

ARKANSAS ETHICS COMMISSION
OPINION NO. 96-EC-006

DATE ISSUED: June 20, 1997

ISSUE PRESENTED:

May a county political committee, an auxiliary of a state political party, contribute to a candidate's campaign? If yes, how much may the committee contribute?

BRIEF RESPONSE:

Yes. A county auxiliary committee may contribute to campaigns. In each county, one committee shall be designated as the official committee of the political party and, as such, will be able to contribute to a campaign as any "person" could under the law . Additionally, other county committees may contribute provided they first register as political action committees and, for those extra committees, the contribution limits of political action committees will apply.

FACTS PRESENTED:

Arkansas has three recognized political parties. ¹ At least two of the parties, have active county political committees, auxiliaries of the parties, who are typically separate and independent of the state political party. The campaign laws allow for political parties to contribute \$2,500.00 per candidate per election. The limit for other entities, classified as "persons" is far smaller. Local auxiliary committees collect money from individuals with the purpose to contribute money on behalf of the committee to various candidates, some of whom will also be supported financially by the state political party. The auxiliary committees question whether their contributions would be counted toward the aggregate amount the state political party may contribute for those candidates supported by both the state and local committees and whether the committees otherwise are entitled to contribute as either "persons" or "political parties" without registering as "political action committees."

SECTIONS OF LAW INVOLVED:

Ark. Code Ann. §7-1-101(1)(A) defines "political party", in part, as any group of voters which polled for its candidate for Governor or President at least 3% of the total vote cast during the preceding election. **Ark. Code Ann. §7-6-201(1)** defines "person", among other things, as any committee or group of persons acting in concert, including political parties.

¹ The Reform Party became a recognized state political party in 1996 according to a June 4 letter from the Secretary of State.

Ark. Code Ann. §7-6-201(9) & (10) defines "political action committees" , in part, as any "person" who receives contributions from others in order to make contributions to candidates. The definition specifically excludes organized political parties as defined by Ark. Code Ann. §7-1-101(1).

DISCUSSION:

Arkansas campaign finance laws treat all associations or entities as "persons." For instance, corporations and unions make campaign contributions subject to the limits imposed for individuals or "persons." The only other limitation is that an association, like any other person, may become a political action committee (hereinafter referred to as "PAC") if it receives money from people for the purpose of making contributions to candidates.

Arkansas has a history of active county political auxiliary committees which are separate and independent from the state political parties. These committees are involved both with state candidates and local candidates and often are able to raise and contribute funds to candidates who are not financially supported by the state political parties. Officers of these county auxiliary committees are separate and distinct from officers of the state political parties.

An auxiliary committee is not a "political party", as defined by Arkansas law. Candidates do not run as members of an auxiliary committee. Under the law, an auxiliary committee may act as any entity or person and participate in the political process including contributing to candidates. As an independent body or entity, a county committee's contribution should not be applied against the amount of money which the state political party may contribute as long it is contributing money it raised. It should be treated separately. A local committee of a state political party should be treated as a "person" for campaign finance purposes and subject to those applicable limitations.

As a "person" for campaign finance purposes, a county auxiliary committee could be acting as a PAC when it receives money from other sources for the purpose of making contributions. Viewed as such, the committee could participate in the political process only after registering as a PAC, as required by law. However, the Commission is mindful of the history of local political committees in Arkansas. These committees often are designed for a myriad of purposes, other than receiving money to be used as contributions. The Commission is also aware that the political parties may have more than one auxiliary committee in a particular county, and that individuals may create auxiliary committees irrespective of the state party's knowledge or consent.

Mindful of these concerns, it is appropriate to allow each organized state political party to designate one (1) committee as the officially recognized auxiliary county committee of the party. This designated committee will not be required to register as a PAC and instead may participate in campaigns as a separate entity or "person" subject to the campaign limits discussed above.²

² Attached to this Opinion is a list of the committees designated by the parties for this purpose.

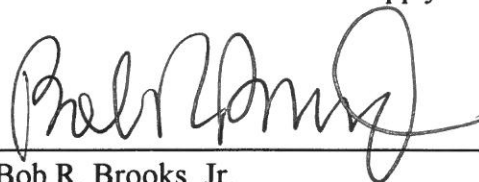
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In those counties where a state political party has more than one auxiliary committee affiliated with it, only the one officially designated as noted above may contribute in campaigns without registering as a political action committee. All other committees, who receive money from other persons with the purpose of making contributions to candidates, must register as a PAC before making contributions.

Currently there are two types of PACs in Arkansas. One, as established and defined by Ark. Code Ann. §§7-6-201(9), 215, would allow these committees to receive up to \$200 from other persons and then contribute up to the maximum applicable (either \$100 or \$300) to the particular race. These regular PACs must be registered, pursuant to §215, with the Secretary of State at least four (4) months prior to making any contributions. The other, recently established and defined by Initiated Act 1 of 1996, is the "small donor political action committee." These committees may only receive up to \$25 from each member, but may contribute up to \$2,500.00 in an election. A county or local auxiliary committee may form either type of PAC. If it elects to become a regular PAC, the maximum per election contribution limit is the same as for individuals contributors - \$300 for state-wide constitutional offices and \$100 for all other races.

SUMMARY

County auxiliary committees of the state's political parties may receive money and contribute to candidates during an election. One committee per county, as reflected on the attached chart, will be designated as the official committee and, if it so chooses, may raise funds and contribute as an individual subject to the maximum contribution limitations for all other "persons." Any other local committees of the parties may raise funds and contribute in campaigns provided they are properly registered as either political action committees or small donor political action committees. The campaign contribution limits for the respective political action committees would apply.

A handwritten signature in black ink, appearing to read "Bob R. Brooks, Jr.", written over a horizontal line.

Bob R. Brooks, Jr.
Executive Director