

Alabama Fair Campaign Practices Act 2014 Election Cycle Update

presented by:
Alabama Secretary of State
Alabama Law Institute
Alabama State Bar

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Wednesday, June 19, 2013 at 10:00 am
Regions Harbert Plaza
1901 Sixth Avenue North, 15th Flr.
Birmingham, Alabama

Wednesday, June 26, 2013 at 1:30 pm
Capitol Auditorium
Alabama State Capitol
Montgomery, Alabama



Alabama State Bar 
Lawyers Render Service



Summary of FCPA Revisions Since 2010

Summary of FCPA Revisions from 2010 to 2013 Legislative Sessions¹

- PAC-to-PAC Ban** – During the 2010 Special Session, the Legislature generally banned political action committees (PACs) from contributing or transferring funds to any other PAC except for transfers from a PAC to a principal campaign committee (PCC). Additional revisions to this prohibition have been enacted in subsequent legislative sessions.
 - **Prohibited Contributions and Expenditures** – The 2010 revisions made it unlawful for any PAC (including a PCC) or a Section 527 political organization to make a “contribution, expenditure, or any other transfer of funds” to any other PAC or 527 organization.
 - **Private Foundations** – The 2010 revisions also included “private foundations” within the above restrictions on contributions and expenditures; however, the inclusion of this provision had the unintended consequence of prohibiting this subset of charitable foundations from donating to each other. “Private foundations” are a subset of 501(c)(3) charities that are severely restricted by federal tax law in their ability to participate in political campaigns. A 2013 amendment to the FCPA (subject to preclearance by DOJ) deletes this reference to “private foundations” in the PAC-to-PAC ban.
 - **Permitted Contributions and Expenditures** – Under the 2010 revisions, a PAC that is not a PCC may make contributions to a candidate’s PCC. In addition, another exception permits a PCC to transfer funds to the same person’s PCC for another state office. For example, a State Representative running for Governor would be permitted to transfer funds from his State Representative campaign committee to his gubernatorial campaign committee.
 - **Candidates Contributions/Payments to Political Parties** – The PAC-to-PAC ban also prohibits a candidate’s PCC from contributing or transferring funds to a PAC or to another candidate’s PCC. There is a limited exception to this restriction that permits a PCC to contribute funds to a political party (which is, by definition, a PAC under the FCPA) for qualifying fees. In addition, under the 2010 revisions, a PCC could also expend up to \$5,000 of campaign funds during the term of office for: (1) tickets to political party dinners and functions, and (2) state and local political party dues or similar expenses incurred by independent or write-in candidates. During the 2013 Session, the Legislature amended this provision to provide that the \$5,000 allowance for such political party expenditures applies over a two-year period (from one November general election to the next), but this is subject to preclearance by DOJ. The 2013 revision prevents any

¹ As described in this summary, the 2013 revisions to the FCPA have an effective date of **August 1, 2013** under the Act. In addition, those revisions have been submitted for **preclearance** to the U.S. Department of Justice (DOJ) (which is necessary before they can go into effect) and that preclearance may, or may not, be received by August 1.

discrepancy between office holders whose term of offices are for six years versus those with four-year terms.

- **Use of Funds Raised by a Federal Candidate** – The 2010 revisions include restrictions on candidate’s PCC receiving (or spending) funds that were raised by a federal candidate’s campaign committee. According to the Secretary of State’s guidance, a PCC may not receive (or spend) more than \$1,000 in campaign funds that were raised by a federal candidate’s campaign committee.
- **Corporation and Association PACs** – As originally enacted in 2010, the PAC-to-PAC ban did not affect a provision in Title 10A (the business entities code) that arguably permitted certain corporate and association PACs (separate, segregated funds) to transfer funds among themselves. The 2013 revisions to the FCPA remove the language that may have permitted those types of transfers (subject to preclearance by DOJ).

2. **Schedule for Campaign Finance Disclosure Reports** – Under the 2011 revisions to the FCPA, PCCs and PACs are required to file many more campaign finance disclosure reports and must now do so on an annual, monthly, weekly, and (in some cases) daily basis. The 2012 revisions further modified the requirements for filing these reports in the 2014 election cycle when electronic filing will be in place and eliminated some duplicative, overlapping reporting obligations. The 2013 revisions (pending preclearance by DOJ) implement additional technical changes including some regarding the duplicative reporting schedule.

- **Monthly Reports** – For the 12 months prior to the date of an election, monthly reports must be filed by a PCC or PAC that makes a contribution or expenditure “with a view toward influencing an election’s results.” Reports covering each month are due on the second business day of the subsequent month.
- **Weekly Reports** – For the four weeks prior to an election, weekly reports covering each week must be filed on Monday of the following week. In addition, the 2013 revisions (subject to preclearance by DOJ) make clear that a candidate or PAC that is required to file a *weekly* report during a certain period is not also required to file a *monthly* report in the month in which the election is held. This will eliminate a duplicative filing.
- **Daily Reports** – For the eight days preceding a legislative, state school board, or statewide election, reports must be filed by a PCC or PAC if it receives or spends an aggregate of \$5,000 or more in a single day. Once a PCC or PAC files a daily report it must continue filing daily reports through the remainder of the cycle. Daily reports must include all activity occurring on the day of the report. In addition, the 2012 revisions (subject to preclearance by DOJ) make clear that a candidate or PAC that is required to file a daily report for a particular day is not also required to file a *weekly* report for the week preceding the election. The 2013 revisions (subject to preclearance by DOJ) modified the deadline for the final daily report that is due the day before an election so that it will now be due by 12:01 p.m. (just after noon) on the Monday preceding an election (instead of after midnight on that Monday at 12:01 a.m).

- **Annual Report** – The 2013 revisions add to the 2012 revisions to make clear that a PCC or PAC that is required to file a monthly report during a certain period is not also required to file an *annual* report in the year in which the election is held (subject to preclearance by DOJ). This will eliminate a duplicative filing where an annual report is filed within days of a monthly report. Without this revision, candidates would not have been required to file annual reports following an election.
 - **Special Reports** – Under the 2011 revisions, contributions of \$20,000 or more must be reported within two business days of receiving the contribution.
 - **Electronic Reporting** – The 2011 revisions require that beginning with the 2014 election cycle, disclosure reports for candidates who file with the Secretary of State must be filed electronically on the new system that the Secretary of State has developed.
 - **Designated Filing Agents** – The 2013 revisions (subject to preclearance by DOJ) authorized a PCC or PAC to identify a “designated filing agent” who can electronically file submit FCPA reports for the PCC or PAC. This revision will assist candidates as the electronic reporting system is implemented during the 2014 cycle.
3. **Disclosure Associated with “Electioneering Communications”** – Under the 2011 revisions to the FCPA, disclosure requirements for “electioneering communications” (modeled to some extent on federal election law requirements) were added to the to the FCPA.
- **Electioneering Communications Defined** – An “electioneering communication” is defined as any broadcast, electronic, or print communication that contains the name or image of a candidate, that occurs within 120 days of an election, is intended to influence the outcome of the election, and costs more than \$1,000.
 - **Disclosure Obligation** – For any electioneering communication, the payor must file a disclosure report with the Secretary of State as if it were a PAC.
 - **Exemptions** – These provisions include exemptions for churches and trade associations communicating with members. Under the 2013 revisions (subject to preclearance by DOJ), exemptions were added for employers communicating with their employees, their stockholders, or the families of employees or stockholders.
 - **Disclaimers** – Electioneering communications appearing in any print media or broadcast must clearly identify the entity responsible for paying for the communication. There are specific exclusions from this requirement for various enumerated items such as those designed to be worn, placed as a graphic or picture link where compliance is impractical due to the image’s size, distributed on a social networking site, or sent in a text message.
4. **Robocall Disclosure and Source Identification** – Under the 2012 revisions to the FCPA, it is unlawful for an “automated or pre-recorded communication ... transmitted through an automated telephone dialing service” (such as a “robocall”) to be conducted without providing clear notice at the end of the communication that it was a paid political advertisement and identifying the person or entity that paid for the communication. The

revisions also made it unlawful for a person or entity to knowingly misrepresent the person or entity that paid for such an automated or pre-recorded communication.

5. Enforcement Provisions – The 2013 revisions substantially revised the enforcement provisions of the FCPA. *These revisions do not go into effect until at least August 1, 2013 as they are subject to preclearance by DOJ.*

- **Intent** – Prior to the 2013 revisions, many of the criminal violations in the FCPA did not include any requirement that there be intent on the part of the person acting. The 2013 revisions make clear that violations must now be intentional in order to be prosecuted.
- **Administrative Fine System** – Under the previous law, there was little enforcement of the requirement to file the various reports required under the FCPA on time or accurately other than a separate provision that could have a candidate removed from the ballot (or out of office) if they did not cure the problem before the election. The 2013 revisions (which are subject to preclearance by DOJ) included an administrative enforcement scheme with fines for minor violations and criminal penalties for intentional violations. Fines are paid to the county or to the state General Fund (and not to the filing official). Additionally, a candidate or PAC is permitted to correct an otherwise timely filed report so long as it is initiated by the filer (as opposed to the filing official) and corrected prior to the election. The administrative fine schedule is below:
 - 1st offense = Greater of \$300 or 10% of amount not reported
 - 2nd offense = Greater of \$600 or 15% of amount not reported
 - 3rd and subsequent offenses = Greater of \$1,200 or 20% of amount not reported
 - 4th offense establishes rebuttable presumption of intent necessary for criminal violation
- **Clarifies Person Responsible for Compliance** – The 2013 revisions clear that a candidate or PAC treasurer is the person responsible for making the filings required by the FCPA.
- **Enforcement for out of state violators** – The 2013 revisions establish the venue for the prosecution of out-of-state violators and violations as being in Montgomery County.
- **Repeals so-called candidate “death penalty”** – The so-called candidate “death penalty” for errors in filing is repealed under the 2013 revisions.

6. Other 2013 FCPA Revisions – A number of other revisions were made to the FCPA in 2013. *These revisions do not go into effect until at least August 1, 2013 as they are subject to preclearance by DOJ.*

- **Candidate Registration Thresholds** – The 2013 revisions require any candidate who raises or expends \$1,000 to begin filing disclosure reports. Previously, there was a wide variety of thresholds (*e.g.*, \$25,000 for state office other than circuit or district, \$5,000 for circuit or district office, \$10,000 for Senate, \$5,000 for House, \$1,000 for local). Under

the 2013 revisions, there is now a uniform threshold of \$1,000 for all candidates for any office, which will result in most candidates filing disclosures earlier in the process.

- **Repeal of Corporate Contribution Limit** – The FCPA now permits corporations to be regulated in the same manner as other entities (*e.g.*, LLCs and partnerships) and individuals by removing restrictions (such as the \$500 corporate contribution limit). However, utilities may not contribute to any candidate for the PSC.
- **Corporate / Association PACs** – A separate code section in Title 10A (the business entities code) that addressed how corporations and associations may establish separate, segregated funds (SSFs) for political participation moved into the FCPA (in Title 17) and a few clean-up revisions were made to that section including the deletion of the authorization of transfers between SSFs.
- **Legislative Caucuses** – Legislative caucuses have existed for many years without any specific provisions of law for identifying them or their purposes. In the past, some caucuses that attempted to specifically influence elections actually became PACs by operation of law. Today, caucuses are more likely to be organized as nonprofits and focus on policy issues. The 2013 revisions provide for the registration of caucuses and prevents them from working to influence elections if they are so registered. In addition, candidates are permitted to give excess campaign funds to a legislative caucus, but this may only be done if the caucus is registered and if the caucus does not attempt to influence the outcome of elections.
- **Fundraising Blackout** – The legislative fundraising blackout has been changed to apply only to legislative and statewide candidates. Previously, the campaign fundraising blackout period during the legislative session had applied to legislators and statewide candidates as well as to candidates for “state offices” which under the FCPA included positions such as circuit and district judges, circuit clerks, and district attorneys who have nothing to do with the legislative process.
- **Refund of Contributions** – The FCPA now clearly allows for the return or refund of campaign contributions. Over the years, candidates and PACs have needed to refund unwanted contributions from donors they do not want to accept funds from or if they had excess contributions at the end of a campaign. It is now clear that contributions can be returned and can be refunded so long as the refunds are itemized and reported.
- **Local Candidates Electronic Filing** – Local candidates (except for municipal candidates) who normally file with the Judge of Probate will now have the option of filing electronically with the Secretary of State. If the local candidate wants to do this, they must also file notice with the Judge of Probate that they will be filing with the Secretary of State and file reports in that manner throughout the election.
- **Eliminating Filings in Multiple Courthouses** – Local candidates will no longer be required to make duplicative filings if they are running for office in a municipality that is located in more than one county. Previously, those municipal candidates had to file with the Judge of Probate for each county that the municipality is located in. The FCPA now

provides that the candidates are required to file only with the Judge of Probate in the county in which the city hall is located.

**Secretary of State
2014 Official Filing Calendar**

FCPA Filing Calendar - 2014 Election Cycle

Statewide Primary Election
 Primary Runoff Election
 General Election

Tuesday, June 3, 2014
 Tuesday, July 15, 2014
 Tuesday, November 4, 2014

Purple lines indicate deadlines involving monthly reports. Monthly reports are due on the second business day of the subsequent month beginning 12 months before the election date after crossing the threshold amount. [17-5-8(a)(1)] Monthly reports are not due if filing weekly reports. [17-5-8(l)]

Blue lines indicate deadlines involving weekly reports. Weekly reports covering the period Saturday through Friday are due on the Monday of the subsequent week beginning four weeks before the election date. [17-5-8(a)(2)] Weekly reports are not due if filing daily reports. [17-5-8(l)]

Red lines indicate deadlines involving daily reports. Beginning on the 8th day prior to the election, daily reports are due for principal campaign committees and PACs that receive or spend \$5,000 or more on any day with a view toward influencing the election. Once a principal campaign committee or PAC meets this daily amount, it must continue to file daily reports until the election date. Daily reports do not apply to elections involving county and city offices. [17-5-8(a)(3)(a)]

Principal campaign committees and PACs must file a report disclosing the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution if the contribution has not already been reported in a finance disclosure report. [17-5-8.1(c)]

Date	Activity
June 3, 2013	Party candidates intending to participate in the 2014 primary election may begin soliciting and accepting contributions
June 30, 2013	Deadline to close books for the monthly report
June 30, 2013	Certified mail deadline for the monthly report
July 2, 2013	Deadline to file the June monthly report
July 31, 2013	Deadline to close books for the monthly report
July 31, 2013	Certified mail deadline for the monthly report
August 2, 2013	Deadline to file the July monthly report
August 31, 2013	Deadline to close books for the monthly report
September 2, 2013	Certified mail deadline for the monthly report
September 2, 2013	State Holiday
September 4, 2013	Deadline to file the August monthly report
September 30, 2013	Deadline to close books for the monthly report
September 30, 2013	Certified mail deadline for the monthly report
October 2, 2013	Deadline to file the September monthly report
October 14, 2013	State Holiday
October 31, 2013	Deadline to close books for the monthly report
November 2, 2013	Certified mail deadline for the monthly report
November 4, 2013	Deadline to file the October monthly report
November 4, 2013	Independent and third party candidates intending to participate in the 2014 general election, but not in the primary election, may begin soliciting and accepting contributions
November 11, 2013	State Holiday
November 28, 2013	State Holiday
November 30, 2013	Deadline to close books for the monthly report

FCPA Filing Calendar - 2014 Election Cycle

December 1, 2013	Certified mail deadline for the monthly report
December 3, 2013	Deadline to file the November monthly report
December 25, 2013	State Holiday
December 31, 2013	Deadline to close books for the monthly report
December 31, 2013	Certified mail deadline for the monthly report
January 1, 2014	State Holiday
January 3, 2014	Deadline to file the December monthly report
January 14, 2014	Regular legislative session begins; campaign fundraising ceases.
January 20, 2014	State Holiday
January 31, 2014	Deadline to close books for the monthly report
January 31, 2014	Annual Report Due [17-5-8(b)]
February 2, 2014	Certified mail deadline for the monthly report
February 4, 2014	Deadline to file the January monthly report
February 4, 2014	Electioneering communication for the primary election is defined as any communication disseminated through any federally regulated broadcast media, any mailing, or the distribution, electronic communication, phone bank, or publication containing (1) the name or image of a candidate; (2) is made within 120 days of an election in which the candidate will appear on the ballot; (3) the only reasonable conclusion to be drawn from the presentation and content of the communication is that it is intended to influence the outcome of an election; and (4) entails an expenditure in excess of one thousand dollars (\$1,000). [17-5-2(a)(4)]
February 4, 2014	Candidates may begin fundraising during legislative session; within 120 days of primary election date. [17-5-7(b)(2)]
February 17, 2014	State Holiday
February 28, 2014	Deadline to close books for the monthly report
March 2, 2014	Certified mail deadline for the monthly report
March 4, 2014	Deadline to file the February monthly report
March 4, 2014	Mardi Gras - Observed in Baldwin and Mobile County
March 31, 2014	Deadline to close books for the monthly report
March 31, 2014	Certified mail deadline for the monthly report
April 2, 2014	Deadline to file the March monthly report
April 4, 2014	Last day candidates may qualify with political parties to participate in primary election. [17-13-5(a)]
April 28, 2014	State Holiday
April 30, 2014	Deadline to close books for the monthly report
April 30, 2014	Certified mail deadline for the monthly report
May 2, 2014	Deadline to file the April monthly report
May 9, 2014	Deadline to close books for the weekly report for the primary election; includes all reportable activity since last report
May 10, 2014	Certified mail deadline for the weekly report for the primary election

FCPA Filing Calendar - 2014 Election Cycle

May 12, 2014	Deadline to file the weekly report for the primary election
May 16, 2014	Deadline to close books for the weekly report for the primary election
May 17, 2014	Certified mail deadline for the weekly report for the primary election
May 19, 2014	Deadline to file the weekly report for the primary election
May 23, 2014	Deadline to close books for the weekly report for the primary election
May 24, 2014	Certified mail deadline for the weekly report for the primary election
May 26, 2014	State Holiday
May 26, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
May 27, 2014	Deadline to file the weekly report for the primary election
May 27, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
May 28, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
May 29, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
May 30, 2014	Deadline to close books for the monthly report
May 30, 2014	Certified mail deadline for the monthly report
May 30, 2014	Deadline to file the May monthly report; <u>only</u> for candidates participating in the primary election.
May 30, 2014	Deadline to close books for the weekly report for the primary election
May 30, 2014	Certified mail deadline for the weekly report for the primary election
May 30, 2014	Deadline to file the weekly report for the primary election
May 30, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
May 31, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
June 1, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
June 2, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
June 2, 2014	State Holiday
June 3, 2014	PRIMARY ELECTION

FCPA Filing Calendar - 2014 Election Cycle

June 3, 2014	<i>Deadline to file the May monthly report; <u>only</u> for candidates unopposed in the primary election and independent and third party candidates not participating in the primary election.</i>
June 20, 2014	Deadline to close books for the weekly report for the primary runoff election; includes all reportable activity since last report
June 21, 2014	Certified mail deadline for the weekly report for the primary runoff election
June 23, 2014	<i>Deadline to file the weekly report for the primary runoff election</i>
June 27, 2014	Deadline to close books for the weekly report for the primary runoff election
June 28, 2014	Certified mail deadline for the weekly report for the primary runoff election
June 30, 2014	<i>Deadline to file the weekly report for the primary runoff election</i>
June 30, 2014	Deadline to close books for the monthly report
June 30, 2014	Certified mail deadline for the monthly report
July 2, 2014	<i>Deadline to file the June monthly report; <u>only</u> for candidates not in primary election</i>
July 4, 2014	Electioneering communication for the general election is defined as any communication disseminated through any federally regulated broadcast media, any mailing, or the distribution, electronic communication, phone bank, or publication containing (1) the name or image of a candidate; (2) is made within 120 days of an election in which the candidate will appear on the ballot; (3) the only reasonable conclusion to be drawn from the presentation and content of the communication is that it is intended to influence the outcome of an election; and (4) entails an expenditure in excess of one thousand dollars (\$1,000). [17-5-2(a)(4)]
July 4, 2014	State Holiday
July 4, 2014	Deadline to close books for the weekly report for the primary runoff election
July 5, 2014	Certified mail deadline for the weekly report for the primary runoff election
July 7, 2014	<i>Deadline to file the weekly report for the primary runoff election</i>
July 7, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)</i>
July 8, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)</i>
July 9, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)</i>
July 10, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)</i>

FCPA Filing Calendar - 2014 Election Cycle

July 11, 2014	Deadline to close books for the weekly report for the primary runoff election
July 11, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (Does not apply to county and city offices)</i>
July 12, 2014	Certified mail deadline for the weekly report for the primary runoff election
July 12, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (Does not apply to county and city offices)</i>
July 13, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (Does not apply to county and city offices)</i>
July 14, 2014	<i>Deadline to file the weekly report for the primary runoff election</i>
July 14, 2014	<i>Daily report due . Please refer to the instructions on the top of the calendar page. (Does not apply to county and city offices)</i>
July 15, 2014	PRIMARY RUNOFF ELECTION
July 31, 2014	Deadline to close books for the monthly report for the general election
August 2, 2014	Certified mail deadline for the monthly report for the general election
August 4, 2014	<i>Deadline to file the July monthly report for the general election; <u>only</u> for candidates not in primary runoff election</i>
August 31, 2014	Deadline to close books for the monthly report for the general election
September 1, 2014	Certified mail deadline for the monthly report for the general election
September 3, 2014	<i>Deadline to file the August monthly report for the general election</i>
September 30, 2014	Deadline to close books for the monthly report for the general election
September 30, 2014	Certified mail deadline for the monthly report for the general election
October 1, 2014	<i>Last day to retire campaign debt for primary election (120 days after the election). [17-5-7(b)(3)]</i>
October 2, 2014	<i>Deadline to file the September monthly report for the general election</i>
October 10, 2014	Deadline to close books for the weekly report for the general election
October 12, 2014	Certified mail deadline for the weekly report for the general election
October 13, 2014	State Holiday
October 14, 2012	<i>Deadline to file the weekly report for the general election</i>
October 17, 2014	Deadline to close books for the weekly report for the general election
October 18, 2014	Certified mail deadline for the weekly report for the general election
October 20, 2014	<i>Deadline to file the weekly report for the general election</i>

FCPA Filing Calendar - 2014 Election Cycle

October 24, 2014	Deadline to close books for the weekly report for the general election
October 25, 2014	Certified mail deadline for the weekly report for the general election
October 27, 2014	Deadline to file the weekly report for the general election
October 27, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
October 28, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
October 29, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
October 30, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
October 31, 2014	Deadline to close books for the weekly report for the general election
October 31, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
November 1, 2014	Certified mail deadline for the weekly report for the general election
November 1, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
November 2, 2014	Daily report due . Please refer to the instructions on the top of the calendar page. (<u>Does not apply to county and city offices</u>)
November 3, 2014	Deadline to file the weekly report for the general election
November 3, 2014	Daily report due for principal campaign committees and PACs receiving or spending an aggregate of \$5,000 or more on any day with a view towards influencing the election's result no later than 12:01 am on this day.
November 4, 2014	General Election
November 12, 2014	<i>Last day to retire campaign debt for primary runoff election (120 days after the election). [17-5-7(b)(3)]</i>
January 31, 2015	<i>2014 annual report due (on or before January 31 of the succeeding year) next report after general election. [17-5-8(b)]</i>
March 4, 2015	<i>Last day to retire campaign debt for general election (120 days after the election). [17-5-7(b)(3)]</i>

**Secretary of State
Electronic Filing FAQs**



Alabama Electronic Fair Campaign Practices Act (FCPA) Reporting System

Frequently Asked Questions (FAQs)

I am a citizen/member of the press, do I have to register?

No. You will be able to search, view and download reports without registering.

I am a citizen/member of the press, can I download contributions/expenditures in bulk?

Yes. You will be able to download contributions/expenditures in a variety of formats.

I am a candidate/PAC, do I have to register even if I have run for office before or have an existing PAC?

Yes. **Everyone** who will use the new Electronic FCPA Reporting System will have to register themselves on the new system, no matter if they have run for office before or are an existing PAC.

What is the web address for the new system?

The website is <https://fcpa.alabamavotes.gov>.

Do I have to have an email address to use the new system?

Yes. You must have a valid email address to use the new system.

I don't have a computer, how can I register and file reports?

The Secretary of State's Office will maintain a publicly accessible computer during normal business hours for candidates/PACs to use. We also suggest using your local library if you need computer access.

I use a third-party software program to manage my contributions/expenditures. Will my software work with this new system?

Most likely, yes. The new system allows for bulk uploading your contributions/expenditures in .XML or .XLS (MS Excel) formats. If your software can export your data into one of these formats you should be able to upload to the new system. However, you must still login and use the new system to actually "file" the report.

The technical specifications for .XML or .XLS (MS Excel) uploading/formatting can be found at www.AlabamaVotes.gov.

I need technical help with the new system, is there a Help Desk available?

Yes. Our vendor (Quest Information Systems, Inc.) has a Help Desk available 7:00 AM to 6:00 PM, Monday – Friday to assist candidates/PACs with technical questions about the new system. You can contact the Quest Help Desk toll free at 1-888-864-8910 or email campaignfinancesupport@questis.com.

If you have general elections related questions, please continue to contact the Elections Division at 1-800-274-8683

Secretary of State
Electronic Filing Regulations

Fair Campaign Practices Act Filing Regulations

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820-2-8-.15 Public Access to Computer Terminal.

820-2-8-.10 Electronic Registration Required.

(a) Principal Campaign Committees and Political Action Committees Formed Prior to June 1, 2013. All Principal Campaign Committees and Political Action Committees formed prior to June 1, 2013 that were registered with the Secretary of State prior to that date must re-register electronically in order to access the internet Fair Campaign Practices Act ("FCPA") reporting website.

(b) Principal Campaign Committees and Political Action Committees Formed on or After June 1, 2013. All Principal Campaign Committees and Political Action Committees formed on or after June 1, 2013 that are required to register with the Secretary of State shall register electronically in order to access the internet FCPA reporting website.

820-2-8-.11 Form and Method of Electronic Registration.

Electronic registration shall be implemented by logging onto the electronic FCPA website provided by the Secretary of State's office and completing the registration form. Registration is complete when a printed copy of the form is signed and delivered to the Elections Division of the Secretary of State's office. The Secretary of

State shall review each registration and activate a Principal Campaign Committee's or a Political Action Committee's electronic account after a printed copy of the electronic registration form has been received.

820-2-8-.12 Expedited Method of Registration. Upon completion of the online registration process, to receive expedited activation, a Principal Campaign Committee or Political Action Committee may

- (a) deliver the signed form to the Elections Division of the Secretary of State's office in person, or
- (b) if activation is needed within 5 days of a reporting deadline, transmit the form by facsimile and/or call the Elections Division for immediate activation during normal business hours.

Nothing in this expedited registration process supersedes the requirement of sending a signed original form to the Secretary of State as provided in 820-2-8-.02.

820-2-8-.13 Fair Campaign Practices Act Reports. After electronic registration is activated, all FCPA reports required to be filed under Code of Alabama, section 17-5-8, shall be filed electronically.

820-2-8-.14 Emergency Alternative FCPA Reporting Methods. If the electronic FCPA reporting system is not functioning at either the local or state level due to system failure, power outages, or other emergency conditions, the report may be faxed to the Secretary of State's Elections Division for receipt by no later than midnight (12:00 a.m.) on the due date. If emergency conditions permit, an entity may also hand deliver or place the report in certified mail or with a commercial carrier so that it is received by the Elections Division by the close of business on the day it is due. As soon as possible after the emergency conditions have subsided, an electronic FCPA report must be

filed in order for the entity to remain current within the electronic filing system.

820-2-8-.15

Public Access To Computer Terminal. The Elections Division of the Secretary of State's office will provide at least one computer terminal accessible to the general public for retrieving electronic FCPA reports and filings. The computer terminal will be available to the general public during regular business hours of the Secretary of State's office. Persons wishing to use the computer terminal will provide the following information on a "Sign In" sheet placed on the desk where the computer terminal is located: name, physical address, the date and time of use of the computer terminal, and the purpose for use of the computer terminal.

**Unofficial Restated Redlined
Fair Campaign Practices Act**

Unofficial Restated Fair Campaign Practices Act
Based on Statutory Revisions in 2010 Special and 2011, 2012, and 2013 Regular Sessions**

(Revised Sections Highlighted in Yellow Below) – **WORKING DRAFT 6-10-2013A**

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** The FCPA was amended by six different Acts from 2010 through 2013. Those were Act Nos. 2010-765, 2011-687, 2011-697, 2012-477, 2012-461, and 2013-311.

In this document, the provisions revised in 2010, 2011, and 2012 are highlighted in gray. The revisions from 2013 are shown in **redline** and **blueline** format. **The 2013 revisions go into effect on August 1, 2013 under that Act; HOWEVER, they will likely be subject to preclearance by the U.S. Department of Justice before they can take effect.**

§ 17-5-1. Title

This chapter shall be known and may be cited as the “Fair Campaign Practices Act.”

§ 17-5-2. Definitions¹

(a) For purposes of this chapter, the following terms shall have the following meanings:

(1) **Candidate.** An individual who has done any of the following:

a. Taken the action necessary under the laws of the state to qualify himself or herself for nomination or for election to any state office or local office or in the case of an independent seeking ballot access, on the date when he or she files a petition with the judge of probate in the case of county offices, with the appropriate qualifying municipal official in the case of municipal offices, or the Secretary of State in all other cases.

b. Received contributions or made expenditures in excess of one thousand dollars (\$1,000), or given his or her consent for any other person or persons to receive contributions or make expenditures in excess of one thousand dollars (\$1,000), with a view to bringing about his or her nomination or election to any state office or local office. ~~Notwithstanding the foregoing, no person shall be considered a candidate within the meaning of this subdivision until the time that he or she has either received contributions or made expenditures as provided herein in the following amounts:~~

~~1. Twenty five thousand dollars (\$25,000) or more, with a view toward bringing about nomination or election to any state office other than one filled by election of the registered voters of any circuit or district within the state.~~

~~2. Five thousand dollars (\$5,000) or more, with a view toward bringing about nomination or election to any state office, excluding legislative office, filled by election of the registered voters of any circuit or district.~~

~~3. Ten thousand dollars (\$10,000) or more, with a view toward bringing about nomination or election to the Alabama Senate and five thousand dollars (\$5,000) or more, with a view toward bringing about nomination or election to the Alabama House of Representatives.~~

~~4. One thousand dollars (\$1,000) or more, with a view toward bringing about nomination or election to any local office.~~

(2) **Contribution.**

¹ This section was modified by Act Nos. 2011-697 and 2013-311 (subject to preclearance by DOJ). The provisions revised in 2011 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blueline format.

a. Any of the following shall be considered a contribution:

- 1.** A gift, subscription, loan, advance, deposit of money or anything of value, a payment, a forgiveness of a loan, or payment of a third party, made for the purpose of influencing the result of an election.
- 2.** A contract or agreement to make a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing the result of an election.
- 3.** Any transfer of anything of value received by a political committee from another political committee, political party, or other source.
- 4.** The payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate, political committee, or political party without payment of full and adequate compensation by the candidate, political committee, or political party. Provided, however, that the payment of compensation by a corporation for the purpose of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund as permitted ~~by Section 10-1-2~~ [in this chapter](#), shall not constitute a contribution.

b. The term “contribution” does not include:

- 1.** The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.
- 2.** The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual to a candidate or political committee in rendering voluntary personal services on the individual’s residential or business premises for election-related activities.
- 3.** The sale of any food or beverage by a vendor for use in an election campaign at a charge to a candidate or political committee less than the normal comparable charge, if the charge to the political committee for use in an election campaign is at least equal to the cost of the food or beverage to the vendor.
- 4.** Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers personal services to a candidate or political committee.
- 5.** The payment by a state or local committee of a political party of the cost of preparation, display, or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other

printed listing of two or more candidates for any public office for which an election is held in the state, except that this subparagraph shall not apply in the case of costs incurred by the committee with respect to a display of the listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising.

6. The value or cost of polling data and voter preference data and information if provided to a candidate or political committee, unless the information was compiled with the advance knowledge of and approval of the candidate or the political committee.

[\(3\) Designated Filing Agent. An individual appointed and authorized as attorney in fact to electronically submit any report or other filing required by this chapter on behalf of a candidate, his or her principal campaign committee, or a political action committee.](#)

(34) Election. Unless otherwise specified, any general, special, primary, or runoff election, or any convention or caucus of a political party held to nominate a candidate, or any election at which a constitutional amendment or other proposition is submitted to the popular vote.

(45) Electioneering Communication. Any communication disseminated through any federally regulated broadcast media, any mailing, or other distribution, electronic communication, phone bank, or publication which (i) contains the name or image of a candidate; (ii) is made within 120 days of an election in which the candidate will appear on the ballot; (iii) the only reasonable conclusion to be drawn from the presentation and content of the communication is that it is intended to influence the outcome of an election; and (iv) entails an expenditure in excess of one thousand dollars (\$1,000).

(56) Expenditure.

a. The following shall be considered expenditures:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the result of an election.
2. A contract or agreement to make any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, for the purpose of influencing the result of an election.
3. The transfer, gift, or contribution of funds of a political committee to another political committee.

b. The term “expenditure” does not include:

1. Any news story, commentary, or editorial prepared by and distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by any political party or political committee.

2. Nonpartisan activity designed to encourage individuals to register to vote, or to vote.

3. Any communication by any membership organization to its members or by a corporation to its stockholders and employees if the membership organization or corporation is not organized primarily for the purpose of influencing the result of an election.

4. The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential or business premises for election-related activities.

5. Any unreimbursed payment for travel expenses made by an individual who, on his or her own behalf, volunteers personal services to a candidate or political committee.

6. Any communication by any person which is not made for the purposes of influencing the result of an election.

7. The payment by a state or local committee of a political party of the cost of preparation, display, or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office for which an election is held in the state, except that this subparagraph shall not apply in the case of costs incurred by the committee with respect to a display of the listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising.

(67) Identification. The full name and complete address.

(78) Loan. A transfer of money, property, or anything of value in consideration of a promise or obligation, conditional or not, to repay in whole or part.

(89) Local office. Any office under the constitution and laws of the state, except circuit, district, or legislative offices, filled by election of the registered voters of a single county or municipality, or by the voters of a division contained within a county or municipality.

(910) Person. An individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(1011) Personal and legislative living expenses. Household supplies, personal clothing, tuition payments, mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense, excluding food and beverages, that would exist irrespective of the candidate's campaign or duties as a Legislator. Personal and legislative living expenses shall not include expenses for food,

beverages, travel, or communications incurred by the Legislator in the performance of the office held.

(1112) Political action committee. Any ~~political action~~ committee, club, association, political party, or other group of one or more persons, whether in-state or out-of-state, which receives or anticipates receiving contributions ~~or~~ and makes or anticipates making expenditures to or on behalf of any Alabama state or local elected official, proposition, candidate, principal campaign committee or other political action committee. For the purposes of this chapter, ~~an individual~~ a person who makes a ~~personal~~ political contribution shall not be considered a political action committee by virtue of making such contribution.

(13) Political Party. A political party as defined in Section 17-13-40.

(1214) Principal campaign committee. The principal campaign committee designated by a candidate under Section 17-5-4. A political action committee established primarily to benefit an individual candidate or an individual elected official shall be considered a principal campaign committee for purposes of this chapter.

(1315) Proposition. Any proposal for submission to the general public for its approval or rejection, including proposed as well as qualified ballot questions.

(1416) Public official. Any person elected to public office, whether or not that person has taken office, by the vote of the people at the state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40.

(1517) State. The State of Alabama.

(1618) State office. All offices under the constitution and laws of the state filled by election of the registered voters of the state or of any circuit or district and shall include legislative offices.

(b) The words and terms used in this chapter shall have the same meanings respectively ascribed to them in Section 36-25-1.

§ 17-5-3. Political action committees; officers; segregation of funds; accounting and reporting; duties

(a) Every political action committee shall have a chair and a treasurer.

(b) All funds of a political action committee shall be segregated from, and shall not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political action committee to keep a detailed, exact account of:

(1) All contributions made to or for such committee.

(2) All expenditures made by or on behalf of such committee.

(3) The identification of every person to whom an expenditure is made, the date and amount thereof, and the name of each candidate on whose behalf such expenditure was made or a designation of the election proposition the result of which the political action committee will attempt to influence by making expenditures or receiving contributions.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill or cancelled check, stating the particulars for every expenditure made by or on behalf of a political action committee greater than \$100, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year is greater than \$100. Provided, however, the treasurer of a political action committee shall not be required under this chapter to report any expenditure not related to political contributions or expenditures or made as an administrative expense. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for a period of two years from the date of any such expenditure.

§ 17-5-4. Principal campaign committee; Candidate to file statement showing principal campaign committee; candidate acting as own committee; duties and procedures; expenditures by candidate

Within five days after any person becomes a candidate for office, such person shall file with the Secretary of State or judge of probate, as provided in Section 17-5-9, a statement showing the name of not less than two nor more than five persons elected to serve as the principal campaign committee for such candidate, together with a written acceptance or consent by such committee, but any candidate may declare himself or herself as the person chosen to serve as the principal campaign committee, in which case such candidate shall perform the duties of chair and treasurer of such committee prescribed by this chapter. If any vacancies be created by death or resignation or any other cause, such candidate may fill such vacancy, or the remaining members shall discharge and complete the duties required of such committee as if such vacancy had not been created. The principal campaign committee, or its treasurer, shall have exclusive custody of all moneys contributed, donated, subscribed or in any manner furnished to or for the candidate represented by such committee, and shall account for and disburse the same. No candidate shall expend any money in aid of his or her nomination or election except by contributing to the principal campaign committee designated by the candidate.

§ 17-5-5. Statement of organization by political action committee; report of material changes; notice of termination or dissolution of committee²

(a) ~~Each~~ The treasurer or designated filing agent of each political action committee which anticipates either receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall file with the Secretary of State or the judge of probate as herein provided in Section 17-5-9, a statement of organization, within 10 days after its organization or, if later within 10 days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in an aggregate amount in excess of \$1,000.

(b) The statement of organization shall include:

- (1) The name and complete address of the committee.
- (2) The identification of affiliated or connected organizations, if any.
- (3) The purposes of the committee.
- (4) The identification of the chair and treasurer.
- (5) The identification of principal officers, including members of any finance committee.
- (6) A description of the constitutional amendments or other propositions, if any, that the committee is supporting or opposing, and the identity, if known, of any candidate or elected official that the committee is supporting or opposing.
- (7) A statement whether the committee is a continuing one, and if not, the expected termination or dissolution date.
- (8) The disposition of residual funds which will be made in the event of dissolution.

(c) ~~Any~~ Whenever there is any material change in information previously submitted in a statement of organization, except for the information described in subdivision (6) above, ~~shall be reported the~~ treasurer or designated filing agent of the political action committee shall report the change to the Secretary of State or judge of probate as provided in Section 17-5-9, within 10 days following the change.

(d) Any political action committee or any principal campaign committee after having filed its initial statement of organization shall continue in existence until terminated or dissolved as provided herein. When any political action committee determines it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding \$1,000, or when any candidate through his or her principal campaign committee determines that he or she will not receive contributions or make expenditures in the amounts specified in Section 17-5-2, the ~~chair or~~ treasurer, designated filing agent, or candidate of such political committee ~~may~~ shall so notify the Secretary of State or judge of probate, as designated in Section 17-5-9, of the termination or dissolution of such political committee. Such notice shall contain a statement by the treasurer, designated filing agent, or candidate of such committee of the intended disposition of any residual funds then held by the committee ~~on behalf of a candidate~~.

² This section was modified by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-5.1. [Legislative caucuses]³

(a) Except as provided in subsection (d), each legislative caucus organization that raises funds for its administration and operation shall register with the Secretary of the Senate, for a Senate caucus, or the Clerk of the House of Representatives, for a House caucus, or both for a bicameral legislative caucus. Such registration shall be on a form jointly created by the Secretary of the Senate and the Clerk of the House of Representatives and shall include the name and complete address of the organization, the identification of and contact information for the organization's designated representative, and a general description of the organization.

(b) A legislative caucus organization duly registered pursuant to subsection (a) shall not contribute to or expend funds in support of candidates, principal campaign committees, propositions, or political action committees for the purpose of influencing the result of an election. Notwithstanding any other provision of law, the donation of funds or other resources to a duly registered legislative caucus organization in support of the administration or operations of the caucus is permissible, provided that the donation is not made for the purpose of influencing the result of an election.

(c) Nothing in this section shall be construed to exempt a legislative caucus organization or its officers, directors, or members from the Ethics Law.

(d) A legislative caucus organization that receives contributions or makes expenditures for the purpose of influencing the outcome of an election and is not registered as provided in subsection (a) shall be regulated as a political action committee under this chapter and shall comply with all the requirements of this chapter pertaining to political action committees.

§ 17-5-6. Checking account; expenditures

A political action committee and a principal campaign committee shall maintain a checking account and shall deposit any contributions received by such committee into such account. No expenditure of funds may be made by any such committee except by check drawn on such account, or out of a petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase or transaction.

³ This section was added by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-7. Use of excess moneys received; solicitation, etc., of contributions⁴

(a) ~~A~~ Except as provided in subsection (d) and in Section 17-5-7.1, a candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidate, public official, or principal campaign committee, for the following purposes:

(1) Necessary and ordinary expenditures of the campaign.

(2) Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.

(3) Donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds.

(4) Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U. S. Code.

~~(45)~~ Inaugural or transitional expenses.

(6) Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.

(b) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions:

(1) To influence the outcome of an election.

(2) For a period of 12 months before an election in which the person intends to be a candidate. Provided, however, candidates for ~~state~~ legislative and statewide office and their principal campaign committees may not accept, solicit, or receive contributions during the period when the Legislature is convened in session. For purposes of this section, the Legislature is convened in session at any time from the opening day of the special or regular session and continued through the day of adjournment sine die for that session. However, this subdivision shall not apply within 120 days of any primary, runoff, or general election, and shall not apply to the candidates or their principal campaign committees participating in any special election as called by the Governor. This subdivision shall not apply to a loan from a candidate to his or her own principal campaign committee.

⁴ This section was modified by Act Nos. 2010-765 and 2013-311 (subject to preclearance by DOJ). The provisions revised in 2010 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blueline format.

(3) For a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or principal campaign committee of the candidate as indicated on the campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds, or both.

(4) For the purpose of paying all expenses associated with an election challenge including, but not limited to, quo warranto challenges.

(c) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee shall not accept, solicit, or receive contributions for any of the following reasons:

(1) As a bribe, as defined by Sections 13A-10-60 to 13A-10-63, inclusive.

(2) For the intention of corruptly influencing the official actions of the public official or candidate for public office.

(d) Notwithstanding any other provision of law, a principal campaign committee, during a ~~term of office~~ two-year period commencing on the day after ~~the~~ each regularly scheduled general election ~~for the seat or office the candidate seeks and ending on the day of the next general election for that seat or office~~ and ending on the day of the next regularly scheduled general election, may pay qualifying fees to a political party and in addition thereto, during that period, may expend up to a cumulative total of five thousand dollars (\$5,000) of campaign contributions, and any proceeds from investing the contributions, for the following purposes:

(1) Tickets for political party dinners or functions.

(2) State or local political party dues or similar expenses incurred by independent or write-in candidates.

§ 17-5-7.1. [Return or refund of contributions]⁵

(a) Notwithstanding any other provision of law, a principal campaign committee or political action committee may return or refund, in full or in part, any lawful contribution it receives to the donor, provided that such return or refund may not exceed the amount received. Any lawful contribution refunded to the donor must have been reported in an itemized manner and the refund shall be itemized in the report for the period in which the refund is made. In the case of a political action committee, the refund shall occur within 18 months of the date of the contribution; provided, however, that if the refund of the contribution is required by law or regulation, then the 18-month time limitation shall not apply.

(b) Notwithstanding any other provision of law, a principal campaign committee or political action committee shall promptly return or refund, in full, any unlawful contribution. It shall be unlawful for any person acting on behalf of a principal campaign committee or political action committee to retain or cause to be retained a contribution that the person knows or reasonably should know was made in violation of this chapter. It is a defense to prosecution that the unlawful contribution was returned or refunded in full within 10 days of the date the contribution was made.

⁵ This section was added by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-8. Reports of contributions and expenditures by candidates, committees, and officials; filing; procedure⁶

(a) ~~Each~~ The treasurer, designated filing agent, or candidate, ~~principal campaign committee or political action committee~~ shall file with the Secretary of State or judge of probate, as designated in Section 17-5-9, reports of contributions and expenditures at the following times once a principal campaign committee files its statement under Section 17-5-4 or a political action committee files its statement of organization under Section 17-5-5:

(1) Beginning after the 2012 election cycle, regardless of whether a candidate has opposition in any election, monthly reports not later than the second business day of the subsequent month, beginning 12 months before the date of any primary, special, runoff, or general election for which a political action committee or principal campaign committee receives contributions or makes expenditures with a view toward influencing such election's result. A monthly report shall include all reportable transactions for the previous full month period. Reports shall be required as provided in subdivisions (2) and (3).

(2) With regard to a primary, special, runoff, or general election, a report shall be required weekly on the Monday of the succeeding week for each of the four weeks before the election that includes all reportable activities for the previous week.

(3) a. In addition to the reporting dates specified in subdivisions (1) and (2), reports required to be filed with the Secretary of State shall be filed with the Secretary of State on the eighth, seventh, sixth, fifth, fourth, third, and second day preceding a legislative, state school board or other statewide primary, special, runoff, or general election, and by 12:01 ~~a.m.~~ p.m. on the day preceding a legislative, state school board, or statewide, primary, special, runoff, or general election if any principal campaign committee or political action committee receives or spends in the aggregate five thousand dollars (\$5,000) or more on any day with a view toward influencing an election's results. If a daily report is required pursuant to this subdivision, the report shall include all reportable activity occurring on the day of the report as well as all reportable activity that has occurred on each day since the most recent prior report. Principal campaign committees and political action committees that are exempt from electronic filing and principal campaign committees and political action committees required to make daily reports pursuant to this subdivision for the 2012 election cycle may file reports by facsimile (FAX) transmission provided they keep proper documentation in their office.

b. Electronic filing on the Secretary of State's website may be implemented sooner than the 2014 election cycle as an alternative method of reporting; however, electronic filing shall be required beginning with the 2014 election cycle. Electronic filings shall be available to the public on a searchable database maintained on the Secretary of State's website.

(b) Except as provided in subsection (1), each principal campaign committee, political action committee, and elected state and local official covered under the provisions of this chapter, shall

⁶ This section was modified by Act Nos. 2011-687, 2011-697, 2012-477, and 2013-311 (subject to preclearance by DOJ). The revisions from 2011 and 2012 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blue format.

annually file with the Secretary of State or judge of probate, as designated in Section 17-5-9, reports of contributions and expenditures made during that year. The annual reports required under this subsection shall be made on or before January 31 of the succeeding year.

(c) Each report under this section shall disclose:

(1) The amount of cash or other assets on hand at the beginning of the reporting period and forward until the end of that reporting period and disbursements made from same.

(2) The identification of each person who has made contributions to such committee or candidate within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the amount and date of all such contributions; provided, however, in the case of a political action committee identification shall mean the name and city of residence of each person who has made contributions within the calendar year in an aggregate amount greater than one hundred dollars (\$100).

(3) The total amount of other contributions received during the calendar year but not reported under subdivision (c)(2) of this section.

(4) Each loan to or from any person within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the identification of the lender, the identification of the endorsers, or guarantors, if any, and the date and amount of such loans.

(5) The total amount of receipts from any other source during such calendar year.

(6) The grand total of all receipts by or for such committee during the calendar year.

(7) The identification of each person to whom expenditures have been made by or on behalf of such committee or elected official within the calendar year in an aggregate amount greater than one hundred dollars (\$100), the amount, date, and purpose of each such expenditure, and, if applicable, the designation of each constitutional amendment or other proposition with respect to which an expenditure was made.

(8) The identification of each person to whom an expenditure for personal services, salaries, and reimbursed expenses greater than one hundred dollars (\$100) has been made, and which is not otherwise reported or exempted from the provisions of this chapter, including the amount, date, and purpose of such expenditure.

(9) The grand total of all expenditures made by such committee or elected official during the calendar year.

(10) The amount and nature of debts and obligations owed by or to the committee or elected official, together with a statement as to the circumstances and conditions under which any such debt or obligation was extinguished and the consideration therefor.

(d) Each report required by this section shall be signed and filed by the elected official or on behalf of the political action committee by its chair or treasurer and, if filed on behalf of a principal campaign committee, by the candidate represented by such committee. There shall be attached to each such report an affidavit subscribed and sworn to by the official or chair or treasurer and, if filed by a principal campaign committee, the candidate represented by such committee, setting forth in substance that such report is to the best of his or her knowledge and belief in all respects true and

complete, and, if made by a candidate, that he or she has not received any contributions or made any expenditures which are not set forth and covered by such report.

(e) Commencing with the 2014 election cycle, electronic filing of contributions and expenditures for any legislative, state school board, and statewide primary, special, runoff, or general election shall be mandatory, except as provided in subsection (g). The Secretary of State may provide electronic reporting sooner than the 2014 election cycle. Electronic filing shall satisfy any filing requirements of this chapter and no paper filing is required for any report filed electronically.

(f) In the 2012 election cycle the provisions for the time of filing contained in subsection (a) shall apply to the paper or facsimile (FAX) filings for any legislative, state school board, or statewide primary, special, runoff, or general election.

(g) Electronic filing of reports shall not apply to any campaign, principal campaign committee, or political action committee receiving ten thousand dollars (\$10,000) or less per election cycle.

(h) In connection with any electioneering communication paid for by a person, nonprofit corporation, entity, principal campaign committee, or other political committee or entity, the payor shall disclose its contributions and expenditures in accordance with this section. The disclosure shall be made in the same form and at the same time as is required of political action committees in this section; provided, however, no duplicate reporting shall be required by a political committee.

(i) Notwithstanding any disclosure requirements of subsection (h), churches are exempt from the requirements of this section unless the church's expenditures are used to influence the outcome of an election. Nothing herein shall require a church to disclose the identities, donations, or contributions of members of the church. As used in this section, the term "church" is defined in accordance with and recognized by Internal Revenue Service guidelines and regulations.

(j) Notwithstanding the disclosure requirements of this section, the provisions of this section shall not be interpreted to nor shall they require any disclosure for expenses incurred for any electioneering communication used by any membership or trade organization to communicate with or inform its members, its members' families, or its members' employees [or for any electioneering communication by a business entity of any type to its employees or stockholders or their families.](#)

~~(k) The corporate contribution limits contained in Sections 10A-21-1.02, 10A-21-1.03, and 10A-21-1.04 shall not apply in any respect to an electioneering communication; provided, however, the corporate contribution limits contained in Sections 10A-21-1.02, 10A-21-1.03, and 10A-21-1.04 shall continue in force and effect for contributions by corporations to principal campaign committees, political committees, and to political parties.~~

(k) Each report required by this section shall include all reportable transactions occurring since the most recent prior report; however, duplicate reporting is not required by this section. A political action committee or principal campaign committee that is required to file a daily report is not required to also file a weekly report for the week preceding an election specified in subdivision (3) of subsection (a); a committee required to file a weekly report is not required to also file a monthly report ~~for in~~ the month in which the election is held; and a committee required to file a monthly report is not required to also file an annual report ~~for in~~ the year in which the election is held. The monetary balance in a report of each committee shall begin at the monetary amount appearing in the most recent prior report.

§ 17-5-8.1. Electronic filing of financial reports; rules⁷

(a) Commencing with the 2014 election cycle, all statements, reports of contributions, and expenditures, and other filings required to be filed pursuant to Chapter 5, Title 17, Code of Alabama 1975, shall be submitted electronically over the Internet by a computer file containing the report information in a format and medium to be prescribed by the Secretary of State.

(b) Commencing with the 2014 election cycle, the Secretary of State shall implement and maintain an electronic database accessible by the public through the Secretary of State's website which provides the capability of search and retrieval of all statements, reports, and other filings required to be filed with the Secretary of State pursuant to Chapter 5. The searchable database shall provide the ability to search by a recipient's name, a contributor's name, a contributor's or recipient's zip code, and dates of contributions.

(c) Unless otherwise included in a report made pursuant to subsection (a) of Section 17-5-8, Code of Alabama 1975, the principal campaign committee or political action committee shall file a report disclosing the receipt of any single contribution of twenty thousand dollars (\$20,000) or more. These reports shall disclose the same information required by Section 17-5-8, Code of Alabama 1975, and shall be filed within two business days of receipt of the contribution. Beginning with the 2014 election cycle these reports shall be filed electronically.

(d) Beginning with the 2012 election cycle, a principal campaign committee or political action committee shall close its books in order to complete its reports two days prior to the specified reporting dates.

(e) The Secretary of State may promulgate administrative rules pursuant to the Alabama Administrative Procedure Act as are necessary to implement and administer this act.

⁷ This section was added by Act No. 2011-687.

§ 17-5-8.2. Legislative findings⁸

(a) The Legislature determines that there is a compelling state and public interest in the disclosure of the source of funds used to advertise or otherwise influence public opinion with regard to elections as defined in Section 17-5-2(3). The Legislature further finds that these compelling interests should be designed to protect the public's right to know while protecting free speech of individuals as guaranteed in the U.S. Constitution and the Constitution of Alabama of 1901.

(b) Currently, the Fair Campaign Practices Act, as provided in this chapter, commencing with Section 17-5-1, et seq., regulates the disclosure of contributions and expenditures made for the purpose of influencing the outcome of an election. This ~~section and Sections 17-5-2, 17-5-8, and 17-5-12, as amended by Act 2011-697~~ are chapter is also intended to regulate the disclosure of contributions and expenditures for electioneering communications ~~which currently do not fall within the ambit of the Fair Campaign Practices Act.~~

(c) The Legislature finds and declares that Alabama voters have a right to know who pays for the costs of electioneering communications.

⁸ This section was added by Act No. 2011-697 and modified by Act No. 2013-311 (subject to preclearance by DOJ). The provisions revised in 2011 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blueline format.

§ 17-5-9. Filing of statements and reports; place of filing⁹

(a) All statements and reports, including amendments, required of principal campaign committees under the provisions of this chapter shall be filed with the Secretary of State in the case of candidates for state office or state elected officials, and in the case of candidates for local office or local elected officials, with the judge of probate of the county in which the office is sought.

(b) Political action committees, which seek to influence an election for local office or to influence a proposition regarding a single county, shall file all reports and statements, including amendments, with the judge of probate of the county affected. All other political action committees, except as provided in subsection (a) above, shall file reports and statements with the Secretary of State.

(c) In the case of candidates for a municipal office where the municipality is located in more than one county, the statements and reports shall be filed in the county where the city hall of the municipality is located. The judge of probate of the county where the report is filed, if the municipality is located in more than one county, shall provide a copy of the report to the judge of probate of the other county or counties where the municipality is located.

(d) Commencing with the 2014 election cycle, all principal campaign committees and political action committees that file with the judge of probate, other than candidates for municipal office, may choose instead of file electronically with the Secretary of State pursuant to this chapter. Any such principal campaign committee or political action committee that chooses to file electronically with the Secretary of State shall first provide notice to the appropriate judge of probate, in a manner prescribed by the judge of probate, indicating that choice and shall continue to file electronically with the Secretary of State until terminated or dissolved pursuant to this chapter.

⁹ This section was modified by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-10. Public inspection of reports; date of receipt

(a) Each report or statement shall be preserved and a copy made available for public inspection by the Secretary of State or judge of probate, whichever is applicable.

(b) The date of filing of a report or statement filed pursuant to this chapter shall be deemed to be the date of receipt by the Secretary of State or judge of probate, as the case may be; provided, that any report or statement filed by certified or registered mail shall be deemed to be filed in a timely fashion if the date of the United States postmark stamped on such report or statement is at least two days prior to the required filing date, and if such report or statement is properly addressed with postage prepaid.

§ 17-5-11. Duties of Secretary of State and judge of probate

The Secretary of State and the judge of probate shall have the following duties:

(1) To accept and file all reports and statements, including amendments, required by the provisions of this chapter to be filed with them and to accept any information voluntarily supplied that exceeds the requirements of this chapter.

(2) To make each statement and report filed by any principal campaign committee or political action committee or elected official available for public inspection and copying during regular office hours, any such copying to be at the expense of the person requesting copies; except that any information copied from such reports or statements may not be sold or used by any political party, principal campaign committee, or political action committee for the purposes of soliciting contributions or for commercial purposes, without the express written permission of the candidate or the committee reporting such information.

(3) To furnish any forms to be used in complying with the provisions of this chapter. The expenses incurred by the Secretary of State in furnishing forms, accepting statements and reports, filing statements and reports, and making such statements and reports available to the public shall be paid from moneys designated to the distribution of public documents.

§ 17-5-12. Paid advertisements to be identified as such¹⁰

(a) Any paid political advertisement or electioneering communication appearing in any print media or broadcast on any electronic media shall clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. It shall be unlawful for any person, nonprofit corporation, entity, candidate, principal campaign committee, ~~nonprofit corporation, entity,~~ or other political action committee to broadcast, publish, or circulate any campaign literature, political advertisement, or electioneering communication without a notice appearing on the printed matter with a clear and unmistakable identification of the entity responsible for directly paying for the advertisement or electioneering communication, or on the broadcast at the beginning, during, or end of a radio or television spot, stating that the communication was a paid advertisement, clearly identifying the entity directly responsible for paying for the advertisement or electioneering communication, and giving the identification of the person, nonprofit corporation, entity, principal campaign committee, or other political action committee or entity that paid for such communication.

(b) This section does not apply to any political advertisement or electioneering communication used by a candidate and the candidate's supporters or by a political committee if the message or advertisement is:

(1) Designed to be worn by a person.

(2) Placed as a paid link on an Internet website, provided the message or advertisement is no more than 200 characters in length and the link directs the user to another Internet website that complies with subsection (a).

(3) Placed as a graphic or picture link where compliance with the requirements of this section is not reasonably practical due to the size of the graphic or picture link and the link directs the user to another Internet website that complies with subdivision (1).

(4) Placed at no cost on an Internet website for which there is no cost to post content for public users.

(5) Placed or distributed on an unpaid profile account which is available to the public without charge or on a social networking Internet website, as long as the source of the message or advertisement is patently clear from the content or format of the message or advertisement. A candidate or political committee may prominently display a statement indicating that the website or account is an official website or account of the candidate or political committee and is approved by the candidate or political committee. A website or account may not be marked as official without prior approval by the candidate or political committee.

¹⁰ This section was modified by Act Nos. 2011-697 and 2013-311 (subject to preclearance by DOJ). The provisions revised in 2011 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blueline format.

(6) Distributed as a text message or other message via Short Message Service, provided the message is no more than 200 characters in length or requires the recipient to sign up or opt in to receive it.

(7) Connected with or included in any software application or accompanying function, provided that the user signs up, opts in, downloads, or otherwise accesses the application from or through a website that complies with subsection (a).

(8) Sent by a third-party user from or through a campaign or committee's website, provided the website complies with subsection (a).

(9) Contained in or distributed through any other technology related item, service, or device for which compliance with subdivision (1) is not reasonably practical due to the size or nature of such item, service, or device as available, or the means of displaying the message or advertisement makes compliance with subdivision (1) impracticable.

§ 17-5-13. Cards, pamphlets, circulars, etc., to bear name of candidate, committee, etc.

It shall be unlawful for any person, candidate, principal campaign committee, or political action committee to publish or distribute or display, or cause to be published or distributed or displayed, any card, pamphlet, circular, poster, or other printed material relating to or concerning any election, which does not contain the identification required by Section 17-5-2(a)(5) of the person, candidate, principal campaign committee, or political action committee responsible for the publication or distribution or display of the same.

§ 17-5-14. [Corporate and business entity political activities] ¹¹

~~A political action committee may be established by a corporation, subject to the provisions of this chapter.~~

(a) A corporation incorporated or organized under the laws of this state, or doing business in this state, may make a contribution or expenditure to or on behalf of any candidate or political action committee in the same manner that an individual is permitted to make under the laws of this state, except as otherwise expressly prohibited by subsection (c).

(b) Any corporation may establish a political action committee, subject to the provisions of this section. Any corporation or any officer, employee, or agent acting on behalf of such corporation, is also permitted to give, pay, expend, or contribute money, services, or anything of value for the purposes of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes as permitted by Section 17-5-14.1.

(c) A utility regulated by the public service commission may not make a contribution to any candidate for the public service commission, but shall otherwise be entitled to take any action permitted corporations under this section.

¹¹ This section was modified by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-14.1. [Establishment of separate, segregated political funds]¹²

(a) Any business or nonprofit corporation, incorporated under the laws of or doing business in this state, or any officer or agent acting on behalf of the corporation may give, pay, expend, or contribute money, services, anything of value for the purposes of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund which can be utilized for political purposes (i) to aid or promote the nomination or election of any person, including an incumbent political officeholder or any other person who is or becomes a candidate for political office; or (ii) to aid or promote the interest or success, or defeat of any political party or political proposition. Any separate, segregated fund established hereunder for any of the above enumerated purposes shall be established and administered pursuant to the following requirements and prohibitions:

- (1) Any such business or nonprofit corporation, or any officer or agent acting on behalf of such business or nonprofit corporation, may solicit voluntary contributions to the fund only from the corporation's, or its affiliates', stockholders and their families and its employees and their families; or in the case of a nonprofit corporation, its members and their employees. However, the funds may accept voluntary contributions from any individuals.
- (2) The custodians of any separate, segregated political fund established hereunder shall file with the Secretary of State such financial disclosure reports or statements now required of a candidate for public office. Filing with the Secretary of State a copy of the information required to be filed with the Federal Election Commission by such separate, segregated fund shall constitute compliance with the reporting provisions of this section.

(b) It shall be unlawful:

- (1) For any separate, segregated political fund established pursuant to this section or for any person acting on behalf of the fund to solicit or secure any money or anything of value by physical force, job discrimination, or financial reprisals, or by threats thereof; by dues, fees, or other moneys required as a condition of employment; or by moneys obtained in any commercial transaction;
- (2) For any person soliciting contributions to the fund to fail to inform any person being solicited of the political purposes of the fund at the time of the solicitation;
- (3) For any person soliciting for a contribution to the fund to fail to inform the person being solicited, at the time of the solicitation, of his or her right to refuse to contribute without any reprisal; and
- (4) For any corporation regulated by the Public Service Commission to pass on to its customers any contribution made for the purposes of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes.

¹² This section was added by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-15. Making or accepting contributions by one person in name of another prohibited; exception [PAC-to-PAC ban] ¹³

(a) It shall be unlawful for any person, acting for himself or herself or on behalf of any entity, to make a contribution in the name of another person or entity, or knowingly permit his or her name, or the entity's name, to be used to effect such a contribution made by one person or entity in the name of another person or entity, or for any candidate, principal campaign committee, or political action committee to knowingly accept a contribution made by one person or entity in the name of another person or entity; provided, however, that nothing in this chapter ~~would prohibit~~ prohibits any person from soliciting and receiving contributions from other persons for the purpose of making expenditures to a candidate, political campaign committee, political action committee, or elected state or local official required to file reports pursuant to Section 17-5-8.

(b) It shall be unlawful for any political action committee, ~~527 organization, or private foundation, or tax exempt political organization under 26 U.S.C. § 527~~ including a principal campaign committee, or any person authorized to make an expenditure on behalf of such political action committee or 527 organization, to make a contribution, expenditure, or any other transfer of funds to any other political action committee, ~~or 527 organization, or private foundation~~. It shall be unlawful for any principal campaign committee or any person authorized to make an expenditure on behalf of such principal campaign committee to make a contribution, expenditure, or ~~any~~ other transfer of funds to any other principal campaign committee, except where the contribution, expenditure, or any other transfer of funds is made from a principal campaign committee to another principal campaign committee on behalf of the same person. Notwithstanding the foregoing, a political action committee that is not a principal campaign committee may make contributions, expenditures, or other transfers of funds to a principal campaign committee; and a separate segregated fund established by a corporation under federal law, if the fund does not receive any contributions from within this state other than contributions from its employees and directors, is not restricted by this subsection in the amount it may transfer to a political action committee established under the provisions of Section ~~10A-21-1.01~~ 17-5-14.1 by the same or an affiliated corporation.

¹³ This section was modified by Act Nos. 2010-765 and 2013-311 (subject to preclearance by DOJ). The provisions revised in 2010 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blueline format.

§ 17-5-15.1. Use of funds raised by a federal candidate's campaign committee¹⁴

(a) A principal campaign committee of a state or local candidate and any person authorized to make an expenditure on its behalf may not receive or spend, in a campaign for state or local office, campaign funds in excess of one thousand dollars (\$1,000) that were raised by a principal campaign committee of a federal candidate.

(b) Any ~~receipt or expenditure of~~ person who intentionally receives or expends campaign funds in violation of subsection (a) shall be guilty, upon conviction, of a Class C felony.

¹⁴ This section was added by Act No. 2010-765 and modified by Act No. 2013-311 (subject to preclearance by DOJ). The provisions revised in 2010 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and blue format.

§ 17-5-16. Fraudulent misrepresentation as acting for candidate, etc., prohibited¹⁵

(a) It shall be unlawful for any person fraudulently to misrepresent himself or herself, or any other person or organization with which he or she is affiliated, as speaking or writing or otherwise acting for or on behalf of any candidate, principal campaign committee, political action committee, or political party, or agent or employee thereof, in a manner which is damaging or is intended to be damaging to such other candidate, principal campaign committee, political action committee, or political party.

(b) It shall be unlawful for any automated or pre-recorded communication initiated, conducted, or transmitted through an automated telephone dialing service to be conducted without providing clear notice at the ending of the phone call that the communication was a paid political advertisement and clearly identifying the person, nonprofit corporation, entity, principal campaign committee, or political action committee that paid for such communication.

(c) It shall be unlawful for any person or entity to knowingly misrepresent, in any automated or pre-recorded communication that is a political advertisement and that is initiated via an automated telephone dialing service, the identification of the person, nonprofit corporation, entity, principal campaign committee, or political action committee that paid for such communication.

(d) The Attorney General of the State of Alabama shall have full power to investigate and enforce violations of this section and any owner, employer, agent, or representative of any automated dialing service found to be in violation of this section shall be guilty upon conviction of a Class A misdemeanor as provided in Section ~~17-17-35(a)~~ [17-5-19](#).

¹⁵ This section was modified by Act Nos. 2012-461 and 2013-311 (subject to preclearance by DOJ). The provisions revised in 2012 are highlighted in gray. The revisions from 2013 are shown in ~~redline~~ and [blueline](#) format.

§ 17-5-17. Solicitation by force, job discrimination, threats, etc., prohibited

It shall be unlawful for any person, principal campaign committee, or political action committee established pursuant to this chapter or for any person acting on behalf of such person or committee, to solicit or secure any money or anything of value by physical force, job discrimination or financial reprisals, or by threats thereof or by the imposition of dues, fees, or other moneys required as a condition of employment.

§ 17-5-18. Failure to file required statement or report; nonissuance or revocation of certificate of election or nomination [Repealed]¹⁶

~~A certificate of election or nomination shall not be issued to any person elected or nominated to state or local office who shall fail to file any statement or report required by this chapter. A certificate of election or nomination already issued to any person elected or nominated to state or local office who fails to file any statement or report required by this chapter shall be revoked.~~

¹⁶ This section was deleted by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-19. [Enforcement of violations] ¹⁷

~~It is the intention of the Legislature by the passage of this chapter that its provisions be construed in pari materia with other laws regulating political contributions, corporations, or political contributions by corporations.~~

(a) Except as otherwise provided in this section, a person who intentionally violates any provision of Chapter 5 shall be guilty, upon conviction, of a Class A misdemeanor.

(b) A person who intentionally violates any reporting requirement of Sections 17-5-4, 17-5-5, or 17-5-8 shall be guilty, upon conviction, of a Class A misdemeanor. A person's failure to promptly file a required report upon discovering or receiving notice from any person that the report has not been filed, or the failure to promptly correct an omission, error, or other discrepancy in a filed report upon discovering or receiving notice of the discrepancy, shall create a rebuttable presumption of intent to violate the applicable reporting requirement.

(c) Any person who intentionally violates Section 17-5-7 shall be guilty, upon conviction, of a Class B felony.

(d) A person who fails to timely or accurately file any report required by this chapter shall be assessed a civil penalty of the greater of three hundred dollars (\$300) or ten percent of the amount not properly reported for a first offense in an election cycle, six hundred dollars (\$600) or 15 percent of the amount not properly reported for a second offense in an election cycle, and one thousand two hundred dollars (\$1,200) or 20 percent of the amount not properly reported for a third or subsequent offense in an election cycle. A fourth failure to timely or accurately file a report in an election cycle shall create a rebuttable presumption of intent to violate the reporting requirements of this chapter. Civil penalties shall be paid to the appropriate filing official. All penalties collected by a judge of probate shall be distributed to that county's general fund, and all penalties collected by the Secretary of State shall be distributed to the State General Fund. A person who voluntarily files an amended report to correct an error in an otherwise timely filed report, without being prompted by a filing official shall not be subjected to a civil penalty under this subsection, so long as, in the case of a candidate, the corrected report is filed prior to the election at issue, and so long as, in the case of a political action committee, the corrected report is filed prior to the election which the contribution was given to influence.

(e) The Attorney General or district attorney for the appropriate jurisdiction may prosecute violations of Chapter 5. Venue for cases involving violations of Chapter 5 shall be in the county in which the violation occurred or the county in which the alleged violator resides or is incorporated. If the alleged violator resides or is incorporated outside of the State of Alabama or if the violation or violations occurred outside the State of Alabama, venue shall be in Montgomery County.

(f) No prosecution for violation of Chapter 5 shall be commenced later than two years after the date of violation. Notwithstanding the foregoing, a prosecution brought pursuant to Section 17-5-7 shall be commenced within four years after the commission of the offense.

¹⁷ This section was modified by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-5-20. [Designated filing agents]¹⁸

(a) A candidate, or in the case of a political action committee, the chair or treasurer, may appoint a designated filing agent on a form prescribed by the Secretary of State. Upon receiving a notice of appointment of designated filing agent, the Secretary of State, as soon as practicable, shall take the necessary steps to enable the designated filing agent to electronically submit any report or other filing required by this chapter on behalf of his or her principal.

(b) The submission of a timely, complete, and correct report or other filing required by this chapter by a designated filing agent shall satisfy the filing or reporting requirement of the designated filing agent's principal; however, the appointment of a designated filing agent does not itself absolve any person having a duty to submit any report or other filing under this chapter of liability for failure to timely submit such filing, for filing a false, incomplete, or inaccurate report, or for any other violation under this chapter.

(c) The submission of a report or other filing required by this chapter by a designated filing agent creates a rebuttable presumption that the submission was approved and intended by the candidate, his or her principal campaign committee, or the political action committee or treasurer thereof. Notwithstanding the foregoing, it is a defense to prosecution that the designated filing agent acted beyond the scope of his or her authority.

¹⁸ This section was added by Act No. 2013-311 (subject to preclearance by DOJ).

§ 17-17-35. Unfair campaign practices; violation of Fair Campaign Practice Act; venue; time for prosecution *[Repealed]*¹⁹

~~(a) A person who violates any provision of Chapter 5, other than Section 17-5-7, or a reporting requirement under Sections 17-5-4, 17-5-5, and 17-5-8, shall be guilty, upon conviction, of a Class A misdemeanor.~~

~~(b) A person who violates any reporting requirement of Sections 17-5-4, 17-5-5, and 17-5-8 shall be guilty, upon conviction, of a Class B misdemeanor.~~

~~(c) Any person who intentionally violates Section 17-5-7 shall be guilty, upon conviction, of a Class B felony.~~

~~(d) The Attorney General may prosecute violations of Chapter 5. Venue for cases involving violations of Chapter 5 shall be in the county in which the alleged violator resides.~~

~~(e) No prosecution for violation of Chapter 5 shall be commenced later than two years after the date of violation. Notwithstanding the foregoing, a prosecution brought pursuant to Section 17-5-7 shall be commenced within four years after the commission of the offense. Additionally, a prosecution brought pursuant to Section 17-5-7 shall be prosecuted by the Attorney General or the district attorney for the appropriate jurisdiction, and the venue for any action pursuant to this section shall be in the county in which the alleged violation occurred, or in those cases where the violation or violations occurred outside the State of Alabama, in Montgomery County.~~

¹⁹ This section was deleted by Act No. 2013-311 with the substantive issues now addressed in Section 17-5-19 (subject to preclearance by DOJ).

~~§ 10A-21-1.01 -- Establishment of segregated, separate political funds; voluntary contributions; filing of disclosure reports; violations (formerly § 10-1-2)~~²⁰

~~(a) Any business or nonprofit corporation, incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of the corporation may give, pay, expend, or contribute money, services, anything of value for the purposes of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes (i) to aid or promote the nomination or election of any person, including an incumbent political officeholder or any other person who is or becomes a candidate for political office; or (ii) to aid or promote the interest or success, or defeat of any political party or political proposition. Any separate, segregated fund established hereunder for any of the above enumerated purposes shall be established and administered pursuant to the following requirements and prohibitions~~

~~(1) Any business or nonprofit corporation incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of the corporation which has established a separate, segregated political fund or any separate, segregated fund established by the corporation or officer or agent acting in behalf of the corporation may solicit voluntary contributions to the fund only from the corporation's stockholders and their families and its employees and their families; or in the case of a nonprofit corporation, its members and their employees. However, the funds may accept voluntary contributions from any individuals or from any other separate, segregated political funds.~~

~~(2) The custodians of any separate, segregated political fund established hereunder shall file with the Office of the Secretary of State of the State of Alabama such financial disclosure reports or statements now required of a candidate for public office. Filing with the Secretary of State a copy of the information required to be filed with the Federal Election Commission by such separate, segregated fund shall constitute compliance with the reporting provisions of this section.~~

~~(b) It shall be unlawful:~~

~~(1) For any separate, segregated political fund established pursuant to this section or for any person acting in behalf of the fund to solicit or secure any money or anything of value by physical force, job discrimination, or financial reprisals, or by threats thereof; by dues, fees, or other moneys required as a condition of employment; or by moneys obtained in any commercial transaction;~~

~~(2) For any person soliciting contributions to the fund to fail to inform any person being solicited of the political purposes of the fund at the time of the solicitation;~~

~~(3) For any person soliciting for a contribution to the fund to fail to inform the person being solicited, at the time of the solicitation, of his or her right to refuse to contribute without any reprisal; and~~

~~(4) For any corporation regulated by the Public Service Commission to pass on to its customers any contribution made for the purpose of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes.~~

²⁰ This section was deleted by Act No. 2013-311 with most of this provision transferred to Section 17-5-14.1 (subject to preclearance by DOJ).

~~§ 10A-21-1.02 -- Giving aid or contribution to political party or candidate, etc.; penalty; exception for voluntary separate political fund (formerly § 10-2A-70)~~²¹

~~Any corporation, incorporated company, or incorporated association, by whatever name it may be known, incorporated or organized under the laws of this state or doing business in this state, or any servant, agent, employee, or officer thereof, who shall give, donate, appropriate, or furnish, directly or indirectly, any money, securities, funds, or property of the corporation, incorporated company, or incorporated association for the purpose of aiding any political party or any candidate for any public office or any candidate for any nomination for any public office by any political party or who shall give, donate, appropriate, or furnish, directly or indirectly, any money, security, funds, or property of the corporation, incorporated company, or association to any committee or person as a contribution to the expenses of any political party or any candidate, representative, or committee of any political party or candidate for nomination by any political party or any committee or other person acting in behalf of the candidate shall be guilty of a misdemeanor and, on conviction, shall be fined not less than one hundred dollars (\$100), nor more than two thousand dollars (\$2,000) at the discretion of the jury trying the case. Notwithstanding the provisions of this section, it shall not be unlawful for any business or nonprofit corporation, incorporated under the laws of or doing business in this state, or any officer or agent acting in behalf of the corporation to give, pay, expend, or contribute money, services, or anything of value for the purposes of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund to be utilized for political purposes as permitted by Section 10A-21-1.01. Provided, that no corporate funds will be a part of such separate, segregated fund.~~

~~§ 10A-21-1.03 -- Limitation on amount of political contribution; provisions supplemental (formerly § 10-2A-70.1)~~

~~(a) It shall be legal and permissible for any corporation, other than a public utility that is regulated by the Public Service Commission, whether for profit or nonprofit, incorporated under the laws of or doing business in this state, to directly give, pay, expend, or contribute any money or other valuable thing in any amount not to exceed five hundred dollars (\$500) to any one candidate or political party, or to aid or defeat any question or proposition in any one election in order to aid, promote, or prevent the nomination or election of any person, or defeat any question or proposition submitted to the vote of the people, or in order to aid, promote, or antagonize the interest of any political party. In the case of a group of parent subsidiary corporations, the five hundred dollars (\$500) limitation described above shall apply to the entire group. A corporation which is a public utility because it owns, controls, or operates a railroad shall not make a contribution to any candidate for the Public Service Commission, but shall otherwise be entitled to take any action permitted nonpublic utilities under this section.~~

~~(b) The provisions of this section are supplemental. It shall be construed in pari materia with other laws regulating political contributions; however, those laws or parts of laws which are in direct conflict or inconsistent with this section are hereby repealed.~~

~~§ 10A-21-1.04 -- Corporation contributions to candidates, parties, etc. (formerly § 10-2A-70.2)~~

~~It is the intent of the Legislature that the provisions hereof shall not repeal nor be construed to repeal any provision of Section 10A-21-1.03. Provided further, however, notwithstanding any provision hereof or any other law to the contrary, it shall be legal and permissible for any corporation, other than a public utility that is regulated by the Public Service Commission, whether for profit or nonprofit, incorporated under the laws of or doing business in this state, to directly give, pay, expend, or contribute, any money or other valuable thing in any amount not to exceed five hundred dollars (\$500) to any one candidate or political party or political committee. It shall also be legal and permissible for nonprofit corporations to directly give, pay, extend, or contribute, any money or other valuable thing in any amount in order to aid, promote, or defeat any question or proposition submitted to the vote of the people. A corporation which is a public utility because it owns, controls, or operates a railroad shall not make a contribution to any candidate for the Public Service Commission, but shall otherwise be entitled to take any action permitted nonpublic utilities under this section.~~

²¹ The three sections on this page were deleted by Act No. 2013-311 (subject to preclearance by DOJ).

**Detailed Summary of SB 445
(2013 Revisions)**

Summary of Fair Campaign Practices Act Revisions Under Act No. 2013-311 (SB 445)

Act No. 2013-311 revised a number of provisions of the Fair Campaign Practices Act (FCPA). This summary reviews the major revisions included in this Act and is organized around the following topic areas: (1) technical changes; (2) candidate reporting revisions; (3) enforcement revisions; (4) legislative caucus issues; and (5) other substantive revisions. By its own terms, the Act goes into effect on August 1, 2013. However, its effective date may be delayed depending on issues associated with whether some (or all) of the Act must be pre-cleared under the Voting Rights Act of 1965.

A. Technical Changes

Designated filing agents. This Act allows for a designated filing agent to electronically file reports. This change is made necessary by the electronic reporting system that candidates will start using in the 2014 cycle. This language was developed in conjunction with the Secretary of State's office so that a candidate or PAC can designate a person to submit the report (in other words, "hit send" on the electronic submission). *(See, definition of designated filing agent at 17-5-2(a)(3) on page 6 and the procedure in 17-5-20 on pages 41-42)*

Fundraising blackout. This Act changes the legislative fundraising blackout to apply only to legislative and statewide candidates. Previously, the campaign fundraising blackout period during the legislative session had applied to legislators and statewide candidates as well as to candidates for offices like circuit and district judges, circuit clerks, and district attorneys who have nothing to do with the legislative process. This Act changes that provision so that the blackout applies only to legislative and statewide candidates. *(See, 17-5-7(b)(2) on pages 15-16)*

Clearing up time when final daily report before an election is due. When the daily reports were added to the FCPA in 2011, the deadline for the final daily report was set at 12:01 a.m. on the day prior to the election (in other words, just after midnight when Sunday turns into Monday) which is impractical. This Act changes the time when the report is due to noon on that Monday. *(See, 17-5-8(a)(3)a. on pages 18-19)*

Duplicative filings in multi-county municipalities. This Act eliminates duplicative filings for candidates in municipalities that are located in more than one county. Previously, those municipal candidates had to file with the Judge of Probate for each county that the municipality is located in. This provision provides that the candidates are required to file only with the Judge of Probate in the county in which the city hall is located. *(See, 17-5-9(c) on pages 26-27)*

Duplicative filings for PACs and PCCs. This Act ensures that candidates do not have to file a duplicative monthly report covering the preceding month when they already have filed weekly reports that would include the same information. *(See, 17-5-8(k) on pages 24-25)*

Allows local (not municipal) candidates the option of filing electronically. This Act allows a candidate who is supposed to file with the Judge of Probate the option of filing electronically

with the Secretary of State. If the candidate wants to do this they must also file notice with the Judge of Probate that they will be filing with the Secretary of State. This Act provides that municipal candidates do not have this option. *(See, 17-5-9(d) on page 27)*

Moves provisions dealing with corporations from the Business Entities Code (Title 10A) to the FCPA (Title 17). Previously, there were several code sections in Title 10A (Business and Nonprofit Entities Code) that related to how corporations may participate in election activities. This Act moves those provisions to the FCPA (in Title 17) which contains all other election-related laws. *(See, 17-5-14 on pages 30-31 and 17-5-14.1 on pages 39-41)*

Transfers enforcement provisions from Chapter 17 to Chapter 5 (the FCPA). Previously, the enforcement mechanisms for violations of the FCPA were located in Chapter 17 of Title 17. This Act moves these provisions to Chapter 5 which contains other substantive provisions of the FCPA to make it easier to locate the applicable provisions. *(See, 17-5-19 on pages 34-37)*

Removes the confusing “private foundation” restriction in the PAC-to-PAC ban. The PAC-to-PAC ban includes a prohibition on any “private foundation” giving money to another private foundation. The inclusion of this provision has had the unintended consequence of prohibiting this subset of charitable foundations from donating to each other. “Private foundations” are restricted by federal tax law from participating in political campaigns. If a private foundation supports candidates then it becomes a PAC, and as a result, it would still be prohibited from transferring money to another PAC. *(See, 17-5-15(b) on pages 32-33)*

Reinforces PAC-to-PAC ban prohibition. The 2010 PAC-to-PAC ban inadvertently left in place a provision that arguably permitted certain corporate and association PACs (those that are separate, segregated funds) to transfer funds among themselves. This Act removes the language that may have permitted those types of transfers. *(See, 17-5-14.1(a)(1) on page 40)*

Clarifies right of business entities to communicate with employees. Prior amendments to the FCPA arguably limited the ability of business entities to communicate with employees on candidates in the same way that associations communicate with their members. This Act clarifies the permissibility of such communications. *(See, 17-5-8(j) on pages 23-24)*

Revises reporting schedule to ensure candidates file annual reports following the general election. Prior amendments to the FCPA that attempted to clean up duplicative filings inadvertently did not require a candidate to file an annual report for the year in which an election occurred. This Act corrects that issue in the FCPA. *(See, 17-5-8(k) on page 24)*

B. Candidate Reporting Revisions

This Act requires any candidate who raises or expends \$1,000 to file disclosure reports. Previously, there was a wide variety of thresholds. This Act implements a uniform threshold of \$1,000 for all candidates for any office, which will result in candidates filing disclosures earlier in the process. The prior thresholds were:

- \$25,000 for state office other than those elected by circuit or district

- \$5,000 for state office elected by circuit or district
- \$10,000 for Senate
- \$5,000 for House of Representatives
- \$1,000 for local office

(See, definition of “Candidate” in 17-5-2(a)(1) on pages 2-3)

C. Enforcement Revisions

Clarifies person responsible for compliance. Prosecutors perceived there to be a gap in the law about who could be held responsible for filing reports. This Act closes that gap by making it clear that the candidate or PAC treasurer is responsible for these filings. *(See, for example 17-5-5(a) on pages 11-12 and 17-5-8(a) on pages 17-18)*

Ensures enforceability by requiring intent for criminal violations. Under the previous law, many of the criminal violations contained in the FCPA did not include any requirement that there be intent on the part of the person acting. This Act requires that violations must be intentional in order to be prosecuted. *(See, 17-5-19 on pages 34-37)*

Repeals so-called candidate “death penalty”. This Act repeals Section 17-5-18, which is the so-called candidate “death penalty” for errors in filing. This provision is often criticized and seldom enforced. *(See, Section 3(b) of Act on page 43)*

Creates a new administrative fine system to encourage the timely and accurate filing of reports. Under the previous law, there was little, if any, enforcement of the requirement to file the various reports required under the FCPA on time or accurately other than a separate provision that could have a candidate removed from the ballot (or out of office) if they did not cure the problem before the election. This Act provides a comprehensive enforcement scheme that includes administrative fines for minor violations and criminal penalties for intentional violations. The Act also makes clear that fines are paid to the county or General Fund (and not to the filing official). Additionally, the Act permits a candidate or PAC to correct an otherwise timely filed report so long as it is initiated by the filer (as opposed to the filing official) and corrected prior to the election. The administrative fine schedule is below:

- 1st offense = Greater of \$300 or 10% of amount not reported
- 2nd offense = Greater of \$600 or 15% of amount not reported
- 3rd offense and subsequent offenses = Greater of \$1,200 or 20% of amount not reported
- 4th offense = Establishes a rebuttable presumption of intent necessary for criminal violation

(See, 17-5-19(d) on page 35-36)

Enforcement for out of state violators. This Act enhances the ability to prosecute violations involving out-of-state violators by fixing the venue for prosecutions in Montgomery. *(See, 17-5-19(e) on page 36)*

Conforms PAC and candidate safe harbor provisions. This Act provides a safe harbor for candidates and PACs to voluntarily correct an error that they self-identify prior to the election. (See, 17-5-19(d) on pages 35-36)

D. Caucus Issues

Provides for the registration of legislative caucuses. Legislative caucuses have existed for many years without any specific provisions of law for identifying them or their purposes. In the past, some caucuses that attempted to specifically influence elections actually became PACs by operation of law. Today, caucuses are more likely to be organized as nonprofits and focus on policy issues. This Act provides for the registration of caucuses and prevents them from working to influence elections. (See, new 17-5-5.1 on pages 37-38)

Clarifies that if a legislative caucus participates in elections, then it is a PAC. In the event a legislative caucus crosses the line into activity that is intended to influence the outcome of elections, then it is treated and regulated as a PAC. (See, new 17-5-5.1 on pages 37-38)

Allows a candidate to donate excess campaign funds to a legislative caucus. This Act allows a candidate to give excess campaign funds to a legislative caucus. This can be done only if the caucus registers as provided by this Act and if the caucus does not attempt to influence the outcome of an election. (See, 17-5-7(a)(6) on page 15)

E. Other Substantive Revisions

Repeals corporate contribution limits. This Act provides that corporations are regulated in the same manner as other entities (e.g., LLCs and partnerships) and individuals by removing restrictions (such as the \$500 corporate contribution limit). (See, 17-5-14 on pages 30-31)

Payment for party events. This Act expands and clarifies the ability of candidates to participate in state and local party events. The 2010 FCPA revisions allowed candidates to use campaign funds to pay qualifying fees and to buy tickets to party dinners by expending up to \$5,000 over the course of their term of office. Since terms of office vary, this Act would allow expenditures of up to \$5,000 every 2 years. (See, 17-5-7(d) on pages 16-17)

Refund provision. This Act allows for the return or refund of campaign contributions. Over the years, candidates and PACs have needed to refund unwanted contributions from donors they do not want to accept funds from. This Act makes it clear that contributions can be returned and can be refunded so long as the refunds are itemized and reported. (See, 17-5-7.1 on pages 38-39)