



Daily Journal

Fix Campaign Finance Laws to Ensure Mississippi Elections are for Mississippi Voters

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This past year was the first statewide election during my tenure as your Attorney General. Over the course of that year, we were asked to investigate possible violations of our campaign finance laws. Many of these were activities that did not pass the basic gut check that prosecutors often start with. They seemed just unethical, immoral, and surely the evidence would demonstrate criminal.

We were wrong. Not on the ethics or morality. When outside special interests come into our State to influence our elections they should have the decency to tell us who they are and why they are interested in choosing our elected leaders. But our laws are plagued with gaping holes that allow them to spend in anonymity and with absolute impunity. It is time for that to change so I have brought a package of reforms to the Legislature so that future elections are not riddled with out-of-state special interests trying to choose our leaders.

To promote free speech and democratic engagement, Mississippi's campaign finance laws have no dollar limits on contributions to candidates, except from certain corporations. Free speech is a value that we proudly treasure in Mississippi. However, to promote accountability under this open system, we must have significant transparency in reporting spending that influences our elections. Transparency gives the people the ability to decide what is acceptable or not acceptable and to express that view at the ballot box.

We have identified three big gaps that allow special interests from outside Mississippi to have outsized influence in our elections, to avoid reporting those activities to the people, and to evade correspondingly serious penalties. Closing these gaps will shine a light on campaign spending and hold special interests accountable.

The first gap is in the way we define contributions to candidate campaigns. Unlike federal campaign finance law, Mississippi law does not require that a candidate's campaign and an outside spender who coordinate to ever connect the dots for the voters. Perhaps even more glaring is that out-of-state corporate contributions are unlimited. It is commonly believed that candidates cannot accept corporate contributions exceeding \$1,000 per year. But that is not what the laws actually say. In fact, Mississippi's campaign finance law defines a person who can make a contribution as a corporation. But later in the criminal code, it prohibits a corporate contribution of over \$1,000 – but only for a Mississippi corporation. There is no corresponding prohibition anywhere in the Code for an out-of-state corporate interest spending millions in our elections.

What's more, even if a Mississippi corporation ran afoul of the current law, the candidate who took the money and presumably should know the campaign finance laws, does not face a penalty. It runs against the corporation. And this brings me to the second gap in our campaign finance laws. The weak penalties amount to the cost of doing business for these big out-of-state spenders. The only serious criminal penalty can be found on the one form that is filled out by an organization making an independent expenditure in a race, which is signed and submitted under penalty of perjury and therefore carries possible jail time of 10 years as opposed to 6 months. Every campaign finance report filed by a candidate, campaign, or committee should have this same penalty of perjury language.

And the administrative penalties are largely meaningless because they wind through a long, bureaucratic process of review, assessment, and enforcement split between two agencies – the Secretary of State and the Ethics Commission – ultimately putting off any penalty long past the time it could impact behavior. In fact, this process includes a built-in grace period that can put off any enforcement in some instances until after the election. And all of that is ultimately for a maximum penalty of \$500.

The final gap that must be closed is to make the public campaign finance portal where all campaign spending is supposed to be reported usable by the public it is meant to inform. The portal currently includes a disclaimer that the Secretary of State is “without the legal authority or obligation to verify the data or investigate its accuracy,” but that makes the act of hosting the reports for the public a farce. The Legislature has given the Secretary of State responsibility, it should also give him the authority to do his job.

Right now, for example, an organization looking to evade public scrutiny can simply omit an apostrophe to keep searching citizens from finding their reports. If you see a commercial run by “Joes PAC” and you search for “Joe's PAC,” you will not find what you are looking for. Even once a citizen finds the right report, reports that are filed are often obscured, missing pages, formatted in unusable ways, or in unreadable tiny print.

If a special interest group wants to spend its money on our elections, the Mississippi voters should know who it is that is seeking to sway our votes. We should know who is putting mail in our mailboxes, calling and texting us with messages, peppering our social media with advertisements, and filling commercial breaks with radio and TV ads. When these groups operate in secrecy, they too often push the limits on truth and decency and the people do not know who to hold accountable when things go too far. These changes I am proposing are small but will give the people the tools to pack a powerful punch and ensure Mississippi elections are for Mississippi voters.