

Definition of 'total' hazy in finance law

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Arkansas law doesn't clearly address how candidates should calculate their total contributions on monthly campaign finance reports, causing candidates to present differing figures on public records.

Some candidates list their cumulative totals since they began campaigning, others start over after the primary or primary runoff. Either way could be interpreted as correct under Arkansas law, election officials said.

Arkansas Code Annotated 7-6-207 (b)(1)(A) states that monthly reports should include, "The total amount of contributions received with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals."

Ethics Commission Director Graham Sloan said the law isn't clear.

"I usually just tell [candidates] the law is silent either way. I can't really say you're in clear violation either way you do it," Sloan said. "As long as you had one or the other in there I think you could make a good case that you were in compliance."

Sloan said questions from a reporter last week was the first time any person who wasn't a candidate has asked him about the issue in the 17 years he has been with the commission.

He said he thinks a person using the public records could calculate the cumulative totals by comparing each month's loans, contributions and expenditures if he wanted to be sure what time period the cumulative total referred to.

"The information is there, you just might have to mine it a little bit to get to it," he said. "It's there, it's just addition."

Sloan said the public is generally more interested in who donated to a candidate and how a campaign spent money one month than in a total election cycle.

The secretary of state's Elections Division Director Martha Adcock said she isn't sure which is right either.

"It sounds like a discussion we need to have with the Ethics Commission, and then if clarity needs to be provided in the law we'll look at that," Adcock said.

Adcock said she will rely on whatever the commission says is correct.

"We are the filing entity, they're the enforcers," she said. "That's not the duty that we have been given."

She said the Legislature may need to address the matter in the 2013 session.

Sloan said the commission would consider asking for the law to be clarified in its legislative package for the 2013 session.

"Either way is probably sufficient, but if it were me I'd probably do the cumulative for the entire election cycle," Sloan said.

He said the commission could probably approve a rule to clarify what the term means on its own, but will likely wait for lawmakers.

Another place candidates may turn for guidance, the 2012 edition of the "Running for Public

Office” handbook published by the state Board of Election Commissioners, states that the cumulative total for contributions and for expenditures should reflect actions by “your campaign to date.”

ONLINE FILING

Contributing to the confusion is that candidates can legally file either online or by submitting paper copies of their reports.

Adcock said the cumulative amount on reports filed online can be incorrect if the candidate starts several versions of a report but does not finish them.

“You can open up multiple documents as a candidate, and you may start on one one day and you may start a filing for July monthly and you get started on it and then put it aside because it’s not due then and then you come back later and you open up another one,” Adcock said.

She said when the system calculates the cumulative total for the campaign, it considers all reports available.

“It looks like it’s wrong but it’s just pulling in everything that’s hanging out there,” she said.

Adcock said candidates may not know that opening multiple files causes a problem.

“For many of them they don’t realize that that potential error is there because the other documents are open, and they just let it go,” Adcock said.

The elections office has a policy that it deletes files that have been opened but not submitted after six months or when asked to by a candidate.

“We don’t go in to monitor everybody’s online filing,” she said.

She said the office hasn’t limited how many files a candidate can create because a campaign may want to input contributions or expenditures throughout the month or there may be more than one report due in a short period of time, such as a monthly report and a 10-day pre-election report.

Adcock said candidates who choose to create multiple reports need to manually enter the cumulative amounts instead of letting the software calculate it for them.

“If a candidate is keeping up with what their numbers are and if they add what their cumulative totals are, rather than letting the system provide the cumulative total, then the candidate can provide the cumulative total,” Adcock said.

She said the office may need to look into a way to keep the system from calculating the cumulative amount.

“In a lot of ways that’s easier for the candidate, but that may be an option,” Adcock said.

She said candidates should not assume that just because the cumulative number has been calculated for them that it is accurate.

“You have to know if that’s wrong. It’s the responsibility of the filer to go back in and make sure those are right,” Adcock said. “The system tries to help you ... but you should know what your reports are from the last however many months.”

INTERPRETATION SPLIT

The different interpretations of state law result in discrepancies in how the figures are reported depending on the candidate.

The result is incidents where, for example, a candidate has \$60,000 in the bank, but his cumulative total raised is listed as \$3,000.

Or, instances where a candidate doesn’t list a cumulative total at all.

A review of August campaign finance reports of 22 candidates, about 10 percent of all 215 legislative candidates, showed two reports where the cumulative total of cash raised minus the cumulative total of cash spent equaled the amount of money the candidate reported having on hand.

The discrepancy in numbers occurs regardless of political party, legislative chamber, if the filer is an incumbent or new to politics, or whether they file reports online through the secretary of state's software or by hand.

"There is a tremendous amount of confusion," Rep. Jon Woods, R-Springdale, said. "People don't fill it out or they leave it blank or they are confused by what it means."

Woods said he has been told by the secretary of state's office that the primary election and general election have different cumulative totals.

"The cumulative to me starts over," Woods said. "It's a new race, it's a new animal so cumulative total is what you've gotten to date since the primary."

Woods is running against Democrat Diana Gonzales Worthen of Springdale to represent Senate District 7.

Rep. John Charles Edwards, D-Little Rock, said if there is ambiguity in the law, it should be fixed. He is running in District 35 against Republican candidate Patrice Wolfe of Little Rock.

He said he normally lists the contributors and expenditures for the month and does not fill out the cumulative total section of the report. He amended his reports Friday after speaking to a reporter.

He said his amended reports show a running cumulative total since January.

Edwards isn't the only candidate who hasn't included his cumulative total of his monthly reports. At least a dozen others haven't included the information in the past.

Rep. James McLean, D-Batesville, said the reports are complicated and not putting the information on the form was an oversight.

He said his interpretation of cumulative means the money he has raised and spent since the primary, which was May 22.