

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 635

An Act to amend and reenact §§ 24.2-928 and 24.2-929 of the Code of Virginia, relating to violations of the reporting requirements of the Campaign Finance Disclosure Act; penalties.

[H 2323]

Approved March 25, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-928 and 24.2-929 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-928. Reporting of certain violations.

A. It shall be the duty of the State Board to report any violation of §§ ~~24.2-912, 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, 24.2-920, 24.2-923, and 24.2-924~~ the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title to the appropriate attorney for the Commonwealth. *The State Board shall report to the attorney for the Commonwealth of the City of Richmond in the case of reporting requirements for statewide campaigns and for political committees and to the attorney for the Commonwealth of the county or city of the residence of a candidate for the General Assembly.*

B. It shall be the duty of the electoral board of a county or city to report any violation of §§ ~~24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, and 24.2-920~~ the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title relating to ~~an election for the General Assembly or for any constitutional or local office or to a local referendum~~ the filing of reports with the electoral board to the attorney for the Commonwealth for the county or city in which the electoral board has jurisdiction.

C. In order to fulfill ~~its~~ the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, ~~and~~ cataloging, ~~and~~ reviewing reports filed pursuant to §§ ~~24.2-915 through 24.2-920 and 24.2-923~~ the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title and for verifying that reports are complete and submitted on time. As part of the system referred to in this subsection, the general registrar for each county and city, or the secretary of the electoral board in any county or city in which the electoral board chooses to perform the duties stated in this subsection, shall be required, in accordance with instructions provided by the Board, to *receive, catalog, and review* the reports filed with the local electoral board and to verify that the reports are complete and submitted on time. ~~The Board's instructions shall provide that State Board, or the general registrar, or secretary of the electoral board if the electoral board has so determined in accordance with the instructions of the State Board, shall notify, no later than seven days after the report due date, any person submitting an incomplete report of the need for additional information. The State Board, or the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, may request additional information to correct obvious mathematical errors and to fulfill the requirements for information on the reports.~~

D. *The State Board, and the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, (i) shall assess and collect the civil penalties provided in § 24.2-929 and (ii) if unable to collect the penalty, shall report the violation to the appropriate attorney for the Commonwealth for enforcement. Each locality shall advise the State Board of penalties assessed, collected and reported to the attorney for the Commonwealth.*

E. No local electoral board shall be required to retain any reports longer than one year from the date of filing the final report required by §§ 24.2-915 through 24.2-920 and 24.2-923, or any successor provision thereto, or the next general election for the office to which the report relates, whichever is later, unless a court of competent jurisdiction shall order their retention for a longer period.

§ 24.2-929. Penalties for violations of chapter.

A. Any person who violates, or aids, abets, or participates in the violation of, this chapter shall be subject to a civil penalty not to exceed fifty dollars, except in the case of violation of Article 4 (§ 24.2-914 et seq.) of this chapter which relates to the filing of, or the failure to file, a report due within the 120 days before or the 35 days after a November general election date, in which case he shall be subject to a civil penalty not to exceed \$300. In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. Upon notice of a violation of this chapter by the State Board or the *general registrar or* local electoral board, as appropriate, the attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalty provided herein. Any civil penalties collected pursuant to action by the State Board shall be payable to the State Treasurer for deposit to the general fund; *and any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund.* The statute of limitations applicable to a violation of this chapter is stated in § 19.2-8. There shall be a rebuttable presumption that the violation of this chapter was willful if the violation is based on a person's failure to file a report required by this chapter and his failure to file continues for more than 60 days following his actual

receipt of written notice of his failure to file sent to him by certified mail, return receipt requested, by the State Board or an electoral board.

B. Prior to assessing a penalty pursuant to this section for the filing of an incomplete report, the Secretary of the State Board or the *general registrar or* secretary of the local electoral board, *as appropriate*, shall notify, in writing, the candidate and treasurer, or person or political committee required to file a report with that board, that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed if the information required to complete the report is filed within ten days of the date of mailing the written notice.

C. If the information required to complete the report is not filed within the ten-day period, the Secretary of the State Board or the *general registrar or* secretary of the local electoral board, *as appropriate*, shall then assess against the candidate and treasurer, who shall be jointly and severally liable, or person or political committee required to file a report, a civil penalty not to exceed \$300. The Secretary of the State Board or the *general registrar or* secretary of the local electoral board may grant an additional period for compliance, not to exceed two weeks, to permit the completion of a filed report for good cause shown and in response to a request filed within the ten-day period. However, no additional period shall be granted thereafter for compliance.

D. The additional periods for filing specified in subsections B and C shall apply only to the completion of a timely filed report and not to any case of a failure to file a required report by the deadline specified in this chapter. *In the case of a failure to file a required report by the specified deadline, the length of the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State Board shall notify the public through the global information system known as the Internet of any violation based on the failure to file a required report by a candidate for statewide office or the General Assembly and the identity of the violator.*

E. In the case of a failure to file the report of any large preelection contribution required by § 24.2-919, or the late or incomplete filing of such a report, there shall be a rebuttable presumption that the violation was willful. The provisions of subsections B and C of this section shall not apply to reports required by § 24.2-919.

2. That the provisions of this act shall become effective on July 1, 2002.