

SECOND REGULAR SESSION

SENATE BILL NO. 1038

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Read 1st time January 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4464S.011

AN ACT

To repeal sections 130.016, 130.021, and 130.037, RSMo, and section 130.032 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate committee substitute for senate bill no. 16, eighty-ninth general assembly, first regular session, and section 130.032 as enacted by conference committee substitute for senate substitute for house committee substitute for house bill no. 1900, ninety-third general assembly, second regular session, and to enact in lieu thereof four new sections relating to campaign finance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 130.016, 130.021, and 130.037, RSMo, and section
2 130.032 as enacted by conference committee substitute no. 2 for house substitute
3 for house committee substitute for senate committee substitute for senate bill no.
4 16, eighty-ninth general assembly, first regular session, and section 130.032 as
5 enacted by conference committee substitute for senate substitute for house
6 committee substitute for house bill no. 1900, ninety-third general assembly,
7 second regular session, are repealed and four new sections enacted in lieu thereof,
8 to be known as sections 130.016, 130.021, 130.037, and 130.044, to read as
9 follows:

130.016. 1. No candidate for statewide elected office, general assembly,
2 or municipal office in a city with a population of more than one hundred thousand
3 shall be required to comply with the requirements to file a statement of
4 organization or disclosure reports of contributions and expenditures for any
5 election in which neither the aggregate of contributions received nor the
6 aggregate of expenditures made on behalf of such candidate exceeds five hundred

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 dollars and no single contributor, other than the candidate, has contributed more
8 than [the amount of the limitation on contributions to elect an individual to the
9 office of state representative as calculated in subsection 2 of section 130.032]
10 **three hundred twenty-five dollars**, provided that:

11 (1) The candidate files a sworn exemption statement with the appropriate
12 officer that the candidate does not intend to either receive contributions or make
13 expenditures in the aggregate of more than five hundred dollars or receive
14 contributions from any single contributor, other than the candidate, that
15 aggregate more than [the amount of the limitation on contributions to elect an
16 individual to the office of state representative as calculated in subsection 2 of
17 section 130.032] **three hundred twenty-five dollars**, and that the total of all
18 contributions received or expenditures made by the candidate and all committees
19 or any other person with the candidate's knowledge and consent in support of the
20 candidacy will not exceed five hundred dollars and that the aggregate of
21 contributions received from any single contributor will not exceed the amount of
22 the limitation on contributions to elect an individual to the office of state
23 representative as calculated in subsection 2 of section 130.032. Such exemption
24 statement shall be filed no later than the date set forth in section 130.046 on
25 which a disclosure report would otherwise be required if the candidate does not
26 file the exemption statement. The exemption statement shall be filed on a form
27 furnished to each appropriate officer by the executive director of the Missouri
28 ethics commission. Each appropriate officer shall make the exemption statement
29 available to candidates and shall direct each candidate's attention to the
30 exemption statement and explain its purpose to the candidate; and

31 (2) The sworn exemption statement includes a statement that the
32 candidate understands that records of contributions and expenditures must be
33 maintained from the time the candidate first receives contributions or makes
34 expenditures and that an exemption from filing a statement of organization or
35 disclosure reports does not exempt the candidate from other provisions of this
36 chapter. Each candidate described in this subsection who files a statement of
37 exemption shall file a statement of limited activity for each reporting period
38 described in section 130.046.

39 2. Any candidate who has filed an exemption statement as provided in
40 subsection 1 of this section shall not accept any contribution or make any
41 expenditure in support of the person's candidacy, either directly or indirectly or
42 by or through any committee or any other person acting with the candidate's

43 knowledge and consent, which would cause such contributions or expenditures to
44 exceed the limits specified in subdivision (1) of subsection 1 of this section unless
45 the candidate later rejects the exemption pursuant to subsection 3 of this
46 section. Any contribution received in excess of such limits shall be returned to
47 the donor or transmitted to the state treasurer to escheat to the state.

48 3. If, after filing the exemption statement provided for in this section, the
49 candidate subsequently determines the candidate wishes to exceed any of the
50 limits in subdivision (1) of subsection 1 of this section, the candidate shall file a
51 notice of rejection of the exemption with the appropriate officer; however, such
52 rejection shall not be filed later than thirty days before election. A notice of
53 rejection of exemption shall be accompanied by a statement of organization as
54 required by section 130.021 and any other statements and reports which would
55 have been required if the candidate had not filed an exemption statement.

56 4. A primary election and the immediately succeeding general election are
57 separate elections, and restrictions on contributions and expenditures set forth
58 in subsection 2 of this section shall apply to each election; however, if a successful
59 primary candidate has correctly filed an exemption statement prior to the
60 primary election and has not filed a notice of rejection prior to the date on which
61 the first disclosure report applicable to the succeeding general election is required
62 to be filed, the candidate shall not be required to file an exemption statement for
63 that general election if the limitations set forth in subsection 1 of this section
64 apply to the succeeding general election.

65 5. A candidate who has an existing candidate committee formed for a prior
66 election for which all statements and reports required by this chapter have been
67 properly filed shall be eligible to file the exemption statement as provided in
68 subsection 1 of this section and shall not be required to file the disclosure reports
69 pertaining to the election for which the candidate is eligible to file the exemption
70 statement if the candidate and the treasurer or deputy treasurer of such existing
71 candidate committee continue to comply with the requirements, limitations and
72 restrictions set forth in subsections 1, 2, 3 and 4 of this section. The exemption
73 permitted by this subsection does not exempt a candidate or the treasurer of the
74 candidate's existing candidate committee from complying with the requirements
75 of subsections 6 and 7 of section 130.046 applicable to a prior election.

76 6. No candidate for supreme court, circuit court, or associate circuit court,
77 or candidate for political party office, or for county office or municipal office in a
78 city of one hundred thousand or less, or for any special purpose district office

79 shall be required to file an exemption statement pursuant to this section in order
80 to be exempted from forming a committee and filing disclosure reports required
81 of committees pursuant to this chapter if the aggregate of contributions received
82 or expenditures made by the candidate and any other person with the candidate's
83 knowledge and consent in support of the person's candidacy does not exceed one
84 thousand dollars and the aggregate of contributions from any single contributor
85 does not exceed [the amount of the limitation on contributions to elect an
86 individual to the office of state representative as calculated in subsection 2 of
87 section 130.032] **three hundred twenty-five dollars**. No candidate for any
88 office listed in this subsection shall be excused from complying with the
89 provisions of any section of this chapter, other than the filing of an exemption
90 statement under the conditions specified in this subsection.

91 7. If any candidate for an office listed in subsection 6 of this section
92 exceeds the limits specified in subsection 6 of this section, the candidate shall
93 form a committee no later than thirty days prior to the election for which the
94 contributions were received or expended which shall comply with all provisions
95 of this chapter for committees.

96 8. No member of or candidate for the general assembly shall form a
97 candidate committee for the office of speaker of the house of representatives or
98 president pro tem of the senate.

130.021. 1. Every committee shall have a treasurer who, except as
2 provided in subsection 10 of this section, shall be a resident of this state. A
3 committee may also have a deputy treasurer who, except as provided in
4 subsection 10 of this section, shall be a resident of this state, to serve in the
5 capacity of committee treasurer in the event the committee treasurer is unable
6 for any reason to perform the treasurer's duties.

7 2. Every candidate for offices listed in subsection 1 of section 130.016 who
8 has not filed a statement of exemption pursuant to that subsection and every
9 candidate for offices listed in subsection 6 of section 130.016 who is not excluded
10 from filing a statement of organization and disclosure reports pursuant to
11 subsection 6 shall form a candidate committee and appoint a
12 treasurer. Thereafter, all contributions on hand and all further contributions
13 received by such candidate and any of the candidate's own funds to be used in
14 support of the person's candidacy shall be deposited in a candidate committee
15 depository account established pursuant to the provisions of subsection 4 of this
16 section, and all expenditures shall be made through the candidate, treasurer or

17 deputy treasurer of the person's candidate committee. Nothing in this chapter
18 shall prevent a candidate from appointing himself or herself as a committee of
19 one and serving as the person's own treasurer, maintaining the candidate's own
20 records and filing all the reports and statements required to be filed by the
21 treasurer of a candidate committee.

22 3. A candidate who has more than one candidate committee supporting
23 the person's candidacy shall designate one of those candidate committees as the
24 committee responsible for consolidating the aggregate contributions to all such
25 committees under the candidate's control and direction as required by section
26 130.041.

27 4. (1) Every committee shall have a single official fund depository within
28 this state which shall be a federally or state-chartered bank, a federally or
29 state-chartered savings and loan association, or a federally or state-chartered
30 credit union in which the committee shall open and thereafter maintain at least
31 one official depository account in its own name. An "official depository account"
32 shall be a checking account or some type of negotiable draft or negotiable order
33 of withdrawal account, and the official fund depository shall, regarding an official
34 depository account, be a type of financial institution which provides a record of
35 deposits, canceled checks or other canceled instruments of withdrawal evidencing
36 each transaction by maintaining copies within this state of such instruments and
37 other transactions. All contributions which the committee receives in money,
38 checks and other negotiable instruments shall be deposited in a committee's
39 official depository account. Contributions shall not be accepted and expenditures
40 shall not be made by a committee except by or through an official depository
41 account and the committee treasurer, deputy treasurer or
42 candidate. Contributions received by a committee shall not be commingled with
43 any funds of an agent of the committee, a candidate or any other person, except
44 that contributions from a candidate of the candidate's own funds to the person's
45 candidate committee shall be deposited to an official depository account of the
46 person's candidate committee. No expenditure shall be made by a committee
47 when the office of committee treasurer is vacant except that when the office of a
48 candidate committee treasurer is vacant, the candidate shall be the treasurer
49 until the candidate appoints a new treasurer.

50 (2) A committee treasurer, deputy treasurer or candidate may withdraw
51 funds from a committee's official depository account and deposit such funds in one
52 or more savings accounts in the committee's name in any bank, savings and loan

53 association or credit union within this state, and may also withdraw funds from
54 an official depository account for investment in the committee's name in any
55 certificate of deposit, bond or security. Proceeds from interest or dividends from
56 a savings account or other investment or proceeds from withdrawals from a
57 savings account or from the sale of an investment shall not be expended or
58 reinvested, except in the case of renewals of certificates of deposit, without first
59 redepositing such proceeds in an official depository account. Investments, other
60 than savings accounts, held outside the committee's official depository account at
61 any time during a reporting period shall be disclosed by description, amount, any
62 identifying numbers and the name and address of any institution or person in
63 which or through which it is held in an attachment to disclosure reports the
64 committee is required to file. Proceeds from an investment such as interest or
65 dividends or proceeds from its sale, shall be reported by date and amount. In the
66 case of the sale of an investment, the names and addresses of the persons
67 involved in the transaction shall also be stated. Funds held in savings accounts
68 and investments, including interest earned, shall be included in the report of
69 money on hand as required by section 130.041.

70 5. The treasurer or deputy treasurer acting on behalf of any person or
71 organization or group of persons which is a committee by virtue of the definitions
72 of "committee" in section 130.011 and any candidate who is not excluded from
73 forming a committee in accordance with the provisions of section 130.016 shall
74 file a statement of organization with the appropriate officer within twenty days
75 after the person or organization becomes a committee but no later than the date
76 for filing the first report required pursuant to the provisions of section
77 130.046. The statement of organization shall contain the following information:

78 (1) The name, mailing address and telephone number, if any, of the
79 committee filing the statement of organization. If the committee is deemed to be
80 affiliated with a connected organization as provided in subdivision (11) of section
81 130.011, the name of the connected organization, or a legally registered fictitious
82 name which reasonably identifies the connected organization, shall appear in the
83 name of the committee. If the committee is a candidate committee, the name of
84 the candidate shall be a part of the committee's name;

85 (2) The name, mailing address and telephone number of the candidate;

86 (3) The name, mailing address and telephone number of the committee
87 treasurer, and the name, mailing address and telephone number of its deputy
88 treasurer if the committee has named a deputy treasurer;

- 89 (4) The names, mailing addresses and titles of its officers, if any;
- 90 (5) The name and mailing address of any connected organizations with
91 which the committee is affiliated;
- 92 (6) The name and mailing address of its depository, and the name and
93 account number of each account the committee has in the depository;
- 94 (7) Identification of the major nature of the committee such as a candidate
95 committee, campaign committee, continuing committee, political party committee,
96 incumbent committee, or any other committee according to the definition of
97 "committee" in section 130.011;
- 98 (8) In the case of the candidate committee designated in subsection 3 of
99 this section, the full name and address of each other candidate committee which
100 is under the control and direction of the same candidate, together with the name,
101 address and telephone number of the treasurer of each such other committee;
- 102 (9) The name and office sought of each candidate supported or opposed by
103 the committee;
- 104 (10) The ballot measure concerned, if any, and whether the committee is
105 in favor of or opposed to such measure.
- 106 6. A committee may omit the information required in subdivisions (9) and
107 (10) of subsection 5 of this section if, on the date on which it is required to file a
108 statement of organization, the committee has not yet determined the particular
109 candidates or particular ballot measures it will support or oppose. [Any
110 contribution received over the allowable contribution limits described in section
111 130.032 shall be returned to the contributor by the committee within five
112 business days of the declaration of candidacy or position on a candidate or a
113 particular ballot measure of the committee.]
- 114 7. A committee which has filed a statement of organization and has not
115 terminated shall not be required to file another statement of organization, except
116 that when there is a change in any of the information previously reported as
117 required by subdivisions (1) to (8) of subsection 5 of this section an amended
118 statement of organization shall be filed within twenty days after the change
119 occurs, but no later than the date of the filing of the next report required to be
120 filed by that committee by section 130.046.
- 121 8. Upon termination of a committee, a termination statement indicating
122 dissolution shall be filed not later than ten days after the date of dissolution with
123 the appropriate officer or officers with whom the committee's statement of
124 organization was filed. The termination statement shall include: the distribution

125 made of any remaining surplus funds and the disposition of any deficits; and the
126 name, mailing address and telephone number of the individual responsible for
127 preserving the committee's records and accounts as required in section 130.036.

128 9. Any statement required by this section shall be signed and attested by
129 the committee treasurer or deputy treasurer, and by the candidate in the case of
130 a candidate committee.

131 10. A committee domiciled outside this state shall be required to file a
132 statement of organization and appoint a treasurer residing in this state and open
133 an account in a depository within this state; provided that either of the following
134 conditions prevails:

135 (1) The aggregate of all contributions received from persons domiciled in
136 this state exceeds twenty percent in total dollar amount of all funds received by
137 the committee in the preceding twelve months; or

138 (2) The aggregate of all contributions and expenditures made to support
139 or oppose candidates and ballot measures in this state exceeds one thousand five
140 hundred dollars in the current calendar year.

141 11. If a committee domiciled in this state receives a contribution of one
142 thousand five hundred dollars or more from any committee domiciled outside of
143 this state, the committee domiciled in this state shall file a disclosure report with
144 the commission. The report shall disclose the full name, mailing address,
145 telephone numbers and domicile of the contributing committee and the date and
146 amount of the contribution. The report shall be filed within forty-eight hours of
147 the receipt of such contribution if the contribution is received after the last
148 reporting date before the election.

130.037. Any candidate may file a supplemental report containing
2 information required pursuant to section 130.041, for the purposes of this
3 section. Candidates whose supplemental report filed within thirty days of August
4 28, 1997, or whose report filed pursuant to subdivision (2) of subsection 1 of
5 section 130.046 reflects outstanding obligations in excess of moneys on hand, may
6 convert their campaign committee to a debt service committee as provided in this
7 section. If a debt service committee is formed, the committee may accept
8 contributions from any person [as long as the aggregate contribution from such
9 person does not exceed the limits set, pursuant to section 130.032, for the
10 aggregating period, pursuant to subdivision (1) of subsection 2 of section 130.041,
11 in which the debt was incurred]. A person who contributes to a debt service
12 committee of a candidate may also contribute to the candidate's campaign

13 committee for a succeeding election [up to the amounts specified in section
14 130.032]. The treasurer and the candidate shall terminate the debt service
15 committee pursuant to section 130.021 when the contributions received exceed the
16 amount of the debt, and within thirty days the committee shall file disclosure
17 reports pursuant to section 130.041 and shall return any excess moneys received
18 to the contributor or contributors, if known, otherwise such moneys shall escheat
19 to the state. No debt service committee shall be in existence more than eighteen
20 months.

**130.044. 1. All individuals and committees required to file
2 disclosure reports under section 130.041 shall electronically report any
3 contribution by any single contributor which exceeds five thousand
4 dollars to the Missouri ethics commission within forty eight hours of
5 receiving the contribution. Such reports shall contain the same content
6 required under section 130.041 and shall be filed in accordance with
7 the standards established by the commission for electronic filing and
8 other rules the commission may deem necessary to promulgate for the
9 effective administration of this section.**

**10 2. Any rule or portion of a rule, as that term is defined in section
11 536.010, RSMo, that is created under the authority delegated in this
12 section shall become effective only if it complies with and is subject to
13 all of the provisions of chapter 536, RSMo, and, if applicable, section
14 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
15 and if any of the powers vested with the general assembly pursuant to
16 chapter 536, RSMo, to review, to delay the effective date, or to
17 disapprove and annul a rule are subsequently held unconstitutional,
18 then the grant of rulemaking authority and any rule proposed or
19 adopted after August 28, 2008, shall be invalid and void.**

[130.032. 1. Monetary contributions shall not be made from
2 any political party committee as defined in subdivision (25) of
3 section 130.011 to any candidate committee, continuing committee,
4 or political party committee. Nothing in this section shall be
5 construed to limit any candidate committee from making
6 contributions to any other committee.

7 2. Any candidate for the office of state representative, the
8 office of state senator, or a statewide elected office shall not accept
9 any contributions from the first Wednesday after the first Monday

10 in January through the first Friday after the second Monday of
11 May of each year at 6:00 p.m. Only candidates for special election
12 to the house of representatives, senate, or statewide elected office
13 may, during such time, accept contributions from the date of the
14 candidate's nomination by his or her respective political party until
15 thirty days after the date of the election.]

[130.032. 1. In addition to the limitations imposed
2 pursuant to section 130.031, the amount of contributions made by
3 or accepted from any person other than the candidate in any one
4 election shall not exceed the following:

5 (1) To elect an individual to the office of governor,
6 lieutenant governor, secretary of state, state treasurer, state
7 auditor or attorney general, one thousand dollars;

8 (2) To elect an individual to the office of state senator, five
9 hundred dollars;

10 (3) To elect an individual to the office of state
11 representative, two hundred fifty dollars;

12 (4) To elect an individual to any other office, including
13 judicial office, if the population of the electoral district, ward, or
14 other unit according to the latest decennial census is under one
15 hundred thousand, two hundred fifty dollars;

16 (5) To elect an individual to any other office, including
17 judicial office, if the population of the electoral district, ward, or
18 other unit according to the latest decennial census is at least one
19 hundred thousand but less than two hundred fifty thousand, five
20 hundred dollars; and

21 (6) To elect an individual to any other office, including
22 judicial office, if the population of the electoral district, ward, or
23 other unit according to the latest decennial census is at least two
24 hundred fifty thousand, one thousand dollars.

25 2. For purposes of this subsection "base year amount" shall
26 be the contribution limits prescribed in this section on January 1,
27 1995. Such limits shall be increased on the first day of January in
28 each even-numbered year by multiplying the base year amount by
29 the cumulative consumer price index, as defined in section 104.010,
30 RSMo, and rounded to the nearest twenty-five-dollar amount, for

31 all years since January 1, 1995.

32 3. Candidate committees, exploratory committees, campaign
33 committees and continuing committees, other than those continuing
34 committees which are political party committees, shall be subject
35 to the limits prescribed in subsection 1 of this section. The
36 provisions of this subsection shall not limit the amount of
37 contributions which may be accumulated by a candidate committee
38 and used for expenditures to further the nomination or election of
39 the candidate who controls such candidate committee, except as
40 provided in section 130.052.

41 4. Except as limited by this subsection, the amount of cash
42 contributions, and a separate amount for the amount of in-kind
43 contributions, made by or accepted from a political party committee
44 in any one election shall not exceed the following:

45 (1) To elect an individual to the office of governor,
46 lieutenant governor, secretary of state, state treasurer, state
47 auditor or attorney general, ten thousand dollars;

48 (2) To elect an individual to the office of state senator, five
49 thousand dollars;

50 (3) To elect an individual to the office of state
51 representative, two thousand five hundred dollars; and

52 (4) To elect an individual to any other office of an electoral
53 district, ward or unit, ten times the allowable contribution limit for
54 the office sought. The amount of contributions which may be made
55 by or accepted from a political party committee in the primary
56 election to elect any candidate who is unopposed in such primary
57 shall be fifty percent of the amount of the allowable contributions
58 as determined in this subsection.

59 5. Contributions from persons under fourteen years of age
60 shall be considered made by the parents or guardians of such
61 person and shall be attributed toward any contribution limits
62 prescribed in this chapter. Where the contributor under fourteen
63 years of age has two custodial parents or guardians, fifty percent
64 of the contribution shall be attributed to each parent or guardian,
65 and where such contributor has one custodial parent or guardian,
66 all such contributions shall be attributed to the custodial parent or

67 guardian.

68 6. Contributions received and expenditures made prior to
69 January 1, 1995, shall be reported as a separate account and
70 pursuant to the laws in effect at the time such contributions are
71 received or expenditures made. Contributions received and
72 expenditures made after January 1, 1995, shall be reported as a
73 separate account from the aforementioned account and pursuant to
74 the provisions of this chapter. The account reported pursuant to
75 the prior law shall be retained as a separate account and any
76 remaining funds in such account may be used pursuant to this
77 chapter and section 130.034.

78 7. Any committee which accepts or gives contributions other
79 than those allowed shall be subject to a surcharge of one thousand
80 dollars plus an amount equal to the contribution per nonallowable
81 contribution, to be paid to the ethics commission and which shall
82 be transferred to the director of revenue, upon notification of such
83 nonallowable contribution by the ethics commission, and after the
84 candidate has had ten business days after receipt of notice to
85 return the contribution to the contributor. The candidate and the
86 candidate committee treasurer or deputy treasurer owing a
87 surcharge shall be personally liable for the payment of the
88 surcharge or may pay such surcharge only from campaign funds
89 existing on the date of the receipt of notice. Such surcharge shall
90 constitute a debt to the state enforceable under, but not limited to,
91 the provisions of chapter 143, RSMo.]

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