

**ARKANSAS ETHICS COMMISSION**  
**OPINION NO. 97-EC-008**

DATE ISSUED: July 14, 1997

**ISSUE PRESENTED:**

*Whether auxiliary groups of organized political parties are considered organized political parties for the purposes of forming small donor political action committees within the meaning of Initiated Act 1 of 1996?*

**BRIEF RESPONSE:**

No. An auxiliary committee is not an organized political party. An auxiliary committee may legally organize and/or maintain a small donor political action committee within the meaning of Initiated Act 1 of 1996 and may participate in the campaign finance process as such, subject to the campaign limitations applicable to the political action committees.

**FACTS PRESENTED:**

Arkansas has three recognized political parties<sup>1</sup>. At least two of the parties, have active auxiliary political committees, which are separate and distinct from the state political party. Some of these committees are county-wide<sup>2</sup>, while others are state-wide<sup>3</sup>. These auxiliary committees collect money from individuals with the purpose to contribute money on behalf of the committee to various candidates. An auxiliary committee of one of the state's recognized political parties desires to form a small donor political action committee, accepting contributions no greater than \$25.00 from persons. If it is able to form such a committee, it will be able to contribute up to \$2,500.00 per candidate per election. The campaign laws allow for political parties to contribute \$2,500.00 per candidate per election. The definition of small donor political action committees exempts political parties. The auxiliary committees question whether the exemption in the definition of small donor political action committees prevents them from forming such committees in Arkansas.

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

<sup>2</sup> E.g., Garland County Republican Women, Senior Democrats of Pulaski County.

<sup>3</sup> E.g., Young Democrats, College Republicans.

**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. **Initiated Act 1 of 1996** defines a "small donor political action committee", among other things, as a person who is registered as a political action committee but does not accept any contributions in excess of \$25.00 from any individual in any calendar year. A small donor political action committee "shall not include an organized political party, the candidate's own campaign committee, or any exploratory committee."

**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:**

A candidate runs as a member of a political party and not as a member of an auxiliary committee. An auxiliary committee, while affiliated with a political party is not a party as defined by Ark. Code Ann. §7-1-101(1). Prior to the passage of Initiated Act 1 of 1996, the only recognized exemption to the definition of "political action committee" was for organized political parties. The Commission has previously discussed and held that for purposes of campaign finance laws, an auxiliary committee did not fall within the definition of a "political party." See Ethics Commission Opinion 96-CO-006.

Auxiliary 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. Under the law, an auxiliary committee may act as any entity or person and participate in the political process including contributing to candidates. If it accepts money from one source with the purpose of contributing to campaigns, it is acting as a political action committee and may register as such. If it agrees to follow the dictates for "small donor political action committees", it may register as one of these and, as such, may contribute up to \$ 2,500.00 per candidate per election.

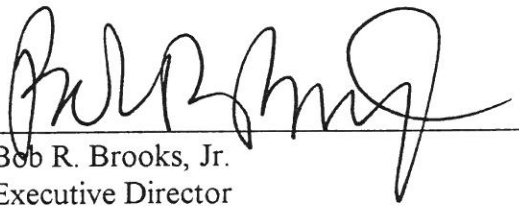
Currently there are two types of political action committees in Arkansas. One, as established and defined by Ark. Code Ann. §§7-6-201(9), 215, provides that approved PACs may receive up to \$200 from other persons and contribute up to the maximum applicable (either \$100 or \$300) to the particular race. These approved political action committees must be registered, pursuant to §215, with the Secretary of State at least four (4) months prior to making any contributions. The other,

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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 per election. A county or local auxiliary committee may form either type of political action committee. If it elects to become an approved Political Action Committee, 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**

Auxiliary committees of the state's political parties may receive money and contribute to candidates during an election. The committees may form small donor political action committees. The committees may register as political action committees as provided by law, including the newly created small donor political action committees. If an auxiliary committee elects to form a small donor committee, it must abide by the dictates of Initiated Act 1 of 1996, maintain records of the contributions separate from their own committee's financial records, and agree to accept no contribution greater than \$25.00 from any person. Similarly, the auxiliary committee should insure that monies it uses to create small donor political action committees are not funds provided by the state political parties.

  
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Bob R. Brooks, Jr.  
Executive Director