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HOUSE BILL NO. 656

Offered January 20, 2000

A BILL to amend and reenact §§ 24.2-929 and 24.2-930 of the Code of Virginia, relating to penalties for violations of the Campaign Finance Disclosure Act.

Patrons—Rhodes, Bloxom, Hamilton, Jones, S.C. and Landes

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

That §§ 24.2-929 and 24.2-930 of the Code of Virginia are amended and reenacted as follows:

§ 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~~ *unless a greater penalty is imposed as follows:*

1. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of this chapter which relates to the filing of, ~~or the failure to file, a an incomplete~~ report due within the ~~one hundred twenty~~ 120 days before or the thirty-five days after a November general election date, ~~in which case~~ he shall be subject to a civil penalty not to exceed \$300.

2. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of this chapter which relates to the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil penalty of \$500. Within five days of the pertinent deadline, the State Board shall assess the civil penalty imposed by this subdivision and shall notify the public through the global information system known as the Internet of the violation and identity of the violator.

3. In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor.

~~The~~ If requested by the Secretary, the attorney for the Commonwealth shall initiate civil proceedings to enforce the civil ~~penalty~~ penalties provided herein. Any civil penalties collected shall be payable to the State Treasurer for deposit to the 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 sixty 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 shall notify, in writing, the candidate and treasurer, or person or political committee required to file a report, 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 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 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. ~~For any report required to be filed between July 1, 1994, and the effective date of this act, the State Board shall give the notice required by subsection B of this section prior to assessing any civil penalty. If a penalty has been assessed for any such report and no appeal of that penalty has been received, the State Board shall notify the candidate and treasurer, or person or political committee, who filed the report that an appeal may be filed within ten days of the date of mailing of the notice by the State Board. 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 Article 4 (§ 24.2-914 et seq.) of this chapter.~~

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, C, and D of this section shall not apply to reports required by § 24.2-919.

§ 24.2-930. Civil penalties for late and incomplete filings for statewide campaigns.

A. In addition to the penalties provided in § 24.2-929, any candidate for Governor, Lieutenant Governor, or Attorney General, and his campaign treasurer, who fail to file any report required in

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59 § 24.2-916 in a timely manner or file an incomplete report may be assessed a civil penalty by the
60 Secretary of the State Board pursuant to this section.

61 B. Prior to assessing a penalty pursuant to this section, the Secretary shall notify the candidate and
62 treasurer in writing that a report has not been filed or that a filed report has not been completed, citing
63 the omissions from the report. No penalty shall be assessed *pursuant to this section* if the report or
64 information required to complete the report is filed within seven days of the date of mailing the written
65 notice.

66 C. If the report or information required to complete the report is not filed within the seven-day
67 period, the Secretary shall assess against the candidate and treasurer, who shall be jointly and severally
68 liable, a civil penalty of \$100 300 for each day that the violation continues on and after the eighth day
69 following the date of mailing the written notice. The Secretary may grant an additional period for
70 compliance, not to exceed two weeks, for good cause shown and in response to a request filed within
71 the seven-day period. However, no additional period shall be granted for compliance with the
72 requirement under subdivision 7 8 of § 24.2-916 to file a report not later than the eighth day before the
73 election. The Secretary shall ~~then also make available to the public at his office a list of candidates who~~
74 ~~have failed to file or have filed incomplete reports~~ *notify the public through the global information*
75 *system known as the Internet of the violation and identity of the violator.*

76 D. If requested by the Secretary, the attorney for the Commonwealth of the City of Richmond shall
77 assist the Secretary in collecting the civil penalty.

78 E. Any candidate or treasurer aggrieved by the assessment shall have a right to the direct review of
79 the assessment by a court of competent jurisdiction as provided in the Administrative Process Act
80 (§ 9-6.14:1 et seq.). The provisions of the Act shall not apply, however, to the assessment of civil
81 penalties by the Secretary pursuant to this section.

82 F. Civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit
83 to the general fund.