call. A person engaging in such
24 telephone calls must submit to the Iowa ethics and campaign
25 disclosure board, at least 24 hours prior to the first call,
26 all information required to be disclosed during the call and
27 the script that the caller will use. By operation of law,
28 a person who willfully violates this section of the bill is
29 guilty of a serious misdemeanor. A serious misdemeanor is
30 punishable by confinement for no more than one year and a fine
31 of at least \$315 but not more than \$1,875.

32 The bill prohibits a person from publishing certain false
33 statements about a candidate for public officer with actual
34 malice. The bill allows a candidate who believes that a
35 prohibited false statement has been published to make a report

1 to the Iowa ethics and campaign disclosure board for possible
2 investigation and penalties pursuant to Code section 68B.32D.
3 The bill directs the board to give such reports priority over
4 other matters. A violation of this Code section is not subject
5 to a criminal penalty pursuant to Code section 68A.701.

6 The bill directs the Iowa ethics and campaign disclosure
7 board to create a statement of fair campaign finances and mail
8 it to any incumbent state officeholder running for reelection
9 and to any other candidate for state office that has filed an
10 organization statement. A person running for any other officer
11 may request a copy of the statement. A candidate may choose to
12 abide by the statement by signing it and returning it to the
13 board. Compliance with the statement is voluntary.