

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov

Name of Department **Arkansas Ethics Commission**

Agency or Division Name **Arkansas Ethics Commission**

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person **Graham F. Sloan**

Contact E-mail **Graham.Sloan@Arkansas.gov**

Contact Phone **501-324-9600**

Name of Rule **Rules on Campaign Contribution Limit**

Newspaper Name **Arkansas Democrat-Gazette**

Date of Publishing **May 13, 14, and 15 of 2023**

Final Date for Public Comment **June 16, 2023**

Location and Time of Public Meeting **9:00 a.m., June 16, 2023. 501 Woodlane, Suite 301N, Little Rock, Arkansas 72201**

Mark-Up

ARKANSAS ETHICS COMMISSION

RULES ON CAMPAIGN CONTRIBUTION LIMIT

ARKANSAS ETHICS COMMISSION
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 or (800) 422-7773
Facsimile (501) 324-9606

Effective 12/31/15
Revised 08/05/21

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§ 100 Definitions 1

§ 101 Contribution Limit 3

§ 102 Adjustment of Contribution Limit 3

§ 100 **Definitions**

(a) **Approved political action committee** – As used in these rules, the term “approved political action committee” means any person that receives contributions from one (1) or more persons in order to make contributions to candidates, ballot question committees, legislative question committees, political parties, county political party committees, or other political action committees; does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and has registered pursuant to Ark. Code Ann. § 7-6-215 prior to making contributions. “Approved political action committee” does not include political parties, county political party committees, the candidate’s own campaign committee, exploratory committees, ballot question committees, or legislative question committees.

(b) **Candidate** – As used in these rules, the term “candidate” means any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office.

(c) **Contribution** – As used in these rules, the term “contribution” means, whether direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, or pledges or promises of money or anything of value, whether or not legally enforceable, to a candidate, committee, or holder of elective office made for the purpose of influencing the nomination or election of any candidate;

“Contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the granting of discounts or rebates by television stations, radio stations, and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or persons whose expenditures the candidates or committee must report under subchapter 2, Chapter 6 of Title 7 of the Arkansas Code. The term “contribution” further includes any transfer of anything of value received by a committee from another committee. “Contribution” shall not include noncompensated, nonreimbursed, volunteer personal services or travel.

“Contribution and expenditure” shall not include activity sponsored and funded by a political party to promote its candidates or nominees through events such as dinners, luncheons, rallies, or similar gatherings and shall not include nonpartisan activity designed to encourage individuals to register to vote or to vote or any communication by any membership organization to its members or stockholders if the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election or election of any candidate.

(d) **County political party committee** – As used in these rules, the term “county political party committee” means a person that is organized at the county level for the purpose of supporting its affiliate party and making contributions; is recognized by an organized political party, as defined in Ark. Code Ann. § 7-1-101, as being affiliated with that

political party; receives contributions from one (1) or more persons in order to make contributions to candidates, ballot question committees, legislative question committees, political parties, political action committees, or other county political party committees; does not accept any contribution or cumulative contributions in excess of five thousand dollars (\$5,000) from any person in any calendar year; and registers pursuant to Ark. Code Ann. § 7-6-226 prior to making contributions.

- (e) **Election** – As used in these rules, the term “election” means each election to be held to nominate or elect a candidate to any public office, including school elections. For the purposes of these rules, a preferential primary election, a general primary election, a runoff election, a special election, and a general election shall each constitute a separate election.
- (f) **Individual** – As used in these rules, the term “individual” means a human being.
- (g) **Legislative caucus committee** – As used in these rules, the term “legislative caucus committee” means a person that is composed exclusively of members of the General Assembly, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common. A “legislative caucus committee” includes, but is not limited to, a political party caucus of the General Assembly, the Senate, or the House of Representatives. An organization whose only nonlegislator members are the Lieutenant Governor or the Governor is a “legislative caucus committee” under these rules.
- (h) **Person** – As used in these rules, the term “person” means any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert. It shall also include a political party, a county political party committee, and a legislative caucus committee.
- (i) **Political party** – As used in these rules, the term “political party” means any group of voters which, at the last-preceding general election, polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office; or which has filed a petition with the Secretary of State containing at the time of filing the signatures of at least ten thousand (10,000) registered voters in the State of Arkansas, declaring the intention of organizing a political party, the name of which shall be stated in the declaration, and of participating in the next general election, and which has been declared a new political party by the Secretary of State. When any political party fails to obtain three percent (3%) of the total votes cast at an election for the Office of Governor or nominees for presidential electors, it shall cease to be a political party.

§ 101 Contribution Limit

As of ~~February 2, 2021~~ February 2, 2023, a candidate may accept a campaign contribution or contributions up to the maximum amount of ~~two thousand nine hundred dollars (\$2,900)~~ three thousand three hundred dollars (\$3,300) for each election, whether opposed or unopposed, from:

- (a) an individual;
- (b) a political party;
- (c) a county political party committee;
- (d) a legislative caucus committee; or
- (e) an approved political action committee.

§ 102 Adjustment of Contribution Limit

The contribution limit shall be adjusted by the Arkansas Ethics Commission at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015. If the amount after adjustment is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).

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ARKANSAS ETHICS COMMISSION

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**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

8. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

9. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

10. What is the reason for this proposed rule? Why is it necessary?

11. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

12. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:
Date: _____
Time: _____
Place: _____
Please be sure to advise Bureau Staff if this information changes for any reason.

13. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

14. What is the proposed effective date for this rule? _____

15. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

16. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

17. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

18. Is the rule expected to be controversial? Yes No If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

NOTICE OF RULE MAKING AND PUBLIC HEARING ARKANSAS ETHICS COMMISSION

NOTICE is hereby given that the Arkansas Ethics Commission intends to amend its existing Rules on Campaign Contribution Limit. The proposed amendments to the rules are intended to implement and administer the provisions of Ark. Code Ann. § 7-6-203 and to further implement and administer applicable provisions of the laws under the Commission's jurisdiction. A copy of the proposed amended rule may be obtained from the Commission, which is located at 501 Woodlane, Suite 301N, Little Rock, Arkansas, 72201, telephone (501) 324-9600, and may also be found at www.ArkansasEthics.com.

Interested parties should forward written comments to Graham F. Sloan, Director, Post Office Box 1917, Little Rock, Arkansas 72203-1917, by 5:00 p.m. on June 13, 2023. The Commission will hold a public hearing on Friday, June 16, 2023, beginning at 9:00 a.m. at the Commission's office in Little Rock to consider the written submissions and receive oral comments on the aforementioned set of rules.

Jill Barham

From: legalads@arkansasonline.com
Sent: Wednesday, May 10, 2023 2:32 PM
To: Jill Barham
Subject: Re: Notice

Will run Sat 5/13, Sun 5/14, and Mon 5/15.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Jill Barham" <Jill.Barham@arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Julie Dorobek" <Julie.Dorobek@arkansas.gov>, "Drew Blankenship" <Drew.Blankenship@arkansas.gov>, "Graham Sloan" <Graham.Sloan@arkansas.gov>
Sent: Wednesday, May 10, 2023 2:09:48 PM
Subject: Notice

Good Afternoon,

We would like this to run in the newspaper on May 13th, 14th, and 15th. Please let us know how we can be of further assistance in this matter.

Thank you,

Jill Barham
Jill Barham
Staff Attorney
Arkansas Ethics Commission
501-324-9600

**Summary of Proposed Amendments to Existing
Rules on Campaign Contribution Limit-2023:**

In keeping with Ark. Code Ann. 7-6-203(i), the Arkansas Ethics Commission (the “Commission”) is required to establish the maximum campaign contribution limit at the beginning of every odd numbered year. Based on the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics, announced on February 2, 2023, as 1.65284 percent, the Commission must raise the contribution limit from \$2,900 to \$3,300. The Commission is mandated in Ark. Code Ann. 7-6-203(i) to promulgate rules identifying the adjusted contribution limit. The purpose of this Rule is to establish a campaign contribution limit and give the public clear guidance on that limit. The presumed intent of the mandated adjustment is to keep the contribution limit in line with the rising costs of running a campaign for public office.