

104TH CONGRESS
1ST SESSION

H. R. 1639

To amend the Ethics in Government Act of 1978 with respect to honoraria,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1995

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, House Oversight, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Ethics in Government Act of 1978 with
respect to honoraria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ethics in Government
5 Act Amendments of 1995”.

6 **SEC. 2. MODIFICATION OF PROHIBITION OF HONORARIA.**

7 Section 501(b) of the Ethics in Government Act of
8 1978 is amended—

1 (1) by striking “An individual” and inserting
2 “(1) Except as provided in paragraph (2), an indi-
3 vidual”; and

4 (2) by adding at the end the following new
5 paragraph:

6 “(2)(A) Subject to subparagraph (B), paragraph (1)
7 shall not apply to an honorarium paid to an officer or em-
8 ployee for an appearance, a speech, or an article published
9 in a bona fide publication if—

10 “(i) the purpose of the appearance, or the sub-
11 ject of the speech or article, does not relate pri-
12 marily to the responsibilities, policies, or programs
13 of the agency or office in which the individual is em-
14 ployed, and does not involve the use of Government
15 time, property or other resources of the Government,
16 or nonpublic Government information;

17 “(ii) the reason for which the honorarium is
18 paid is unrelated to that individual’s official duties
19 or status as such officer or employee; and

20 “(iii) the person offering the honorarium has no
21 interests that may be substantially affected by the
22 performance or nonperformance of that individual’s
23 official duties.

24 “(B) Subparagraph (A) shall not apply to an officer
25 or employee who is—

1 “(i) a Member, or

2 “(ii) a noncareer officer or employee employed
3 in a position for which the rate of basic pay, exclu-
4 sive of any locality-based pay adjustment under sec-
5 tion 5302 of title 5 (or any comparable adjustment
6 pursuant to interim authority of the President) is
7 equal to or greater than the rate of basic pay pay-
8 able for Level V of the Executive Schedule.

9 “(C) A statement of the source, date, and amount
10 of any honorarium accepted by an individual under sub-
11 paragraph (A) shall be included in any report required by
12 such individual by section 101 or section 107 of this Act.

13 “(D) The amount of any honorarium accepted under
14 subparagraph (A) shall not exceed the usual and cus-
15 tomary fee for the services for which the honorarium is
16 paid, up to a maximum of \$2,000.”.

17 **SEC. 3. REGULATIONS.**

18 Section 503 of the Ethics in Government Act of 1978
19 is amended—

20 (1) by inserting “(a) IN GENERAL.—” before
21 “This”; and

22 (2) by adding at the end the following:

23 “(b) PRIOR NOTIFICATION OF ACCEPTANCE OF
24 HONORARIA.—(1)(A) Rules and regulations issued under
25 subsection (a) shall include procedures under which indi-

1 individuals described in paragraph (2) shall notify the appro-
2 priate entity administering such rules and regulations be-
3 fore accepting honoraria permitted under section
4 501(b)(2)(A) that, in the aggregate, equal or exceed \$200
5 in value from any one source in a calendar year. Such
6 rules and regulations may include provision for notifica-
7 tion after the acceptance of a noncash honorarium for an
8 appearance or speech if the offer of the honorarium is
9 made at the appearance or speech. Such rules and regula-
10 tions may also provide for the notification of the appro-
11 priate entity if an honorarium is not accepted.

12 “(B) Each entity administering such rules and regu-
13 lations shall compile all notifications received under sub-
14 paragraph (A) during each calendar quarter. Such com-
15 pilations shall be made available to the public in the same
16 manner as reports are made available to the public under
17 section 105 of this Act.

18 “(2) The individuals to whom paragraph (1) applies
19 are any noncareer officer or employee who occupies a posi-
20 tion classified above GS-15 of the General Schedule or,
21 in the case of positions not under the General Schedule,
22 for which the rate of basic pay is equal to or greater than
23 120 percent of the minimum rate of basic pay payable for
24 GS-15.

1 “(3) Any person who fails to notify the appropriate
2 entity, pursuant to procedures established under para-
3 graph (1), before accepting honoraria—

4 “(A) shall pay, for deposit in the general fund
5 of the Treasury, an amount equal to the value of the
6 honoraria involved; and

7 “(B) shall be subject to appropriate disciplinary
8 and other remedial action in accordance with appli-
9 cable laws, Executive orders, and rules or regula-
10 tions.

11 The entity administering rules and regulations issued
12 under paragraph (1) may, in accordance with procedures
13 established in such rules and regulations, waive any pen-
14 alty under this paragraph in extraordinary cir-
15 cumstances.”.

16 **SEC. 4. DEFINITION OF HONORARIUM.**

17 Section 505(3) of the Ethics in Government Act of
18 1978 is amended by striking “if the subject matter” and
19 all that follows through “Government”.

20 **SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.**

21 (a) LIMITATION ON POSTEMPLOYMENT RESTRIC-
22 TIONS.—Section 207(j) of title 18, United States Code,
23 is amended by adding at the end the following new para-
24 graph:

1 “(7) POLITICAL PARTIES AND CAMPAIGN COM-
2 MITTEES.—(A) Except as provided in subparagraph
3 (B), the restrictions contained in subsections (c),
4 (d), and (e) shall not apply to a communication or
5 appearance made solely on behalf of a candidate, in
6 his or her capacity as a candidate, an authorized
7 committee, a national committee, a national Federal
8 campaign committee, a State committee, or a politi-
9 cal party.

10 “(B) Subparagraph (A) shall not apply to—

11 “(i) any communication to, or appearance
12 before, the Federal Election Commission by a
13 former officer or employee of the Federal Elec-
14 tion Commission;

15 “(ii) any communication to, or appearance
16 before, an employee (as defined in section 2105
17 of title 5) of an Executive agency (as defined in
18 section 105 of title 5), unless the employee is—

19 “(I) an employee of the Executive Of-
20 fice of the President;

21 “(II) the head or assistant head of an
22 Executive department or a military depart-
23 ment (as such terms are defined in sec-
24 tions 101 and 102 of title 5); or

1 “(III) an employee appointed by the
2 President, by and with the advice and con-
3 sent of the Senate;

4 “(iii) any communication or appearance re-
5 ferred to in subparagraph (A) that is made by
6 a person on any matter in which that person
7 also represents, as agent or attorney or other-
8 wise, anyone other than a person or entity de-
9 scribed in subparagraph (C); or

10 “(iv) a communication or appearance that
11 is made by—

12 “(I) a person who is subject to the re-
13 strictions of subsection (c) or (d) if the
14 communication or appearance is made be-
15 fore an officer or employee of a depart-
16 ment or agency, other than the Executive
17 Office of the President, and if that person
18 is also representing, aiding, or advising
19 anyone else (other than the United States
20 or a person or entity referred to in sub-
21 paragraph (C)) in any matter pending be-
22 fore that department or agency;

23 “(II) a person who is subject to the
24 restrictions of subsection (e)(1)(A) and
25 who is also representing, aiding, or advis-

1 ing anyone else (other than the United
2 States or a person or entity referred to in
3 subparagraph (C)) in any matter pending
4 before either House of Congress or any
5 legislative office of the Congress;

6 “(III) a person who is subject to the
7 restrictions of subsection (e)(2)(A) and
8 who is also representing, aiding, or advis-
9 ing anyone else (other than the United
10 States or a person or entity referred to in
11 subparagraph (C)) in any matter pending
12 before any person described in subsection
13 (e)(2)(B);

14 “(IV) a person who is subject to the
15 restrictions of subsection (e)(3) and who is
16 also representing, aiding, or advising any-
17 one else (other than the United States or
18 a person or entity referred to in subpara-
19 graph (C)) in any matter pending before
20 the committee by which the former em-
21 ployee was employed;

22 “(V) a person who is subject to the
23 restrictions of subsection (e)(5)(A) and
24 who is also representing, aiding, or advis-
25 ing anyone else (other than the United

1 States or a person or entity referred to in
2 subparagraph (C)) in any matter pending
3 before any person described in subsection
4 (e)(5)(B).

5 “(C) For purposes of this paragraph—

6 “(i) the term ‘candidate’ means any person
7 who seeks nomination for election, or election,
8 to Federal or State office or who has authorized
9 others to explore on his or her behalf the possi-
10 bility of seeking nomination for election, or elec-
11 tion, to Federal or State office;

12 “(ii) the term ‘authorized committee’
13 means any political committee designated in
14 writing by a candidate as authorized to receive
15 contributions or make expenditures to promote
16 the nomination for election, or the election, of
17 such candidate, or to explore the possibility of
18 seeking nomination for election, or the election,
19 of such candidate, except that a political com-
20 mittee that receives contributions or makes ex-
21 penditures to promote more than 1 candidate
22 may not be designated as an authorized com-
23 mittee for purposes of subparagraph (A);

24 “(iii) the term ‘national committee’ means
25 the organization which, by virtue of the bylaws

1 of a political party, is responsible for the day-
2 to-day operation of such political party at the
3 national level;

4 “(iv) the term ‘national Federal campaign
5 committee’ means an organization that, by vir-
6 tue of the bylaws of a political party, is estab-
7 lished primarily for the purpose of providing as-
8 sistance, at the national level, to candidates
9 nominated by that party for election to the
10 office of Senator or Representative in, or
11 Delegate or Resident Commissioner to, the
12 Congress;

13 “(v) the term ‘State committee’ means the
14 organization which, by virtue of the bylaws of
15 a political party, is responsible for the day-to-
16 day operation of such political party at the
17 State level;

18 “(vi) the term ‘political party’ means an
19 association, committee, or organization that
20 nominates a candidate for election to any Fed-
21 eral or State elected office whose name appears
22 on the election ballot as the candidate of such
23 association, committee, or organization; and

24 “(vii) the term ‘State’ means a State of
25 the United States, the District of Columbia, the

1 Commonwealth of Puerto Rico, and any terri-
2 tory or possession of the United States.”.

3 (b) **APPLICABILITY.**—A former officer or employee
4 who is subject to the prohibitions contained in section
5 207(c) of title 18, United States Code, as in effect before
6 January 1, 1991, shall, notwithstanding such prohibitions,
7 be permitted to make communications and appearances
8 solely on behalf of a candidate, in his or her capacity as
9 candidate, an authorized committee, a national committee,
10 a national Federal campaign committee, a State commit-
11 tee, or a political party, as though the provisions of section
12 207 of title 18, United States Code, in effect on or after
13 January 1, 1991, as amended by this section, were appli-
14 cable to such former officer or employee.

15 **SEC. 6. EFFECTIVE DATE.**

16 (a) **IN GENERAL.**—Subject to subsection (b), the
17 amendments made by this Act shall take effect on the date
18 of the enactment of this Act.

19 (b) **SECTION 2.**—The amendments made by section
20 2 shall be effective as of January 1, 1991.

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