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HOUSE BILL NO. 1321

Offered January 20, 2004

A BILL to amend and reenact §§ 24.2-904, 24.2-928, and 24.2-929 of the Code of Virginia, relating to the Campaign Finance Disclosure Act; required filings and penalties.

Patron—Brink

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-904, 24.2-928, and 24.2-929 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-904. Appointment of campaign treasurer; designation of campaign committee and depository.

A. Upon accepting any contribution for his candidacy, each candidate for nomination or election shall appoint a single campaign treasurer and may designate not more than one campaign committee to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election and to file the reports required by this chapter. The payment of a primary filing fee by the candidate constitutes the acceptance of a contribution for the purposes of this section. At the same time he shall designate a campaign depository in a financial institution within the Commonwealth. He shall provide, on a *statement of organization* form prescribed by the State Board, the name and address of the campaign treasurer, the name of the financial institution and account number for his campaign depository, and, if one, the name of the campaign committee. In the case of any candidate who seeks election for successive terms in the same office, the form filed by the candidate shall continue in effect for such successive elections, but the candidate shall file notice of any changes in the information provided on the form within 10 days of the change with the State Board, local electoral board, or both, as appropriate.

He shall file the form with the (i) electoral board of the county or city in which he resides if he is a candidate for local office, (ii) electoral board of the county or city in which he resides and the State Board if he is a candidate for the General Assembly, or (iii) State Board if he is a candidate for statewide office. Every treasurer so appointed shall accept the appointment, in writing on the form, prior to the filing thereof. No individual shall act as treasurer unless the required statement of appointment shall have been filed. No individual shall be appointed or act as treasurer in any election who is not a qualified voter of the Commonwealth. The same person may serve as campaign treasurer for more than one candidate.

B. In the event of the death, resignation, removal, or change of the treasurer, the candidate shall designate a successor and file the name and address of the successor within 10 days of the change with the State Board, local electoral board, or both, as provided in subsection A.

C. Any candidate who fails to appoint and report the appointment of a treasurer or successor treasurer shall be deemed to have appointed himself treasurer and shall comply as such with the provisions of this chapter.

§ 24.2-928. Reporting of certain violations; penalties.

A. It shall be the duty of the State Board to report any violation of 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. If all the officers of a political committee are residents of one county or city as shown on the statement of organization filed by the committee pursuant to § 24.2-908, the State Board shall report violations for that political committee to the attorney for the Commonwealth of that county or city.

B. It shall be the duty of the electoral board of a county or city to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title relating to 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 the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to 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

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59 accordance with instructions provided by the Board, to receive, catalog, and review the reports filed with
60 the local electoral board and to verify that the reports are complete and submitted on time. The State
61 Board, or the general registrar or secretary of the electoral board, in accordance with the instructions of
62 the State Board, shall notify, no later than ~~seven~~ 21 days after the report due date, any person
63 submitting an incomplete report of the need for additional information. The State Board, or the general
64 registrar or secretary of the electoral board in accordance with the instructions of the State Board, may
65 request additional information to correct obvious mathematical errors and to fulfill the requirements for
66 information on the reports.

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

72 E. In the case of any committee, that is required to file a statement of organization pursuant to
73 § 24.2-908 but excluding campaign committees, the State Board shall be authorized to waive a penalty
74 that has been assessed if the filer demonstrates that there exists good cause to waive the penalty.

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

79 § 24.2-929. Penalties for violations of chapter.

80 A. Any person who violates, or aids, abets, or participates in the violation of, this chapter shall be
81 subject to a civil penalty not to exceed ~~fifty dollars~~ \$50, unless a greater penalty is imposed as follows:

82 1. *In the case of a failure to file or late filing of the statement of organization for a candidate*
83 *required by § 24.2-904 or for a committee required by § 24.2-908, there shall be a civil penalty not to*
84 *exceed \$200.*

85 2. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title that relates to
86 the filing of an incomplete report due within the 120 days before or the 35 days after a November
87 general election date, he shall be subject to a civil penalty not to exceed \$300.

88 23. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title, that relates
89 to the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil
90 penalty not to exceed \$500. In the case of a second or any subsequent such violation pertaining to one
91 election cycle, he shall be assessed a civil penalty of \$500 for each such failure to file. The State Board
92 shall assess the civil penalty imposed by this subdivision and shall notify the public through the global
93 information system known as the Internet of the violation and identity of the violator.

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

95 In the case of a failure to file a required *statement or report* by the specified deadline, the length of
96 the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State
97 Board shall notify the public through ~~the global information system known as~~ the Internet of any
98 violation based on the failure to file a required report by a candidate for statewide office or the General
99 Assembly and the identity of the violator.

100 Upon notice of a violation of this chapter by the State Board or the general registrar or local
101 electoral board, as appropriate, the attorney for the Commonwealth shall initiate civil proceedings to
102 enforce the civil penalties provided herein. Any civil penalties collected pursuant to action by the State
103 Board shall be payable to the State Treasurer for deposit to the general fund; and any civil penalties
104 collected pursuant to action by a general registrar or local electoral board shall be payable to the
105 treasurer of the locality for deposit to its general fund. The statute of limitations applicable to a violation
106 of this chapter is stated in § 19.2-8. There shall be a rebuttable presumption that the violation of this
107 chapter was willful if the violation is based on a person's failure to file a report required by this chapter
108 and his failure to file continues for more than 60 days following his actual receipt of written notice of
109 his failure to file sent to him by certified mail, return receipt requested, by the State Board or an
110 electoral board.

111 B. Prior to assessing a penalty pursuant to this section for the filing of an incomplete report, the
112 Secretary of the State Board or the general registrar or secretary of the local electoral board, as
113 appropriate, shall notify, in writing, the candidate and treasurer, or person or political committee
114 required to file a report with that board, that a filed report has not been completed, citing the omissions
115 from the report. No penalty shall be assessed if the information required to complete the report is filed
116 within ~~ten~~ 10 days of the date of mailing the written notice.

117 C. If the information required to complete the report is not filed within the ~~ten~~ 10-day period, the
118 Secretary of the State Board or the general registrar or secretary of the local electoral board, as
119 appropriate, shall then assess against the candidate and treasurer, who shall be jointly and severally
120 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.